REVISED AND RESTATED MEMORANDUM OF LAW
FOR THE INTERNATIONAL SWAPS AND DERIVATIVES ASSOCIATION, INC.

Validity and Enforceability under Korean Law of
Collateral Arrangements under the ISDA Credit Support Documents

September 19, 2016

KIM & CHANG

39, Sajik-ro 8-gil, Jongno-gu, Seoul 110-720, Korea
Website: www.kimchang.com E-mail: lawkim@kimchang.com
Tel: +82-2-3703-1114 Fax: +82-2-737-9091/9092

VALIDITY AND ENFORCEABILITY UNDER KOREAN LAW OF COLLATERAL ARRANGEMENTS UNDER THE ISDA CREDIT SUPPORT DOCUMENTS

This revised and restated memorandum of law discusses the validity and enforceability under the laws of the Republic of Korea ("**Korea**") of margin or collateral arrangements entered into in connection with a master agreement (a "**Master Agreement**")[1] published by the International Swaps and Derivatives Association, Inc. (**"ISDA**") under one of the following standard form documents published by ISDA:

1. the 1994 ISDA Credit Support Annex governed by New York law (the "**1994 NY Annex**");

2. the 1995 ISDA Credit Support Deed governed by English law (the "**1995 Deed**" and, together with the NY Annex, the "**Security Documents**");

3. the 1995 ISDA Credit Support Annex governed by English law (the "**1995 Transfer Annex**"); and

4. the ISDA Credit Support Annex governed by Korean law (the "**Korean Annex**" and, together with the Security Documents and the Transfer Annex, the "**Credit Support Documents**").

In this memorandum:

(a) in relation to the Security Documents and the Korean Annex, the term "**Security Collateral Provider**" shall refer to the Pledgor (under the 1994 NY Annex), the Chargor (under the 1995 Deed) or the Collateral Provider (under the Korean Annex where Pledging Collateral is delivered), as context requires; and

(b) "**Collateral Provider**" means the Security Collateral Provider under a Security Document or the Korean Annex or the Transferor under a Transfer Annex or the Korean Annex (where Lending Collateral is transferred), according to context, in relation to which "**Collateral Taker**" means the Secured Party or the Transferee, as the case may be.

The term "**Collateral**", when used in this memorandum, is meant to refer, in the case of each Security Document or the Korean Annex (where Pledging Collateral is delivered), to any assets in which a security interest is created by the Security Collateral Provider in favor of the Secured Party and, in the case of the Transfer Annex or the Korean Annex (where Lending Collateral is transferred), to any securities transferred as credit support or cash deposited, in either case, by the Transferor to or with the Transferee, as credit support for the obligations of the Collateral Provider under the relevant Master Agreement.

[1] The various master agreements published by ISDA include (i) the 1992 ISDA Master Agreement (Multicurrency- Cross Border), (iii) the 1992 ISDA Master Agreement (Local Currency – Single Jurisdiction) and (iii) the 2002 ISDA Master Agreement.

The issues you have asked us to address are set out below in italics, followed in each case by our analysis and conclusions. We indicate where relevant any assumptions that you have asked us to make. In addition, we make the following assumptions:

(1) To the extent that any obligation arising under the Master Agreement or Credit Support Document is to be performed in any jurisdiction outside Korea, its performance will not contravene any of the laws of that jurisdiction.

(2) Each party to the Master Agreement and the Credit Support Document is duly incorporated and organized and validly existing and in good standing under the laws of the jurisdiction of its incorporation and of any jurisdiction in which the conduct of its business or the ownership of its property makes such assumption necessary.

(3) Each party (a) has all requisite capacity, power and authority to enter into the Master Agreement and the Credit Support Document under the laws of its jurisdiction of incorporation and under its relevant constitutional documents, (b) has taken all actions necessary to authorize its entry into and performance under the Master Agreement, the Credit Support Document and the Transactions provided for therein, and (c) has duly authorized, executed and delivered the Master Agreement and the Credit Support Document.

(4) The Master Agreement would, when duly entered into by each party, constitute legally binding, valid and enforceable obligations of each party under the law by which it is expressed to be governed.

(5) Each of the parties is acting as principal and not as agent in relation to its rights and obligations under the Master Agreement and Credit Support Document.

(6) The terms of the Master Agreement (including each Transaction under the Master Agreement and the Credit Support Document) are agreed at arms' length by the parties.

(7) At the time of entry into the Master Agreement, the Credit Support Document and each Transaction thereunder, no insolvency proceedings have commenced in respect of either party, and neither party is insolvent at the time of entering into the Master Agreement, the Credit Support Document or any Transaction thereunder or becomes insolvent as a result of entering into either document or transaction.

(8) Each party, when transferring Collateral in the form of securities under the Credit Support Document, will have full legal title to such securities at the time of transfer, free and clear of any lien, claim, charge or encumbrance or

any other interest of the transferring party or of any third person (other than a lien routinely imposed on all securities in a relevant clearance or settlement system).

(9) Neither the execution of the Master Agreement or of the Credit Support Document nor the consummation of any Transaction or any collateral arrangement provided for therein contravenes or will contravene any provision of any law or regulation to which the parties are subject, the constituent documents of each of the parties or any contract or undertaking to which each of the parties is a party or by each of the parties is bound.

(10) Each party to the Master Agreement and the Credit Support Document has complied with all necessary government authorization and regulatory requirements, including without limitation foreign exchange authorization requirements.

This memorandum is subject to the following:

(a) The advice in this memorandum is only in relation to Korean law as it stands at the date of this memorandum, and we have assumed that no law of a jurisdiction other than Korea adversely affects the conclusions in this memorandum.

(b) Two institutions, at least one of which is organized under the laws of Korea and is a type of entity falling within one of the category types specified in Appendix B, dated September 2009, attached hereto as covered by this memorandum, have entered into a Master Agreement and neither institution has specified that it is a Multibranch Party.

(c) In this memorandum, we also consider the enforceability of each of the Credit Support Documents with respect to Collateral held in Korea against a corporate entity organized in a foreign jurisdiction (a "**Foreign Company**") including foreign banks, insurance companies and securities companies.

(d) As used in this memorandum, the term "**enforceable**" means that each obligation or document is of a type and form enforced by the Korean courts. However, the remedies of specific performance or injunction might not be necessarily available with respect to any particular provision in the documents. Also, the enforceability of provisions releasing or exculpating a party from, or requiring indemnification of a party for, liability for its own action or inaction may be limited or affected where the action or inaction involves unlawful conduct, willful misconduct or gross negligence. In addition, the obligations of the parties may also be affected or limited by the general principles of good morals and other social order and the general principles of good faith and fairness provided for in the Civil Code of Korea. Further, Korean courts may exercise judicial discretion in determining such

matters as conclusiveness of certificates, amount of damages and entitlement to attorneys' fees and other costs.

FACT PATTERNS

You have asked us, when responding to each question, to distinguish between the following three fact patterns:

I The Location of the Collateral Provider is in Korea and the Location of the Collateral is outside Korea.

II The Location of the Collateral Provider is in Korea and the Location of the Collateral is in Korea.

III The Location of the Collateral Provider is outside Korea and the Location of the Collateral is in Korea.

For the foregoing purposes:

(a) the "Location" of the Collateral Provider is in Korea if it is incorporated or otherwise organized in Korea and/or if it has a branch or other place of business in Korea; and

(b) the "Location" of Collateral is the place where an asset of that type is located under the Korean Private International Law ("**Private International Law**") or similar rules of Korea.

PART 1: SECURITY INTEREST APPROACH PURSUANT TO THE SECURITY DOCUMENTS

For purposes of Part 1 of our memorandum, you have asked us to make the following assumptions:

(a) The Security Collateral Provider has entered into a Master Agreement and a Security Document or a Korean Annex with a Secured Party. The parties have entered into either (i) a Master Agreement governed by New York law and a 1994 NY Annex, (ii) a Master Agreement governed by English law and a 1995 Deed, or (iii) a Master Agreement governed by either New York law or English law and a Korean Annex.

(b) Although each Security Document and Korean Annex is a bilateral form in that it contemplates that either party may be required to post Collateral to the other depending on movements in Exposure under the relevant Security Document or Korean Annex, we assume, for the sake of simplicity, that the

same party is the Security Collateral Provider at all relevant times under the applicable Security Document or Korean Annex.

(c) We assume that each party is one of the entities covered under paragraphs (b) and (c) set forth on page 3 above.

(d) Each Master Agreement and each Security Document or Korean Annex is enforceable under the laws of New York or England, as the case may be, and each party has duly authorized, executed and delivered, and has the capacity to enter into each document.

(e) No provisions of the Master Agreement or relevant Security Document or Korean Annex have been altered in any material respect. In this regard, the making of standard elections in Paragraph 13 of either Security Document or Korean Annex and the specification of standard variables (consistently with the other assumptions in this memorandum) would not in our view constitute material alterations, except where expressly indicated in the discussion below.

(f) Pursuant to the relevant Security Documents or Korean Annex, the counterparties agree that Eligible Collateral will consist of cash credited to an account (as opposed to physical notes and coins) and certain types of securities (as further described below) that are located or deemed located either (i) in Korea or (ii) outside Korea.

(g) Any securities provided as Eligible Collateral are denominated in either the Korean Won or any freely convertible currency and consist of (i) corporate debt securities, whether or not the issuer is organized or located in Korea; (ii) debt securities issued by the government of Korea; and (iii) debt securities issued by the government of a member of the "G-10" group of countries, in one of the following forms:

(i) directly held bearer debt securities: by this we mean debt securities issued in certificated form, in bearer form (meaning that ownership is transferrable by delivery of possession of the certificate) and, when held by a Secured Party as Collateral under a Security Document or Korean Annex, held directly in this form by the Secured Party (that is, not held by the Secured Party indirectly with an Intermediary (as defined below));

(ii) directly held certificated and registered debt securities: by this we mean debt securities issued in certificated and registered form and, when held by a Secured Party as Collateral under a Security Document or Korean Annex, held directly in this form by the Secured Party so that the Secured Party is shown as the relevant

holder in the register for such securities (that is, not held by the Secured Party indirectly with an Intermediary);

(iii) directly held dematerialized and registered debt securities: by this we mean debt securities issued in dematerialized form and, when held by a Secured Party as Collateral under a Security Document or Korean Annex, held directly in this form by the Secured Party so that the Secured Party is shown as the relevant holder in the register, electronic or otherwise, for such securities (that is, not held by the Secured Party indirectly with an Intermediary);

(iv) intermediated debt securities: by this we mean a form of interest in debt securities recorded in fungible book-entry form in an account maintained by a financial intermediary (which could be a central securities depositary ("**CSD**") or a custodian, nominee or other form of financial intermediary, in each case an "**Intermediary**") in the name of the Secured Party where such interest has been credited to the account of the Secured Party in connection with a transfer of Collateral by the Security Collateral Provider to the Secured Party under a Security Document or Korean Annex.

The precise nature of the rights of the Secured Party in relation to its interest in intermediated securities and as against its Intermediary will be determined, among other things, by the law of the agreement between the Secured Party and its Intermediary relating to its account with the Intermediary, as well as the law generally applicable to the Intermediary, and possibly by other considerations arising under the general law or the rules of the Private International Law. The Secured Party's Intermediary may itself hold its interest in the relevant debt securities indirectly with another Intermediary or directly in one of the three forms mentioned in (i), (ii) and (iii). In practice, there is likely to be a number of tiers of Intermediaries between the Secured Party and the issuer of such securities, at least one of which will be an Intermediary that is a national or international CSD.

Our expectation is that the Secured Party will normally hold debt securities in the form of intermediated debt securities rather than directly in one of the three forms mentioned in (i), (ii) and (iii) above.

(h) Any cash Collateral (other than Korean Won) is denominated in a freely convertible currency and is held in an account under the control of the Secured Party maintained in Korea or, if located outside of Korea, in the

jurisdiction of the relevant currency (or, in the case of euros, in any Member State of the European Union that has adopted the euro).

(i) Pursuant to the terms and conditions of the Master Agreement, the Security Collateral Provider enters into a number of Transactions with the Secured Party. Such Transactions include any or all of the transactions described in Appendix A. Under the terms of each Security Document or Korean Annex, the security interest created in the relevant Collateral secures the Obligations of the Security Collateral Provider arising under the Master Agreement as a whole, including the net amount, if any, that would be due from the Security Collateral Provider under Section 6(e) of the Master Agreement if an Early Termination Date were designated or deemed to occur as a result of an Event of Default in respect of the Security Collateral Provider.

(j) In the case of Questions 12 to 16 below, after entering into the Transactions and prior to the maturity thereof, an Event of Default or Specified Condition exists and is continuing with respect to the Pledgor in the case of the 1994 NY Annex, or a Relevant Event or Specified Condition exists and is continuing with respect to the Chargor in the case of the Deed, an Event of Default or Specified Condition exists and is continuing with respect to the Collateral Provider in the case of the Korean Annex, and/or, in either case, an Early Termination Date has occurred or been designated as a result thereof (however, an insolvency proceeding has not been instituted, which is addressed separately in assumption (k) and Questions 17 to 21 below).

(k) In the case of Questions 17 to 21 below, an Event of Default under Section 5(a)(vii) of the Master Agreement with respect to the Security Collateral Provider has occurred and a formal bankruptcy, insolvency, liquidation, reorganization, administration or comparable proceeding (collectively, the "**insolvency**") has been instituted by or against the Security Collateral Provider.

(l) The Eligible Collateral consisting of Korean Collateral shall include the following:

(i) Korean securities ("**Korean Securities**") that are denominated in Korean Won (a) in the form of certificated securities that are physically held or registered in Korea; (b) any dematerialized securities directly held and registered in Korea; and (c) any intermediated securities held through an intermediary located in Korea; and

(ii) any Korean Won in cash ("**Korean Won**", together with Korean Securities, the "**Korean Collateral**").

For purposes of Part 1 of our memorandum, Korean Collateral will be provided in the form of Pledging Collateral under the Korean Annex.

I. Validity of Security Interests: Creation and Perfection

1. ***Under the laws of Korea, what law governs the contractual aspects of a security interest in the various forms of Eligible Collateral deliverable under the Security Documents and Korean Annex? Would the courts of Korea recognize the validity of a security interest created under each Security Document and Korean Annex, assuming it is valid under the governing law of such Security Document and Korean Annex?***

A Korean court will look to the Private International Law to determine what law should govern the contractual aspects of a security interest in the various forms of Eligible Collateral deliverable under the Security Documents or Korean Annex. Under the Private International Law, a contract is governed by the law expressly or implicitly chosen by the parties. Accordingly, the contractual aspects of a security interest in the various forms of Eligible Collateral deliverable under the Security Documents or Korean Annex will be governed by the law that governs the relevant Security Documents or Korean Annex.

We understand that "validity of a security interest" means creation of a security interest that is valid between the Secured Party and the Security Collateral Provider. The Private International Law includes a separate section for determination of the governing law of property rights (Chapter 4) and for contractual rights (Chapter 5), respectively. For example, Article 23 that falls under Chapter 4 provides that a security interest in a claim, a share or other rights or a security that evidences such rights shall be governed by the law that governs the right, provided that a security interest in a bearer security shall be governed by the law of the jurisdiction where the security is held. Thus, all proprietary aspects of a security interest in a right (including a security that evidences a right) other than the bearer security will be governed by the law that governs the right. We believe that the creation of a security interest that is effective between the Secured Party and the Security Collateral Provider will be considered a proprietary aspect of a security interest and therefore, will be governed by the law that is determined under Chapter 4 of the Private International Law rather than the governing law of the Security Document. Therefore, a Korean court will recognize the validity of a security interest created under each Security Document if such security interest is valid under the law that governs the proprietary aspects of such a security interest as determined under the Private International Law. Further, a Korean court will confirm that the governing law applicable to Eligible Collateral posted pursuant to the Korean Annex shall be Korean law.

2. ***Under the laws of Korea, what law governs the proprietary aspects of a security interest (that is, the formalities required to protect a security interest in Collateral against competing claims) granted by the Security Collateral Provider under each Security Document or Korean Annex (for example, the law of the jurisdiction of incorporation or organization of the Security Collateral Provider, the jurisdiction***

where the Collateral is located, or the jurisdiction of location of the Secured Party's Intermediary in relation to Collateral in the form of indirectly held securities)? What factors would be relevant to this question? Where the location (or deemed location) of the Collateral is the determining factor, please briefly describe the principles governing such determination under Korean law with respect to the different types of Collateral. In particular, please describe how the laws of Korea apply to each form in which securities Collateral may be held as described in assumption (g) above.

(a) Cash:

Although there is no relevant provision in the Private International Law, we believe that a Korean court would hold that the perfection of a security interest in cash held outside Korea (*i.e.*, either the jurisdiction where the cash is physically held or where the depository bank is located in case cash is held in a bank account) would be governed by the laws of the jurisdiction where such cash is held. With respect to cash held in Korea, Korean law does not recognize a security interest in cash. Please refer to the discussion of security deposit under Question 3 below.

(b) Securities:

(i) A directly held bearer debt security: Under the Private International Law, a security interest in a bearer debt security is to be governed by the laws of the jurisdiction where the security certificate is physically located.

(ii) A directly held certificated and registered debt security: Under the Private International Law, a security interest in securities that are issued in registered form will be governed by the law that governs the rights embodied in the securities (which would typically be the stated governing law of the debt securities).

(iii) A directly held dematerialized debt security: Under the Private International Law, a security interest in securities that are issued in registered form will be governed by the law that governs the rights embodied in the securities (which would typically be the stated governing law of the debt securities).

(iv) Intermediated debt securities: The Private International Law is silent as to which laws should govern a security interest in securities that are held indirectly through a custodian and transferred by book-entry. We believe that the identification of the relevant law will depend on the identity and nature of the collateral. A Korean court will characterize the nature of the interest in which a security interest is provided in accordance with Korean law as the law of the forum. However, prior to analyzing

what the interest would be under Korean law, the court would look to the law that governs the relationship between the custodian and the Collateral Provider with respect to the securities to see whether the Security Collateral Provider has direct ownership of the securities, a contractual claim against the custodian, a combination thereof, or some type of a beneficial right with respect to the securities and then determine the relevant governing law for the security interest in such collateral. For example, if under the relevant law (i.e., the law that governs the relationship between the custodian and the Security Collateral Provider), the Security Collateral Provider's interest in the securities is considered a contractual claim against the custodian, then pursuant to the Private International Law, the law that governs such claim would be the governing law for the security interest in such securities. If, however, the nature of the Security Collateral Provider's interest as determined under the relevant law is a property right not recognized under Korean law (such as "securities entitlement" under the Uniform Commercial Code of the USA), then a Korean court would probably decide that the security interest in such property right would be governed by such relevant law in view of the fact that under the Private International Law, the pledge of a right is to be governed by the law that governs the right if the court applies this principle by analogy. There is no court precedent or settled view on the question. It is not clear what law would be considered the law that governs the relationship between the custodian and the Security Collateral Provider: it could be the law that governs the custody agreement or the law of the place where the custodian is located. In most cases, the two laws would be identical, i.e., the custody agreement would be generally be governed by the law of the place where the custodian is located. However, in some cases, the custody agreement may be expressed to be governed by laws other than the laws of the place of the custodian. One of the principles of the Private International Law is that the law that governs property rights must be objectively determined and not be left to be decided by the parties of a relevant transaction since property rights should be valid against third parties. In view of such principle, a Korean court may decide that the legal nature of the Security Collateral Provider's rights with respect to indirectly held securities should be governed by the law of the place where the custodian is located. There is no juridical authority on this point.

(c) Bank Deposit:

Korean law does not recognize a pledge of cash and a security interest can only be established on a bank deposit. Under Korean law, a bank deposit is characterized as a claim of the account holder against the depositary bank.

3. ***Would the courts of Korea recognize a security interest in each type of Eligible Collateral created under each Security Document and Korean Annex? In answering this question, please bear in mind the different forms in which securities Collateral may be held, as described in assumption (g) above. Please indicate, in relation to cash Collateral, if your answer depends on the location of the account in which the relevant deposit obligations are recorded and /or upon the currency of those obligations.***

Korean courts would recognize a security interest in each type of Eligible Collateral if validly created and perfected under the relevant governing law and that governing law was relevant in accordance with the Private International Law.

Under Korean law, cash cannot be pledged. However, cash can be delivered as a security deposit (*Bochung-kum*) which can be commingled or used by the holder and will be automatically deemed applied to the satisfaction of the obligation owed to the holder by the depositor upon default under the obligation. *Bochung-kum* is, however, not considered a security interest. In addition, however, the rights under a bank account can be pledged. With respect to Eligible Collateral such as cash in hand which cannot be validly pledged under Korean law, although there is no court precedent on point, we believe that a Korean court would recognize the validity of a security interest in cash if the security interest is valid under the law of the jurisdiction (other than Korea) where that cash is held. Under the Private International Law, a security interest granted in a bank account will be governed by the law that governs the relationship between the depository bank and the depositor with respect to such a bank account.

4. ***What is the effect, if any, under the laws of Korea of the fact that the amount secured or the amount of Eligible Collateral subject to the security interest will fluctuate under the Master Agreement and the relevant Security Document and Korean Annex (including as result of entering into additional Transactions under the Master Agreement from time to time)? In particular:***

Under Korean law, in principle, a pledge is extinguished when the secured obligation is reduced to zero through payment or otherwise, unless the parties expressly agree that the security interest will continue to be effective, regardless of the fluctuation in the secured amount. Such security interest is referred to as *kun*-pledge under Korean law.

If the amount of Posted Collateral fluctuates, the pledge will become effective when the collateral is delivered by the Security Collateral Provider with the intent that such collateral be subjected to the pledge and will be extinguished with respect to the collateral that is re-delivered to the Security Collateral Provider.

(a) ***Would the security interest be valid in relation to future obligations of the Security Collateral Provider?***

Korean law recognizes the validity of a security interest that secures future obligations.

(b) ***Would the security interest be valid in relation to future Collateral (that is, Eligible Collateral not yet delivered to the Secured Party at the time of entry into the relevant Security Document or Korean Annex)?***

Under Korean law, the pledge is validly given only when the Eligible Collateral is delivered or deemed delivered to the Secured Party under the relevant Security Document or Korean Annex. It is the practice in Korea to attach a description of the collateral (*e.g.*, the name of issuer, the serial and certificate numbers of the bond certificates, etc.) as an exhibit to the pledge agreement and the Secured Party would be authorized by the Security Collateral Provider to add the description of any new collateral which will then be deemed pledged under the Security Document and Korean Annex.

It would be possible to execute a Security Document or Korean Annex with respect to property that will only exist in the future; however, such agreement will constitute only a contract to provide Collateral. A valid security interest will attach when the future property is acquired by the Security Collateral Provider and delivered to the Secured Party. If a Security Document or Korean Annex is executed with respect to property currently owned by the Security Collateral Provider as well as future Collateral, then a valid security interest will be deemed granted by execution of a Security Document or Korean Annex only with respect to the property currently owned and a security interest will be deemed granted with respect to the future Collateral when the future Collateral is acquired.

(c) ***Is there any difficulty with the concept of creating a security interest over a fluctuating pool of assets, for example, by reason of the impossibility of identifying in the Security Documents or Korean Annex the specific assets transferred by way of security?***

Korean law requires that the pledged assets be specifically identifiable; therefore, in principle, a valid security interest cannot be granted over a fluctuating pool of assets under Korean law. Certain exceptions are recognized by courts, however. For example, a valid security interest can be granted in inventories that are stored in a segregated storage facility. To date, courts have not yet recognized a valid security interest in a fluctuating pool of securities deposited in an account with a security depository or intermediary (*e.g.*, a broker). The depositor may pledge its contractual claim (*e.g.*, the claim for the return of the securities) against the securities depository or intermediary under a securities account. However, such a pledge would not constitute a security interest in the specific securities deposited in the account.

(d) ***Is it necessary under Korean law for the amount secured by each Security Document or Korean Annex to be a fixed amount or subject to a fixed maximum amount?***

No.

(e) ***Is it permissible under Korean laws for the Secured Party as Secured Party to hold Collateral in excess of its actual Exposure to the Security Collateral Provider under the related Master Agreement?***

It would be permissible under the laws of Korea for the Secured Party to hold collateral in excess of its actual Exposure to Party A under the related Master Agreement as long as upon enforcement of the security interest, the sales proceeds of the Eligible Collateral are applied to satisfy the Security Collateral Provider's Obligations (as defined in the Security Document or Korean Annex) and the balance, if any, is returned to the Security Collateral Provider.

5. ***Assuming that the courts of Korea would recognize the security interest in each type of Eligible Collateral created under each Security Document or Korean Annex, is any action (filing, registration, notification, stamping, notarization or any other action or the obtaining of any governmental, judicial, regulatory or other order, consent or approval) required in your jurisdiction to perfect that security interest? If so, please indicate what actions must be taken and how such actions may differ depending on the type of Eligible Collateral in question.***

If the security interest in each type of Eligible Collateral created under each Security Document or Korean Annex is recognized as valid by Korean courts (because it is valid under the applicable foreign law or Korean law under the Private International Law—see our response to Questions 1(a) and 2 above in each case), no further action will be required in Korea to perfect that security interest.

6. ***If there are any other requirements to ensure the validity or perfection of a security interest in each type of Eligible Collateral created by the Security Collateral Provider under each Security Document and Korean Annex, please indicate the nature of such requirements. For example, is it necessary as a matter of formal validity that the Security Document or Korean Annex be expressly governed by the law of your jurisdiction or translated into any other language or for the Security Document or Korean Annex to include any specific wording? Are there any other documentary formalities that must be observed in order for a security interest created under each Security Document or Korean Annex to be recognized as valid and perfected in your jurisdiction?***

There would be no other requirements under Korean law to ensure the validity or perfection of a security interest in each type of Eligible Collateral as long as it has been validly created and perfected by Security Collateral Provider under the relevant laws that

govern the validity or perfection of such security interest. With respect to other local law issues such as the foreign exchange law requirements, please see the discussion under Question 20 below.

Under Article 349 of the Civil Code of Korea, the pledge of a claim that is effective against all parties (including the obligor of the pledged claim) requires the Security Collateral Provider to send a fixed-date stamped notice to or to obtain a fixed-date stamped consent of, the obligor of the pledged claim, i.e., the depository bank. The fixed-date stamping, which can be done at a notary's office for a nominal fee, constitutes legal evidence that the stamped document existed as of the date of the stamping. In addition, any passbook for the bank deposit should be delivered to the Secured Party by the Security Collateral Provider. It is generally understood that the Security Collateral Provider may continue to hold the passbook if the Security Collateral Provider agrees to hold it on behalf of the Secured Party. The effects of the notice to or consent of the obligor described above is that (1) the notice excludes all defenses (such as a set-off right) available to the obligor due to causes that arose after the date of receipt of the notice and (2) the consent of the obligor to the pledge is that all defenses of the obligor, whether arising prior to or subsequent to the consent, will be excluded unless the obligor reserves any such defense in giving its consent. In practice, depository banks generally require their consent to be obtained for any pledge of a bank deposit.

Under the Financial Investment Services and Capital Markets Act ("**FSCMA**") of Korea, the pledge of book-entry securities is created and perfected in the following manner:

- If the Security Collateral Provider maintains an account with the Korea Securities Depository ("**KSD**"), an application is made by the Security Collateral Provider to the KSD for the pledge and the KSD makes an entry into the Security Collateral Provider's account with a statement to the effect that certain designated securities in the account are pledged to the Secured Party together with the address of the Secured Party.

- If the Security Collateral Provider is not a participant of the KSD but has an account with a custodian that is a participant of the KSD, the custodian (upon the instruction of the Security Collateral Provider) makes an entry into the Security Collateral Provider's securities account with a statement to the effect that certain designated securities in the account are pledged to the Secured Party together with the address of the Secured Party.

A non-resident investor is required to deposit Korean listed securities with the KSD either directly or through a custodian and the procedures for establishment of a valid pledge on Korean book-entry securities as described above will apply regardless of whether or not the Security Collateral Provider is a resident of Korea.

As discussed in Part I.1 above, a Korean court may not recognize an express choice of law governing the Security Document where, under the Private International Law, another law governs the validity and perfection of the security interest in the Posted Collateral. Therefore, it would be preferable to choose as the governing law of the Security Document

the law that governs the creation and perfection of a security interest in the Posted Collateral under the Private International Law. For example, for Korean Won denominated securities, we believe that Korean law should be specified as the governing law of the security interest relating to such Korean Won denominated securities in order to ensure that a valid security interest is created over the Posted Collateral.

7. ***Assuming that the Secured Party has obtained a valid and perfected security interest in the Eligible Collateral under the laws of Korea, to the extent such laws apply, by complying with the requirements set forth in your responses to Questions 1 to 6 above, as applicable, will the Secured Party or the Security Collateral Provider need to take any action thereafter to ensure that the security interest in the Eligible Collateral continues and/or remains perfected, particularly with respect to additional Collateral transferred by way of security from time to time whenever the Credit Support Amount exceeds the Value of the Collateral held by the Secured Party?***

Korean law does not require any action to continue the validity or perfection of a security interest in the Eligible Collateral once the requirements have been satisfied at the time of pledge and no action is taken by the Secured Party to release the security interest (*e.g.*, by return of the securities certificates to the Security Collateral Provider).

The security interest in Eligible Collateral that is provided as additional Collateral would be created and perfected only upon the completion of the measures required for valid creation and perfection (as discussed above under Part I.2 & 6).

8. ***Assuming that (a) pursuant to the laws of your jurisdiction, the laws of another jurisdiction govern the creation and/or perfection of a security interest in the Eligible Collateral transferred by way of security pursuant to each Security Document (for example, because such Collateral is located or deemed to be located outside your jurisdiction) and (b) the Secured Party has obtained a valid and perfected security interest in the Eligible Collateral under the laws of such other jurisdiction, will the Secured Party have a valid security interest in the Collateral so far as the laws of Korea are concerned? Is any action (filing, registration, notification, stamping or notarization or any other action or the obtaining of any governmental, judicial, regulatory or other order, consent or approval) required under the laws of your jurisdiction to establish, perfect, continue or enforce this security interest? Are there any other requirements of the type referred to in Question 6 above?***

If the assumptions under (a) and (b) above are satisfied, then the Secured Party will have a valid security interest in the Collateral under the laws of Korea. No further action will be required under the laws of Korea to establish, perfect, continue or enforce such security interest. With respect to other local law issues such as the foreign exchange law requirements, please see the discussion under Question 20 below.

9. ***Are there any particular duties, obligations or limitations imposed on the Secured Party in relation to the care of the Eligible Collateral held by it pursuant to each Security Document and Korean Annex?***

Under Korean law, unless otherwise agreed between the parties, a Secured Party has the obligation to safe-keep the collateral with the care required from a custodian acting in good faith. If the Secured Party incurs any expenses in safe-keeping the collateral, the Secured Party is entitled to reimbursement from the Security Collateral Provider. If the security interest is effective with respect to any Distributions under the Eligible Collateral, the Secured Party will have the obligation to apply such Distributions of the secured obligation when the secured obligation becomes due and payable.

10. ***Please note that pursuant to the terms of the Deed, the Secured Party is not permitted to use any Collateral securities it holds. This is because it is thought, as a matter of English law, that any such use is or may be incompatible with the limited nature of the interest that the Secured Party has in the Collateral. On the other hand, unless otherwise agreed to by the parties, Paragraph 6(c) of the 1994 NY Annex grants the Secured Party broad rights with respect to the use of Collateral, provided that it returns equivalent Collateral when the Pledgor is entitled to the return of Collateral pursuant to the terms of the 1994 NY Annex. Such use might include pledging or rehypothecating the securities, disposing of the securities under a securities repurchase (repo) agreement or simply selling the securities. Do the laws of Korea recognize the right of the Secured Party so to use such Collateral pursuant to an agreement with the Pledgor? In particular, how does such use of the Collateral affect, if at all, the validity, continuity, perfection or priority of a security interest otherwise validly created and perfected prior to such use? Are there any other obligations, duties or limitations imposed on the Secured Party with respect to its use of the Collateral under the laws of your jurisdiction?***

Under the Korean conflict of laws rules, the rights of the Secured Party to use the Collateral would be governed by the laws that govern the creation and perfection of the security interest. Under the Civil Code of Korea, a Secured Party may use the Collateral with the consent of the Security Collateral Provider; "use" does not include sale, rehypothecation, assignment or other transfer or disposition, but does include "re-pledge" (as discussed below).

A Secured Party may re-pledge the Collateral to secure its own obligation with the prior consent of the Security Collateral Provider. Additionally, a Secured Party may re-pledge the Collateral without the prior consent of the Security Collateral Provider; however, in such a case, the security interest created under the re-pledge will terminate if the obligation secured by the original pledge is discharged.[2] On the other hand, if the re-pledge is made

[2] The Civil Code provides that the re-pledge can be perfected by notice to or consent of the original pledgor and if the re-pledge is so perfected, the discharge of the obligation secured by the original pledge without the consent of the second secured creditor would not be effective against such second secured creditor.

with the prior consent of the Security Collateral Provider, the security interest created under the re-pledge will remain effective, notwithstanding the discharge of the obligation secured by the original pledge.

Upon discharge of the Security Collateral Provider's obligations that are secured by the Posted Collateral subject to the re-pledge, the Secured Party would be obligated to return the identical Posted Collateral to the Security Collateral Provider; if the Secured Party fails to return the identical collateral, the Secured Party would be required to pay damages, which will be the market value of the Collateral at the time of its required return.

There is no requirement that the obligations of the Security Collateral Provider that are secured by the re-pledge be back-to-back obligations; any obligation of the Secured Party can be secured through re-pledge. However, if Collateral is re-pledged without the Security Collateral Provider's consent, then the obligations secured by the re-pledge should fall within the scope of the original secured obligation (for example, the duration and amount of the obligations secured by the re-pledge should match those of the original obligation). In the event the Secured Party defaults on its obligation and the party (the "**Second Secured Party**") in possession of the re-pledged security assets seeks to foreclose and enforce its rights against the Collateral: if the re-pledge was with the prior consent of the Security Collateral Provider, the Second Secured Party will have the absolute right to foreclose; in contrast, if the re-pledge was without the consent of the Security Collateral Provider, the Second Secured Party would not be able to foreclose unless the Security Collateral Provider has defaulted under its obligation to the Secured Party.

In contrast to re-pledge, the sale, rehypothecation, assignment or other transfer or disposition of the Collateral by the Secured Party or exercise of the Secured Party's right to sell or otherwise dispose of the Collateral (other than pursuant to a transfer of the secured obligation together with the security interest or upon default by the Security Collateral Provider) will destroy the security interest in the Collateral. If the Secured Party sold or disposed of the Collateral and if the Security Collateral Provider was not in default, the Secured Party would be required to pay damages to the Security Collateral Provider. Ordinarily the damages would be valued at the market value of the assets at the time of the sale; however, if the Secured Party knew or should have known that the market value would increase by the time when the assets would be required to be returned to the Security Collateral Provider, consequential damages may also be recognized. The Secured Party would not be permitted to set off such obligation to pay damages payable by the Secured Party against the Security Collateral Provider's obligation owed to the Secured Party, if the Secured Party has sold the Collateral with the knowledge that it had no right to do so.

If the Secured Party disposes of the Collateral otherwise than pursuant to a transfer of the secured obligation together with the security interest or while the Security Collateral Provider is not in default, but subsequently acquires equivalent assets, the security interest will not automatically revive and the Secured Party will not be able to return the equivalent assets, unless mutually agreed with the Security Collateral Provider. If the Security Collateral Provider agrees to treat the newly acquired assets as Collateral securing its

obligation, then a new pledge will be deemed entered into and the security interest will at that point attach to the Collateral.

11. ***What is the effect, if any, under the laws of Korea on the validity, continuity, perfection or priority of a security interest in Eligible Collateral under each Security Document and Korean Annex of the right of the Pledgor to substitute Collateral pursuant to Paragraph 4(d) of the 1994 NY Annex, the 1995 Deed and Korean Annex? How does the presence or absence of consent to substitution by the Secured Party affect your response to this question? Please comment specifically on whether the Pledgor and the Secured Party are able validly to agree in the Security Document or Korean Annex that the Pledgor may substitute Collateral without specific consent of the Secured Party and whether and, if so, how this may affect the nature of the security interest or otherwise affect your conclusions regarding the validity or enforceability of the security interest.***

The substitution of Collateral by the Security Collateral Provider in general will not adversely affect a security interest; however, the security interest in the substitute Collateral will be created and attach only upon the completion of the procedures required for the creation of a valid security interest in such collateral (*e.g.*, a valid delivery in the case of securities). A purported substitution without the consent of the Secured Party would be invalid under Korean law. However, the Secured Party's consent (which may be general and may be made in the Security Document or Korean Annex) in advance with respect to the substitution would be effective.

II. Enforcement of Rights Under the Security Documents or Korean Annex by the Secured Party in the Absence of an Insolvency Proceeding

12. ***Assuming that the Secured Party has obtained a valid and perfected security interest in the Eligible Collateral under the laws of Korea, to the extent such laws apply, by complying with the requirements set forth in your responses to Questions 1 to 6 above, as applicable, what are the formalities (including the necessity to obtain a court order or conduct an auction), notification requirements (to the Security Collateral Provider or any other person) or other procedures, if any, that the Secured Party must observe or undertake in exercising its rights as a Secured Party under each Security Document or Korean Annex, such as the right to liquidate Collateral? For example, is it free to sell the Collateral (including to itself) and apply the proceeds to satisfy the Security Collateral Provider's outstanding obligations under the Master Agreement? Do such formalities or procedures differ depending on the type of Collateral involved?***

If Korean law applies (as determined by the Korean conflict of laws rules, including the Private International Law) to the Security Documents and in the case of the Korean Annex, upon the debtor's default, a Secured Party would have the option of (i) judicial foreclosure; (ii) private sale (*i.e.*, a sale other than by a judicial auction) with respect to the disposition of the Collateral, if the pledge agreement provides for a private sale and if the secured

transaction is considered "a commercial transaction"; or (iii) acquisition of the securities in its own name in lieu of judicial foreclosure if the secured transaction is considered "a commercial transaction" and the parties have agreed on such a remedy. The Commercial Code lists the types of activities that are considered commercial transactions and in addition states that all activities of a merchant qualify as commercial transactions. We believe that Transactions under the Master Agreement would qualify as "commercial transactions". A merchant is a person who conducts commercial transactions in its own name. Therefore, if the Security Collateral Provider or the Secured Party is a merchant, then the Secured Party's rights of enforcement against Collateral would not be limited to judicial foreclosure proceedings.

(a) Judicial Foreclosure: The Code of Civil Procedure and regulations thereunder contain detailed procedures for judicial foreclosure where the collateral consists of securities whether deposited with the Korea Securities Depository or otherwise. A judicial foreclosure in Korea generally requires neither a long period of time nor great expense. The procedure is simpler in the case of securities that are readily marketable. Under the judicial procedure, the securities will be sold by a broker at the court's order and the proceeds will be distributed by the court. As the holder of a perfected security interest, the Secured Party will be accorded priority in the distribution over subsequent lien holders in the collateral except for those whose claims are preferred by law (see the discussion under Part 1.I.14 below).

(b) Private Sale: The Secured Party may also dispose of the pledged Collateral through a private sale if permitted under the Security Document or Korean Annex.

(c) Acquisition of Collateral: The Secured Party may also acquire title to the Collateral in lieu of foreclosure, subject to the proviso that the Secured Party will be required to return to the Security Collateral Provider any excess of the market value of the Collateral over the amount of the secured obligation.

(d) Direct Payment Demand: With respect to bank deposit under the Korean Annex, the Secured Party may demand payment of the pledged bank deposit directly from the depository bank.

13. ***Assuming that (a) pursuant to the laws of Korea, the laws of another jurisdiction govern the creation and/or perfection of a security interest in the Eligible Collateral transferred by way of security pursuant to each Security Document (for example, because such Collateral is located or deemed located outside Korea) and (b) the Secured Party has obtained a valid and perfected security interest in the Eligible Collateral under the laws of such other jurisdiction, are there any formalities, notification requirements or other procedures, if any, that the Secured Party must observe or undertake in your jurisdiction in exercising its rights as a Secured Party under each Security Document?***

If the assumptions under (a) and (b) above are satisfied, no other formalities, notifications or other procedures would be required under Korean law for the Secured Party to exercise its rights as a Secured Party. With respect to other local law issues such as the foreign exchange law requirements, please see the discussion under Question 20 below.

14. ***Are there any laws or regulations in Korea that would limit or distinguish a creditor's enforcement rights with respect to Collateral depending on (a) the type of transaction underlying the creditor's exposure; (b) the type of collateral; or (c) the nature of the creditor or the debtor? For example, are there any types of "statutory liens" that would be deemed to take precedence over a creditor's security interest in the collateral?***

Under Korean law, a creditor's enforcement rights would be subject to certain statutorily preferred claims including *Yuchi Kwon* (a possessory lien), claims for unpaid tax and claims for unpaid wages.

Possessory Lien

Under the Commercial Code of Korea, a merchant ("**Merchant A**") who is directly or indirectly in possession of movable property or negotiable instruments (including securities) of another merchant ("**Merchant B**") is entitled to keep such property until any obligations that Merchant B owes to Merchant A are fully discharged. Such entitlement which arises as a matter of law is referred to as *Yuchi Kwon* or a possessory lien and is effective not only against Merchant B but against all other third parties. No contractual agreement is required to create *Yuchi Kwon*. Any person engaged in commercial activities would qualify as a "merchant".

Under ordinary circumstances, although a holder of *Yuchi Kwon* has no priority right to the proceeds of the disposition of the property, such holder enjoys the right to retain the property until his claim is fully satisfied by the owner of the property or other competing creditors of such owner. Thus, it establishes a *de facto* priority right on the part of the holder of *Yuchi Kwon*.

Although there is no court precedent on point, it is generally believed that *Yuchi Kwon* would be valid with respect to an obligation owed to the *Yuchi Kwon* holder if *Yuchi Kwon* is recognized under the laws of the jurisdiction where the holder (and hence the relevant property) is located as well as the laws of the jurisdiction which govern the obligation.

Yuchi Kwon can be exercised with respect to all obligations between the party that is in possession of the property and the owner of the property (*i.e.*, the Security Collateral Provider) and such obligations are not limited to those related to the property. *Yuchi Kwon* may be waived as a matter of a contract by the party that is holding the property.

Tax Claims

A claim for delinquent tax of the debtor (*e.g.*, income tax, local tax, or any other tax) is accorded priority over a Secured Party if the "tax determination date" of the tax precedes the creation and perfection of the security interest. With respect to additional or new Collateral, the security interest will be considered created and perfected at the time when all steps described above under Part I.3 above are completed with respect to such Collateral. The "tax determination date" differs depending on the type of tax; for example, for the national tax where the amount is determined on the basis of the report made by the tax-payer, the tax determination date will be the date of the report. However, with respect to tax relating to the Collateral itself (*e.g.*, gift tax, inheritance tax, securities transaction tax), the tax claim is given priority over any security interest, regardless of when the tax claim arose.

Tax claims are given priority as described above if the claims are filed by the authorities with the court in judicial foreclosure proceedings. In principle, the same priority should be accorded to tax claims in the event of disposition of the Collateral in a private sale or acquisition of the Collateral by the Secured Party; however, because the secured creditor is not obligated to notify any creditors (including the tax authorities) in such event, as a practical matter, tax authorities generally do not participate in the distribution in a private sale of the Collateral by the secured creditor.

We note that a securities transaction tax is payable upon all sales of shares. The securities transaction tax is not payable upon a pledge of the securities. It is unclear whether the tax would be payable on a transfer of shares for security purposes not by way of a pledge. Although there is no authority on point, we believe that if the transfer is deemed to create a security interest, then no such tax would be payable. Failure to pay the tax would not invalidate the transfer itself but would subject the tax payer to a penalty (at the flat rate of 10% of the delinquent tax) for late tax payment.

Claims for Wages

A claim for a limited amount of unpaid wages and a limited amount of severance payment is accorded priority over a Secured Party.

Priority over Assets of Branches of Foreign Financial Institutions

Article 61 of the Bank Act provides a liquidation procedure for the Korean branch of a foreign bank in the event of cancellation of its banking license in Korea. Article 62 of the Bank Act provides that in the event of the liquidation or bankruptcy of a branch of a foreign bank, the branch's assets, reserves or capital should be allocated first to satisfy the claims of Korean citizens or foreigners resident in Korea on a preferential basis. A similar provision is contained in Article 65-3 of the FSCMA with respect to the Korean branch of a foreign securities company. Although there is no court precedent on this point, it is generally believed that a validly created and perfected security interest in the assets in Korea of the branch would not be adversely affected by the statutory preference accorded to the claims of

Korean citizens or foreigners resident in Korea.[3] With respect to a Korean branch of a foreign insurance company, Article 75 of the Insurance Business Law ("**IBL**") requires a branch of a foreign insurance company to maintain in Korea assets in an amount equal to the liability reserve and emergency risk reserve relating to insurance policies issued in Korea. Further, Article 32, Paragraph 1 of the IBL provides that a holder or a beneficiary of an insurance policy shall be preferentially paid his/her entitled insurance amount from the insurance company's assets, unless otherwise provided in other Korean laws.

The Ministry of Finance and Economy ("**MOFE**" which is now renamed as the Ministry of Strategy and Finance) issued an interpretative ruling on September 13, 2001 to the effect that the statutory priority of holders or beneficiaries of insurance policies under Article 32, Paragraph 1 [formerly Article 39, Paragraph 1] of the IBL is effective against unsecured creditors of the insurance company but will not be superior to the security interest granted in the assets of the insurance company in favor of secured creditors. Although the MOFE ruling is not binding on Korean courts, we believe that courts in Korea would accord authority to such a ruling since the MOFE has administrative jurisdiction on matters relating to the IBL.

15. ***How would your responses to Questions 12 to 14 change, if at all, assuming that an Event of Default, Relevant Event or Specified Condition, as the case may be, exists with respect to Secured Party rather than or in addition to the Security Collateral Provider (for example, would this affect the ability of the Secured Party to exercise its enforcement rights with respect to the Collateral)?***

The existence of an Event of Default, Relevant Event or Specified Condition, as the case may be, with respect to the Secured Party would not affect its enforcement rights with respect to the Collateral. However, if the Security Collateral Provider exercises its set-off rights against the Secured Party's secured claim, then to that extent the amount that the Secured Party may realize from the enforcement would be reduced.

III. Enforcement of Rights Under the Security Documents and Korean Annex by the Secured Party after Commencement of an Insolvency Proceeding

Insolvency Proceedings under Korean Law

In Korea, insolvency is governed by the Debtor Rehabilitation and Bankruptcy Law ("**DRBL**"),[4] the Financial Industry Restructuring Law ("**FIRL**") and the Corporate Restructuring Promotion Law ("**CRPL**"). Because there is nothing in the FIRL that would adversely affect the Secured Party, this memorandum discusses only proceedings under the DRBL and the CRPL.

---

[3] Banking Law Guide (1993), at p.253, published by the Banking Supervision Department of the Bank of Korea.

[4] The territoriality principle of the prior insolvency laws has not been adopted under the DRBL and therefore, the DRBL proceedings would affect the debtor's property that is located outside Korea as well as in Korea.

Proceedings under the DRBL

Chapter 2 of the DRBL provides for proceedings for rehabilitation of a legal entity as well as an individual engaged in business ("**Rehabilitation Proceedings**") and Chapter 3 of the DRBL provides for proceedings for bankruptcy (i.e., liquidation) of a legal entity or an individual ("**Bankruptcy Proceedings**" and together with Rehabilitation Proceedings, "**Insolvency Proceedings**") while Chapter 4 of the DRBL provides for proceedings for rehabilitation of an individual debtor. In this opinion, we discuss only Rehabilitation Proceedings under Chapter 2 and Bankruptcy Proceedings under Chapter 3, since Chapter 4 rehabilitation proceedings are available only to individuals.

Rehabilitation Proceedings

The formal requirement for the institution of Rehabilitation Proceedings is the filing of a petition for rehabilitation. The filing of the petition *per se* does not act as an automatic stay.

Even before the formal commencement of Rehabilitation Proceedings, the court may, at any time after filing of the petition, issue an order prohibiting the insolvent party from disposing of its assets or staying any actions by a third party to enforce claims against the insolvent party. However, such an order would have no effect on the exercise of any right of set-off. The court is also empowered to issue a provisional injunction order or a provisional attachment order with respect to the insolvent party's property or business before the formal commencement of Rehabilitation Proceedings. In Rehabilitation Proceedings, once a petition has been filed a court may issue an interim stay order (*Jungji Myungryung*) to stay certain specific administrative or judicial procedures (such as a provisional attachment or execution of judgment) against the insolvent party or its assets. After a petition for Rehabilitation Proceedings has been filed, a court may also issue a comprehensive stay order (*Pogwaljuk Kumji Myungryung*) which will stay all actions taken by creditors to enforce their claims against the assets of the insolvent party, including execution of judgments, provisional attachment, provisional injunction or enforcement of security interests.

The court is required to make its decision regarding the commencement of the proceeding within one month after the filing of the petition. Rehabilitation Proceedings are deemed to have commenced on the date when the court issues a commencement order. The issuance of such an order is published in the government gazette.

Upon the formal commencement of Rehabilitation Proceedings by a court order, any actions to enforce claims against the insolvent party are stayed and the claims will be satisfied in accordance with the rehabilitation plan. A secured party's security rights will also be adjusted in accordance with the court-confirmed

rehabilitation plan. And creditor's rights of set-off will be stayed from the expiry of the claim-filing period.

Bankruptcy Proceedings

Bankruptcy Proceedings are in principle similar to Rehabilitation Proceedings but have the following distinct features:

(I) Neither an interim stay order (*Jungji Myungryung*), nor a comprehensive stay order (*Pogwaljuk Kumji Myungryung*) is applicable to the Bankruptcy Proceeding.

(II) A secured party in Bankruptcy Proceedings may enforce its security rights outside such proceedings whereas in Rehabilitation Proceedings, a secured party's security rights will be adjusted in accordance with the court-confirmed rehabilitation plan.

(III) In Bankruptcy Proceedings, a creditor may exercise rights of set-off at any point, whereas rights of set-off will be stayed in Rehabilitation Proceedings from the expiry of the claim-filing period.

Proceedings under the CRPL

The CRPL proceedings apply to all Korean enterprises (collectively, "**Enterprises**" and individually, an "**Enterprise**") which received the credit extension ("**Credit Extension**") from holders of financial claims (collectively, "**Financial Claim Holders**" and individually a "**Financial Claim Holder**").

The financial claims ("**Financial Claims**") are defined in the CRPL as the 'claims against the Enterprises arising from the Credit Extension'. The Credit Extension comprises all loans, purchase of notes and bonds, lease, guarantee, vicarious payment and any and all direct and indirect financial transactions where a Financial Claim Holder would suffer losses if the counterparty defaults thereunder. Therefore, claims arising from the Transactions under the Master Agreement would fall within the scope of the Financial Claims. In addition, the Enterprises exclude (i) governmental institutions defined under the Law on Management of Governmental Institution, (ii) financial institutions and (iii) enterprises established under foreign law.

A bank referred to as the "**Prime Bank**" must evaluate the credit risk of such Enterprise on a periodic basis and may determine whether or not the Enterprise is unable to repay its debt without financial assistance from outside or special borrowings (excluding borrowings made in the ordinary course of its business) (such Enterprise referred to as a "**Failing Enterprise**"). The Prime Bank that determines the Enterprise is a Failing Enterprise must notify its determination to the Enterprise. Upon receipt of such notice, the Enterprise may apply to its Prime Bank for the commencement of proceedings under the

CRPL ("**CRPL Proceedings**") such as: (i) "**Joint Management Proceedings**" in which a council consisting of all Financial Claim Holders ("**Council**") manages the Failing Enterprise and (ii) "**Prime Bank Management Proceedings**" in which only the Prime Bank manages the Failing Enterprise.[5]

The Prime Bank must, within 14 days from the day when it receives the request from the Failing Enterprise, (i) send a notice ("**Notice for CRPL Proceedings**") for the convocation of a Council, (ii) determine to restructure the Failing Enterprise under the management by the Prime Bank or (iii) reject the commencement of the CRPL Proceedings because it determines that the Failing Enterprise cannot be rehabilitated through the restructuring under the CRPL Proceedings.

When the Prime Bank sends a Notice for CRPL Proceedings to Financial Claim Holders, the Prime Bank is authorized to require the Financial Claim Holders to desist from exercise of their creditor's rights (including, without limitation, set-off, enforcement of collateral (*Tambo* in Korean), acquisition of additional collateral) against the Failing Enterprise.[6] We assume that the Prime Bank will so require in all cases in view of the objectives of the CRPL.

At the first Council's meeting, which must be held within 14 days from the date of the Notice for CRPL Proceedings,[7] the Council must determine (i) scope of Financial Claim Holders participating in the Joint Management Proceedings ("**Council Members**"),[8] (ii) whether or not to commence the Joint Management Proceedings with respect to the Failing Enterprise and (iii) whether to suspend the enforcement of creditor's rights (including exercise of security interest) and the period for such suspension. Upon the commencement of the Joint Management Proceedings, the Council Member who received the Notice for CRPL Proceedings but enforces its Financial Claims must cancel the enforcement and reinstate the original Financial Claims.

The enforcement of Financial Claims may be suspended up to 1 month (or 3 months if an investigation of the Failing Enterprise's financial status is necessary). This suspension period may be extended by the Council for an additional 1 month. A resolution at the meeting requires an affirmative vote by 3/4 or more of the total reported amount of Financial Claims held by all Council Members against the Failing Enterprise.[9] The Council must

---

[5] We do not discuss the Prime Bank Management Proceedings herein, since only the Prime Bank is subject to the CRPL in the Prime Bank Management Proceedings.

[6] Each such Financial Claim Holder is required to report to the Prime Bank within 5 days from the date of the Notice for CRPL Proceedings the balance of its outstanding credit as of the date immediately preceding the date of the Notice for CRPL Proceedings. Each such Financial Claim Holder may exercise voting rights at the Council based upon the amount of credits to the Failing Enterprise as reported to the Prime Bank.

[7] The date of the first meeting of the Council may be extended by up to 14 days if the Council fails to adopt a resolution on the list of the participating Financial Claim Holders.

[8] The Financial Claim Holders who are not invited to the Council are not subject to the CRPL Proceedings. But they have the right to demand to participate in the Council and the Council must accept such demand.

[9] However, if a single Financial Claim Holder has 3/4 or more of the total outstanding amount of Financial

approve a plan for rehabilitation of the Failing Enterprise and enter into an agreement with the Failing Enterprise for implementation of the rehabilitation plan. The Council may also adopt a debt restructuring plan with the approval of at least 3/4 of the effective secured Financial Claims[10] held by the Council Members. Such debt rescheduling plan will be binding on the Council Members.

16. How are competing priorities between creditors determined in Korea? What conditions must be satisfied if the Secured Party's security interest is to have priority over all other claims (secured or unsecured) of an interest in the Eligible Collateral?

(a) Bank Deposits: Priority is determined by the delivery date of the fixed-date stamped notice to or consent from the obligor. The earlier date is given priority over any later dates. A document can be fixed-date stamped at a court or at the offices of a notary public. The fixed-date stamp requirement cannot be satisfied by a dated letter. The above priority rule would apply to security interests governed by Korean law in accordance with Korean conflict of laws rules.

(b) Bearer Debt Security: A bearer debt security can be validly pledged only through the delivery of the certificates to the Secured Party. Because the certificates are deemed to have been delivered to the Secured Party or its agent by giving notice of the pledge to or obtaining consent to the pledge from any third party holding the certificates, the priority is determined by the fixed date stamped on the notice or consent. The priority of interests between a Secured Party (Secured Party X) that is holding the bearer debt security certificates and a Secured Party (Secured Party Y) that has perfected its security through a fixed-date stamped notice to or consent from a third party that was holding the certificates at the time of pledge would be determined by deciding whether Secured Party X is a holder in due course of the certificates. A holder in due course will be given priority. A holder in due course will be the party that has acquired the certificates in good faith without actual notice or constructive notice. A holder will have constructive notice if the lack of notice is caused by that party's gross negligence.

(c) Registered/Book-entry Debt Security: Registered debt security's priority is determined by the date of registration of the pledge with the registrar. Book-entry debt security or book-entry bonds can be validly pledged only through the transfer of the bonds to the pledge account of the Secured Party maintained either through the KSD or a custodian of the Security Collateral

---

Claims, approval by 2/5 or more of the total number of Financial Claim Holders is also required.

[10] The total effective secured amount of the Financial Claims is limited up to the liquidation value of the Enterprise's total assets.

Provider. Therefore, there cannot be competing security interests in book-entry form bonds.

17. Would the Secured Party's rights under each Security Document or Korean Annex, such as the right to liquidate the collateral, be subject to any stay or freeze or otherwise be affected by commencement of the insolvency (that is, how does the institution of an insolvency proceeding change your responses to Questions 12 and13 above, if at all)?

DRBL Proceedings

Article 120 of the DRBL applies to Rehabilitation Proceedings and is made applicable *mutatis mutandis* to Bankruptcy Proceedings pursuant to Article 336 of the DRBL:

Article 120, Paragraph 3 of the DRBL states as follows:

"In the event that the rehabilitation proceeding has commenced with respect to a party to any of the following transactions (referred to in this Paragraph as a "**Qualified Financial Transaction**") pursuant to a single agreement which provides for the basic terms of specified financial transactions (referred to in this Paragraph as a "**Master Agreement**"), the termination (*jong-ryo*) and the calculation of any amount payable and receivable between the parties (*jeong-san*) of such Qualified Financial Transactions shall, notwithstanding any provision in this law, take effect in accordance with the parties' agreement in the Master Agreement and shall not be subject to rescission (*hea-je*), termination (*hea-ji*), revocation (*chui-so*) or avoidance (*bu-in*); the transactions under Item 4 below shall not be subject to an interim stay order (*Jungji Myungryung*) or a comprehensive stay order (*Pogwaljuk Kumji Myungryung*); provided, however, that the foregoing shall not apply to any Qualified Financial Transaction entered into by the debtor in collusion with the counterparty for the purpose of harming the other unsecured rehabilitation or secured rehabilitation creditors.

(1) Any derivative transaction, as determined in the Presidential Decree under the DRBL, such as a forward, option or swap that is based on the price or interest rate of currency, securities, equity contribution, commodity, credit risk, energy, weather, freight, bandwidth, environment, an index composed of the above, or other indicator;

(2) Spot currency transaction, securities repurchase transaction, securities lending/borrowing transaction and secured call loan transaction;

(3) Any transaction that is a combination of any of the transactions falling under Items (1) or (2); and

(4) Provision, disposition or application of collateral in connection with the transactions falling under Items (1) through (3)."

In addition, Paragraph 1 of Article 14 of the Presidential Decree under the DRBL defines "Derivative Transaction" as follows:

"Derivative Transactions as specified in the Presidential Decree under Article 120, Paragraph 3, Item 1 of the [DRBL] means a forward, option or swap transaction where the underlying asset is any of the following or a price, interest rate, indicator or unit thereof or any index produced on the basis thereof:

(1) Financial investment product (securities, any product based on a derivative transaction);

(2) Currency (including foreign currency);

(3) Commodity (agricultural product, livestock product, fishery product, forest product, mineral product, energy product or any product produced or manufactured therefrom or any other similar product);

(4) Credit risk (changes in credit of a party or a third party due to changes in credit rating, bankruptcy or debt restructuring); and

(5) any natural, environmental or economic risk where the price, interest rate, indicator or unit can be produced or evaluated in a reasonable and appropriate manner."

Most of the transactions listed in Appendix A, attached hereto would fall under the definition of "Derivative Transactions" as set forth above, except for "Bullion Trades", "Emissions Allowance Transaction" (only when it was made on a "spot" basis) and "Physical Commodity Transactions" (each as defined in Appendix A) which may not fall within the scope of "a forward, option or swap transaction" and, hence, may not qualify as a Qualified Financial Transaction for purposes of Article 120 and Article 336 of the DRBL. In addition, it is not clear whether transactions falling within sub-clause (b) of the definition of "Longevity/Mortality Transaction" (as defined in Appendix A) would qualify as a Qualified Financial Transaction since "pension liabilities or life insurance policies" as the underlying assets may not be considered "financial investment products."

Therefore, subject to the preceding paragraph, under Article 120, Paragraph 3 and Article 336 of the DRBL, the Secured Party's right to liquidate the collateral would not be subject to an interim stay order (*Jungji Myungryung*)[11] or comprehensive stay order (*Pogwaljuk Kumji Myungryung*)[12]. However, all creditors' collection actions, whether through

[11] Once the petition is filed for Rehabilitation Proceedings, a court may issue an interim stay order to stay certain specific administrative or judicial procedures (such as provisional attachment, execution of judgment) against the insolent company or its assets.

[12] After a petition is filed for Rehabilitation Proceedings, a court may also issue a comprehensive stay order which will stay all administrative or judicial procedures (such as provisional attachment, execution of

administrative or judicial procedures will be automatically stayed upon commencement of Rehabilitation Proceedings while a Secured Party is free to liquidate Collateral at any time in Bankruptcy Proceedings. Thus, the Secured Party would be stayed from liquidating the Collateral upon commencement of Rehabilitation Proceedings while the Secured Party is not subject to such stay upon commencement of Bankruptcy Proceedings. The court is required to decide whether to commence Rehabilitation Proceedings within one month after the petition is filed.

It is not entirely clear whether the liquidation of collateral that secures Qualified Financial Transactions would be also stayed upon commencement of Rehabilitation Proceedings. An argument may be made that the liquidation of collateral should be considered part of the "termination and calculation of any amount payable and receivable between the parties" of Qualified Financial Transactions and hence, should be enforceable in accordance with the parties' agreement in the Master Agreement. On the other hand, however, some commentators expressed the view that the liquidation of collateral securing Qualified Financial Transactions should not be exempt from the automatic stay that takes effect upon commencement of the rehabilitation proceedings.[13]

Since we cannot exclude the possibility that liquidation of collateral be subject to the automatic stay upon commencement of the rehabilitation proceedings, we recommend that the 30 day (or 15 day in the 2002 Master Agreement) grace period in Section 5(a)(vii)(4) should be eliminated. If the grace period is retained in the Bankruptcy Event of Default under Section 5(a)(vii)(4), the Secured Party would not be able to dispose of the Collateral in the event Rehabilitation Proceedings are commenced during the grace period. The commencement of Rehabilitation Proceedings will occur within one month after the petition filing.

CRPL Proceedings

Under the current CRPL which took effect on March 18, 2016, (i) the Financial Claim Holders who received the Notice for CRPL Proceedings are prohibited from enforcing Financial Claims against the Failing Enterprise and (ii) the enforcement of Financial Claims in breach of such prohibition must be reinstated upon the official commencement of the CRPL Proceedings.

Therefore, to the extent that the insolvent Collateral Provider (who is a Enterprise) becomes subject to the CRPL Proceedings, we believe that the Secured Party who received the Notice for CRPL Proceedings containing a demand to stay therein will be stayed from the enforcement of the security interest over Collateral. Since the stay takes effect only upon the

---

judgment) against the insolvent company or its assets.

[13] Rehabilitation Case Practices,(*Hoesaeng Sakun Silmu*), at p.160 (Second Edition, January 2007), published by the Research Group of the Bankruptcy Department of Seoul Central District Court; C.Y. Lim, Research on Bankruptcy Law (*Pasan Bup Yunku*) at p. 207 (Vol 2, September 2006).

receipt of the Notice for CRPL Proceedings, the liquidation of Collateral prior to such date should not be affected by the stay.

Based on the foregoing, we suggest that the following clause be added as an additional Event of Default to the Master Agreement if the Korean party is an entity not exempt from the CRPL Proceedings:

> "Pursuant to the Corporate Restructuring Promotion Law ("CRPL"), Party [B] applies to its prime bank (as defined in the CRPL) for the commencement of proceedings under the CRPL"

If the foregoing Event of Default is newly added, there may be a window of time between the application by the Failing Enterprise and the receipt of the Notice for CRPL Proceedings on the Prime Bank's decision and the Financial Claim Holder may liquidate the Collateral during such a window. There is no assurance, however, whether such a window would be long enough to terminate the Transactions and to liquidate the Collateral. Although the Prime Bank is required to make the decision as to whether to commence the CRPL Proceedings within 14 days after the application by the Failing Enterprise, the expectation in the market is that the Prime Bank will make the decision very quickly (e.g., within 1 or 2 days from the application by the Failing Enterprise). In addition, the date of application by the Failing Enterprise may not be ascertainable in some cases, although all Korean companies who listed their shares on the Korea Exchange are required to disclose such an application on the Korea Exchange and report to the FSS on the same day (or early in the morning on the following day) as material information.

18. Will the Security Collateral Provider (or its administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official) be able to recover any transfers of Collateral made to the Secured Party during a certain "suspect period" preceding the date of the insolvency as a result of such a transfer constituting a "preference" (however called and whether or not fraudulent) in favor of the Secured Party or on any other basis? If so, how long before the insolvency does this suspect period begin? If such a period exists, would the substitution of Collateral by a counterparty during this period invalidate an otherwise valid security interest if the substitute Collateral is of no greater value than the assets it is replacing? Would the posting of additional Collateral pursuant to the mark-to-market provisions of the Security Documents during the suspect period be subject to avoidance, either because the Collateral was considered to relate to an antecedent or pre-existing obligation or for some other reason?

Under the DRBL, the receiver in Rehabilitation Proceedings or Bankruptcy Proceedings is authorized to set aside, subject to certain conditions, the following types of actions taken by the insolvent party: (i) any act (*e.g.*, payment or transfer of property) taken by the insolvent party with intent to harm other creditors[14] if the payee/transferee also knows

[14] The DRBL does not define what constitutes "harm to other creditors." Based on several court cases

that such payment or transfer would harm other creditors; (ii) any act that would harm other creditors or any repayment of debt or provision of collateral made after a suspension of payment (as defined below) or the filing of insolvency proceedings ("**Insolvency Event**") if the payee or the secured party knows that the Insolvency Event has occurred or that such act will harm other creditors; (iii) repayment of debt or provision of collateral made after or within 60 days prior to an Insolvency Event when the insolvent party had no antecedent obligation to do so at such time if (a) the payee/secured party knows the Insolvency Event has occurred or (b) such act will prejudice equal treatment of creditors; and (iv) any gratuitous act which occurs after or within six months prior to an Insolvency Event. If the party that benefited from the insolvent company's action is specially related to the insolvent company, then under (ii), the payee or the Secured Party is presumed to have the knowledge, under (iii), the 60 day period is extended to 1 year and under (iv) the 6 month period is extended to 1 year. "Specially related parties" include any company that holds 30% or more of interest in the insolvent company or any company in which the insolvent company holds 30% or more interest or any company that controls or is controlled by, the insolvent company.

Under Article 120, Paragraph 3 and Article 336 of the DRBL discussed above under Question 17, any provision of Collateral to secure Qualified Financial Transactions is exempt from avoidance unless such provision is made by the insolvent company in collusion with the Secured Party for purposes of harming other creditors of the insolvent company.

IV. Miscellaneous

19. Would the parties' agreement on governing law of each Security Document and submission to jurisdiction be upheld in your jurisdiction, and what would be the consequences if they were not?

Subject to our discussion under Part I.1 above, ordinarily a Korean court would enforce a choice of governing law of a contract if the application of such law is not contrary to Korean public policy. The enforcement may be limited or affected, however, by bankruptcy, insolvency, reorganization or restructuring proceedings of the Security Collateral Provider pursuant to the DRBL or other similar laws which generally affect the enforcement of creditors' rights.

The submission by a party to the non-exclusive jurisdiction of a foreign court in a specified jurisdiction is a valid submission and any final and conclusive judgment for a sum of money obtained against the party in such courts will be enforced by the courts in Korea without re-examination of the merits; provided, (i) such judgment was finally and conclusively given by a court having valid jurisdiction in accordance with the international jurisdiction principles under Korean law and applicable treaties, (ii) such Korean party was

---

applying the fraudulent conveyance provision in the Commercial Code (which is similar to item 1 of the receiver's avoidance power under the DRBL), it appears that courts determine that other creditors will be harmed if the act causes the solvent debtor to become insolvent or will reduce the assets or increase the liabilities at the time when the debtor is already insolvent.

duly served with a service of process (otherwise than by publication or similar means) in sufficient time to enable such Korean party to prepare its defense in conformity with applicable laws or responded to the action without being served with process, (iii) in view of substance of such judgment and the procedures of litigation, recognition of such judgment is not contrary to the public policy of Korea, and (iv) judgments of the courts of Korea are accorded reciprocal treatment under the laws of the jurisdiction of the court which had issued such judgment or the requirements for the recognition of a foreign judgment in the jurisdiction of the court which had issued such judgment are neither manifestly inequitable nor substantially different in material respects from the requirements for recognition of a foreign judgment in Korea.

20. Are there any other local law considerations that you would recommend the Secured Party to consider in connection with taking and realizing upon the Eligible Collateral from the Security Collateral Provider?

(a) Foreign Exchange Regulations

Under the Foreign Exchange Transaction Law of Korea and regulations thereunder ("**FETL**"), if the Secured Party is a non-resident, a pre-transaction report with respect to the OTC derivatives transaction ("**Pre-Transaction Report**") must be filed with and accepted by the Bank of Korea ("**BOK**") in order for the Security Collateral Provider to grant a security interest (i.e., pledge) in the Posted Collateral (e.g., Korean treasury bonds, etc.) in favor of the Secured Party, unless filing of such Pre-Transaction Report is exempted (e.g., in case where counterparty to the Secured Party is a bank or a securities company licensed to engage in OTC derivative transactions). If the Pre-Transaction Report filed with the BOK covers provision of any additional Collateral or such Pre-Transaction Report is exempted under the FETL, another report will not be required each time additional Collateral is posted.

Korean courts have held that a violation of the FETL does not affect the enforceability of the relevant contract. Accordingly, the lack of authorization under the FETL (including acceptance of the Pre-Transaction Report by the BOK) would not invalidate a pledge of the Posted Collateral and the Secured Party would be able to obtain a judgment against the Security Collateral Provider in a Korean court under the pledge. However, the remittance of any proceeds from the enforcement of the judgment would require such Pre-Transaction Report to be submitted to (and acceptance thereof by) the BOK. A private sale of the Posted Collateral would not require a judgment. However, the remittance of the on-shore sale proceeds would also require such Pre-Transaction Report under the FETL. For this reason, the failure to file the Pre-Transaction Report under the FETL may in practice prohibit the remittance of proceeds raised from the disposition of posted collateral ("**Proceeds**") outside Korea. In order to cure this and remit the Proceeds outside Korea, a separate authorization process under the FETL would be required.

(b) Non-Resident Trading Rule

Under Article 188(2)(1)(A) of the Presidential Decree under the FSCMA and Article 6-7 of the Financial Investment Business Regulation ("**FIBR**"), a non-Korean resident may not sell, purchase or transfer securities listed on the Korea Exchange ("**KRX**") outside the KRX, unless (i) the sale, purchase or transfer falls under any of the exceptions listed in Article 6-7 of the FIBR or (ii) the FSC approves such transfer (the "**Non-Resident Trading Rule**").

Since the transfer of Korean listed securities between the Security Collateral Provider and the Secured Party by way of foreclosure does not fall under any of the exceptions listed in Article 6-7 of the FIBR, in principle, the Secured Party is required to obtain the approval of the FSC in order to acquire the Korean listed securities from the Security Collateral Provider by way of foreclosure of the pledge interest. The Non-Resident Trading Rule will apply if either the Secured Party or the Security Collateral Provider or both are non-residents of Korea.

However, we obtained an official ruling from the Financial Supervisory Service (the "**FSS**") on February 9, 2000 (Doc. No. *Jagamhyun* 9211-00070) ("**FSS Ruling**") to the effect that acquisition of listed securities by way of foreclosure of security interest is not subject to the Non-Resident Trading Rule. Therefore, relying on the FSS Ruling, we have provided until recently an opinion that no pre-approval for the foreclosure of listed securities is required. The FSS Ruling required, however, that a report be promptly filed with the FSS after the acquisition of title to the pledged securities by the Secured Party.

We have concerns about whether the FSS Ruling is still effective for the following reasons:

- The FSS is not the appropriate authority to provide a ruling on the FSCMA and the FIBR, which are current laws that have replaced the Presidential Decree under the Securities Exchange Act and the Regulation on the Sale and Purchase of Securities by Foreigners in 2009. Only the FSC has authority to provide an official ruling in respect of the FSCMA and the FIBR and it is not certain whether the FSC would take the same position in interpreting the FSCMA and the FIBR as that of the FSS Ruling.

- The FSS Ruling is based on the fact that Non-Resident Trading Rule under Article 87-2 of the Presidential Decree under the Securities Exchange Act and Article 5(1) of the Regulation on the Sale and Purchase of Securities by Foreigners apply only to sales and purchases (i.e., foreclosure of collateral is not subject to the Non-Resident Trading Rule since it is not sale and purchase). The Securities Exchange Act has been repealed and replaced by the FSCMA. Article 188(2)(1)(A) of the Presidential Decree under the FSCMA and Article 6-7 of the FIBR, the current relevant provisions defining the Non-Resident Trading Rule, apply not only

to sales and purchases, but also to other transfers since June 29, 2012.

Despite this concern, we understand that at least in one case the FSS accepted reports of the transfer of listed securities by way of foreclosure without approval of the FSC. In that case, the FSS unofficially requested that a pledgee who wished to initiate a foreclosure process should notify such foreclosure process to the FSS and generally consult with the relevant officials of the FSS.

21. Are there any other circumstances you can foresee that might affect the Secured Party's ability to enforce its security interest in your jurisdiction?

The Secured Party's enforcement of its security interest in Korea would be subject to the procedural requirements described under Question 12.

PART 2: TITLE TRANSFER APPROACH PURSUANT TO THE TRANSFER ANNEX OR THE KOREAN ANNEX

I Validity of the Transfer Approach

Assumptions relating to the Transfer Annex and the Korean Annex

We have assumed the same facts as set forth in Part 1, but on the assumption that the parties have entered into a Transfer Annex or the Korean Annex in connection with a Master Agreement rather than a Security Document. For this purpose, assumptions (a) to (k) under Part 1 should be read as modified by the following: references to the "Security Document(s)" should be deemed to be references to the "Transfer Annex" or the "Korean Annex", references to the "Security Collateral Provider" and "Secured Party" with respect to the Transfer Annex should be deemed to be references to "Transferor" and "Transferee" respectively, and with respect to the Korean Annex should be deemed to be references to "Collateral Provider" and "Secured Party" respectively; and references to "Eligible Collateral" with respect to the Transfer Annex and the Korean Annex should be deemed to be references to "Eligible Credit Support".

We also make the following additional assumptions:

(1) The Transferor has entered into a Master Agreement governed by English law with the Transferee. Pursuant to the terms of the Transfer Annex, and as a matter of English law, transfers of Eligible Credit Support involve an outright transfer of title, free and clear of any liens, claims, charges or encumbrances or any other interest of the transferring party or of any third person (other than a lien routinely imposed on all securities in a relevant clearance system). If an Event of Default exists with respect to either party, an amount equal to the Value of the Credit Support Balance is deemed to be an Unpaid Amount under the Master Agreement and therefore is taken into account for purposes of determining the amount due upon close-out of the Transactions pursuant to Section 6(e) of the Master Agreement. Although such arrangement has an economic effect similar to the collateral arrangements evidenced by the Security Documents, the Transfer Annex is not intended to create any form of security interest. There are also significant differences to the rights of the parties under the Transfer Annex.

(2) The transfers under the Transfer Annex would not be recharacterized as creating a form of security interest by an English court, provided that the parties by their conduct did not otherwise clearly evidence an intention to create a security interest in transferred Collateral.

(3) The Collateral Provider in the case of the Korean Annex has entered into a Master Agreement with the Secured Party. Pursuant to the terms of the Korean Annex, and as a matter of Korean law, transfers of Lending

Collateral involve an outright transfer of title, free and clear of any liens, claims, charges or encumbrances or any other interest of the transferring party or of any third person (other than a lien routinely imposed on all securities in a relevant clearance system).

(4) For purposes of Part 2 of our memorandum, Korean Collateral will be provided in the form of Lending Collateral under the Korean Annex.

22. Would the laws of Korea characterize each transfer of Eligible Credit Support as effecting an unconditional transfer of ownership in the assets transferred? Is there any risk that any such transfer would be recharacterized as creating a security interest? If so, is there any way to minimize such risk? What would be the specific consequences of such a recharacterization (referring back to issues related to perfection, priority and formal requirements for establishing both as discussed with regard to the Security Documents in Part 1 above)?

Transfer under the Transfer Annex (non-Korean securities)

As discussed under Question 17, under Article 120, Paragraph 3 and Article 336 of the DRBL, the provision, disposal or appropriation of collateral (*Tambo*) securing a Qualified Financial Transaction is exempt from avoidance (unless there is a collusion between the secured party and the insolvent company to harm other creditors of the insolvent company) as well as the interim stay order or the comprehensive stay order. Therefore, each transfer of Eligible Credit Support must qualify as *Tambo* in order to benefit from such exemption.

"*Tambo*" is a Korean term that may be interpreted narrowly to mean "collateral that is subject to a security interest recognized as a property right *(Mul-kwon)*" or more widely to refer to any arrangement that functions as collateral. An argument may be made that the transferee of Eligible Credit Support should be treated in the same manner as a secured creditor for purposes of Article 120, Paragraph 3 and Article 336 because notwithstanding Paragraph 5(b) of the Transfer Annex, the function of the transfer of Credit Support is to provide collateral and the legislative intent for Article 120, Paragraph 3 and Article 336 includes protection of the secured party in Qualified Financial Transactions. Although there is no court precedent on this issue, for the reasons set out below, we believe that the term "*Tambo*" for purposes of Article 120, Paragraph 3 should be considered "*Tambo*" in the wider sense. The term "*Tambo*" appears also in Paragraph 1 and Paragraph 2 of Article 120, which address the finality of payment and settlement for a payment and settlement system and the finality of clearing and settlement of the Korea Exchange, respectively. Paragraphs 1 and 2 expressly state that "*Tambo*" includes "cash margin" (*Jung-geo-kum*). Korean law does not recognize a security interest in cash. "Cash margin" can mean either a "security deposit" (*Bo-jung-kum*) or a loan (*so-bi-dae-cha*). Under the former, the obligation of the secured party/transferee to return the same amount of cash arises only upon the full discharge of the secured obligation; thus, upon default, the secured party/transferee has no obligation to return the cash collateral, except that it will be required to settle any excess cash collateral. The other possible characterization of "cash margin" is a loan (*so-bi-dae-cha*) of cash coupled with a set-off right so that upon default the secured party/transferee can set off its obligation

to repay the loan against the secured obligation. Regardless of the characterization, "cash margin" is not collateral subject to a security interest and therefore, the term "*Tambo*" used in Paragraphs 1 and 2 of Article 120 appears to be a concept broader than a security interest.

There is no court precedent or authoritative interpretation on this issue. We believe that it is reasonable to interpret the term "*Tambo*" as used in Article 120, Paragraph 3 in the same way as the same term as used in Paragraphs 1 and 2 of the same Article, that is, as being a concept broader than a security interest. Our view is also supported by some legal commentators. A law professor who specializes in derivative products has expressed the view that "*Tambo*" should be interpreted broadly so that any arrangement that provides security for payment of the close-out netting amount for derivatives will be considered "*Tambo*" for purposes of the DRBL.[15] In addition, some Korean bankruptcy jurists now take the view that the term "*Tambo*" as used in Article 120, Paragraph 3 and Article 336 should be interpreted to include a transfer of Credit Support under a title transfer arrangement such as that provided for in the Transfer Annex.[16] We agree with these commentators' views.

If the court determines that a transfer of Eligible Credit Support does not qualify as a security interest (*Tambo*), then the exemption from avoidance and stay orders with respect to provision or liquidation of the collateral under Article 120, Paragraph 3 and Article 336 would not be available and the normal avoidance rules described in Part I, Question 18, would apply in the event of a proceeding under the DRBL.

However, as discussed further in Questions 25 through 27 below, even if the transfer of Credit Support is not characterized as "*Tambo*" and thus not protected under Articles 120 and 336 of the DRBL as "*Tambo*," so long as the transfer of the Credit Support itself is not avoidable, the Transferee's right to set off the Credit Support Balance against the net close-out amount owing in respect of the Transactions would be enforceable in an insolvency proceeding under the DRBL, provided that the set-off can be exercised until the expiry of the claim-filing period in the rehabilitation proceedings while no such restriction would apply in bankruptcy proceedings. We are of the view that so long as the Transferee does not, at the time of the transfer, have knowledge that an Insolvency Event (such as filing of an insolvency petition or suspension of payment) has occurred with respect to the Transferor or that the transfer will harm other creditors[17] of the Transferor, a transfer of Credit Support would not be subject to avoidance.

Lending under the Korean Annex (Korean securities)

(a) Loan of Cash and Securities/Legal Nature: A borrowing/lending transaction involving fungible property such as Securities or Cash falls under the category of "*Sobi Daecha*" which is defined in the Civil Code of

[15] Sunseop Jung, Effects of the New Korean Insolvency Law on Close-out Netting, Korean Journal of Securities Law (vol.6, no.2) (2005).

[16] Rehabilitation Case Practices, (*Hoesaeng Sakun Silmu*), at p.160.

[17] Please see footnote 12.

Korea as a contract whereunder a party agrees to transfer the title (ownership) to the property and the other party agrees to return fungible property of same type, quality and quantity. Under the *Sobi Daecha* structure, collateral is provided and taken in the form of a loan of Securities or Cash coupled with the right to set off the collateral repayment obligation (in cash) against the secured obligation. The Secured Party takes title to the collateral and therefore, will be able to rehypothecate the collateral.

(b) Recharacterisation Risk: With respect to lending of Cash, there is no risk that such transaction will be recharacterised as a pledge because Korean law does not recognize a pledge in cash. With respect to lending of Securities, it is likely that the lending of Securities under the Korean Annex would qualify as securities lending and thus Qualified Financial Transactions under Article 120, Paragraph 3 of the DRBL.

However, although the lending of Cash or Securities under the Korean Annex cannot constitute a security interest under Korean law, the lending of Cash or Securities would be viewed in a broad sense as "*Tambo*" for the purpose of the DRBL and the CRPL. Therefore, our discussions on "*Tambo*" above in respect of the Transfer Annex shall apply equally to the lending of Cash and Securities under the Korean Annex.

23. Assuming that the Transferee (in the case of the Transfer Annex) or the Secured Party (in the case of the Korean Annex) receives an absolute ownership interest in the Eligible Credit Support, will it need to take any action thereafter to ensure that its title therein continues? Are there any filing or perfection requirements necessary or advisable, including taking any of the actions referred to in Question 5? Are there any other procedures that must be followed or consents or other governmental or regulatory approvals that must be obtained to establish, enforce or continue such ownership interest?

Assuming that the Transferee (in the case of the Transfer Annex) or the Secured Party (in the case of the Korean Annex) receives an absolute ownership interest in the Eligible Credit Support by complying with all procedures necessary for the valid transfer of the Eligible Credit Support under the laws that govern such transfer, then no further action will be required under Korean law to ensure such ownership interest.

The law that governs the valid acquisition of title to securities by the transferee would be as follows:

- A directly held bearer debt security: Under the Private International law, the law where the security certificate is held will govern the acquisition of title by the transferee.

- A directly held certificated and registered debt security: The Private International Law is silent. However, in view of the rule regarding a security interest in such security, the governing law of the debt security is likely to govern.

- A directly held dematerialized debt security: The Private International Law is silent. However, in view of the rule regarding a security interest in such security, the governing law of the debt security is likely to govern.

- Intermediated debt securities: As discussed in Part 1.I(2), the Private International Law is silent as to what law governs the security interest in such security or the acquisition of title in such security. However for the reasons discussed in Part 1.I(2), the law of the place where the relevant intermediary is located may be held to govern the acquisition of title to such security by the Transferee.

Under the Non-Resident Trading Rule, a non-Korean resident may acquire or dispose of Korean listed securities only through trading on the KRX; provided, however, that listed bonds may be sold or purchased outside the KRX through a local broker. Therefore, approval from the FSC would be required for the Transferee's acquisition of an ownership interest (*i.e.*, at the time of transfer to the Transferee) in Eligible Credit Support that consists of Korean securities, if the Transferor is not a resident of Korea and if the above requirements are not complied with; the same rule would apply to the return of the Credit Support. It is not certain whether such approval will be readily issued.

However, there are certain exceptions to the Non-Resident Trading Rule, which include a loan of listed securities through a qualified intermediary (e.g., Korea Securities Depository, Korea Securities Finance Corporation, a Korean broker/dealer). Therefore, if a transfer of Korean listed securities as Lending Collateral under the Korean Annex is made through such a qualified intermediary, no approval from FSC is required.

24. What is the effect, if any, under the laws of your jurisdiction of the right of Transferor to exchange Eligible Credit Support pursuant to Paragraph 3(c) of the Transfer Annex and Paragraph 4(d) of the Korean Annex? Does the presence or absence of consent to exchange by the Transferee/Secured Party have any bearing on this question? Please comment specifically on whether the Transferor/Collateral Provider and the Transferee/Secured Party are able validly to agree in the Security Document that the Transferor/Collateral Provider may exchange Collateral without specific consent of the Transferee/Secured Party and whether and, if so, how this may affect your conclusions regarding the validity or enforceability of the Transfer Annex or the Korean Annex.

A purported exchange without the consent of the Transferee would be invalid under Korean law. However, the Transferee's consent (which may be general and may be made in the Transfer Annex) in advance with respect to the exchange would be effective. Although an exchange of Eligible Credit Support may be considered a return of Equivalent Credit

Support followed by transfer of new Eligible Credit Support, we believe that if the Transferor is acting in accordance with a prior contractual obligation and the substitute Eligible Credit Support is of no greater value than the assets it is replacing, the exchange, even if it is made during the "suspect period" and is not recognized as provision of collateral subject to security interest (*Tambo*) within the meaning of Article 120, Paragraph 3 of the DRBL, would not be subject to avoidance.

As transfer of collateral is structured as securities lending and loan of cash, substitution must be made through a return of loan of collateral and reborrowing.

25. (1) The Transferee's rights in relation to the transferred Eligible Credit Support upon the occurrence of an Event of Default will be governed by Section 6 of the Master Agreement. Assuming that Section 6 of the Master Agreement is valid and enforceable in your jurisdiction insofar as it relates to the determination of the net amount payable by either party on the termination of the Transactions, could you please confirm that Paragraph 6 of the Transfer Annex would also be valid to the extent that it provides for the Value of the Credit Support Balance to be included in the calculation of the net amount payable under Section 6(e) of the Master Agreement.

DRBL Proceedings

As we discussed in Question 22, we believe that a transfer of Credit Support should be considered "*Tambo*" and therefore would qualify as a "Qualified Financial Transaction". In such a case, the provision or liquidation of "*Tambo*" would not be subject to the interim stay order or the comprehensive stay order. However, although there is no court precedent on point, there is a small possibility that the Transferee including the Value of the Credit Support Balance into the calculation of the net amount payable under Section 6(e) of the Master Agreement could be considered a liquidation of "*Tambo*" and hence subject to the automatic stay that comes into effect upon commencement of the rehabilitation proceedings under the DRBL (see Question 17 above for discussions on the automatic stay applicable to the Secured Party in rehabilitation proceedings). To reduce such risk and to enhance enforceability of the Collateral under the Transfer Annex, we recommend that the 30 day (or 15 day in the 2002 ISDA Master Agreement) grace period in Section 5(a)(vii)(4) should be eliminated for the reason set out in Question 17 above.

In the event that the transfer of Credit Support does not qualify as "*Tambo"* there is a risk that the treatment of the Credit Support Balance as an "Unpaid Amount" for purposes of Section 6(e) may not be considered part of the "termination and calculation of any amount payable and receivable between the parties" for purposes of Article 120, Paragraph 3 or Article 336 of the DRBL. Nonetheless, to the extent that the transfer of the Credit Support is not avoided, we believe that the set-off between the close-out net amount of the Transactions (excluding the transfers of Credit Support) against the amount of the Credit Support Balance would be

enforceable in proceedings under the DRBL; provided that the set-off must be made by the expiry of the claim-filing period in Rehabilitation Proceedings; no such time limitation applies in Bankruptcy Proceedings.

CRPL Proceedings

Under the CRPL, from the time the Financial Claim Holder receives the Notice for CRPL Proceedings, an exercise of creditor's rights such as setoff or liquidation of Collateral is stayed. On June 7, 2016, the FSC, as the governmental authority to interpret the CRPL, issued a ruling on the scope of the Financial Claims under the CRPL (the "**FSC Ruling**") through its website (http://better.fsc.go.kr/), which is as follows:

"Where (i) a Financial Claim Holder and an Enterprise enter into derivative transactions (as defined under Article 120, Paragraph 3, Item 1 of the DRBL) based on a Master Agreement (as defined under Article 120, Paragraph 3 the DRBL); and (ii) such Master Agreement provides for the parties' obligations to pay a net balance (after operation of close-out netting) with respect to such derivative transactions, the Financial Claims with respect to all such derivative transactions under the single Master Agreement between the Financial Claim Holder and the Enterprise will be the net balance (after operation of close-out netting) of all such transactions as determined under the Master Agreement."

Thus, under the FSC Ruling, the close-out netting of only qualified derivative transactions entered into under a master agreement is exempt from the stay. Therefore, regardless of whether the transfer of Credit Support is characterized as "*Tambo*" (collateral) or a Transaction (which would not qualify as a derivative transaction), the netting of the Credit Support Balance as "Unpaid Amount" would be subject to the stay. If the application by the Transferor for the CRPL Proceedings is made an Event of Default, there may be a window of a few days between the application by the Transferor Enterprise and the receipt of the Notice for CRPL Proceedings on the Prime Bank's decision and during this window, the Transferee should be able to complete the close-out netting procedures including netting of the Credit Support Balance.

(2) The rights of the Secured Party under the Korean Annex in relation to the Posted Lending Collateral upon the occurrence of an Event of Default will be governed by Paragraph 8(a) of the Korean Annex. Could you please confirm that Paragraph 8(a) of the Korean Annex would be valid to the extent that it provides for the set off of the Base Currency Equivalent of Default Market Value of the Posted Lending Collateral against any Obligation of the Collateral Provider under the Master Agreement?

DRBL Proceedings

Set off of the Default Market Value of the Posted Lending Collateral delivered under the Korean Annex against any obligations of such Collateral Provider owed to the Secured Party under the Master Agreement would be valid. Any Korean Won cash delivered by the Collateral Provider would also be eligible to be set off in a similar manner.

As discussed in Question 22, we believe that a transfer of the Lending Collateral should be considered "*Tambo*" and therefore would qualify as a "Qualified Financial Transaction". In such a case, the provision or liquidation of "*Tambo*" would not be subject to the interim stay order or the comprehensive stay order. However, although there is no court precedent on point, there is a small possibility that the Secured Party liquidating the Posted Lending Collateral and applying the proceeds to any amounts payable by the Collateral Provider with respect to any Obligations pursuant to Paragraph 8(a) of the Korean Annex could be considered a liquidation of "*Tambo*" and hence subject to the automatic stay that comes into effect upon commencement of the rehabilitation proceedings under the DRBL (see Question 17 above for discussions on the automatic stay applicable to the Secured Party in rehabilitation proceedings). To reduce such risk and to enhance enforceability of the Collateral under the Korean Annex, we recommend that the 30 day (or 15 day in the 2002 ISDA Master Agreement) grace period in Section 5(a)(vii)(4) should be eliminated for the reason set out in Question 17 above.

In addition, it is likely that the lending of Securities under the Korean Annex would also qualify as securities lending and thus Qualified Financial Transaction under Article 120, Paragraph 3 of the DRBL and therefore the set-off would be valid as the 'safe harbor' of Article 120, Paragraph 3 of the DRBL applies to "termination and calculation of any amount payable and receivable between the parties" of derivative transactions.

CRPL Proceedings

As discussed in Question 22, we believe that a transfer of the Lending Collateral should be considered "*Tambo*" and as such liquidation of Tambo (i.e. Collateral) will be subject to a stay. Therefore, as far as the Collateral Provider is a Failing Enterprise subject to the CRPL, the set-off of the Default Market Value of the Posted Lending Collateral delivered under the Korean Annex against any obligations of such Collateral Provider owed to the Secured Party under the Master Agreement would not be permitted to the extent the CRPL applies. In this regard, please note that such a stay will become effective from the time when the Secured Party receives the Notice for CRPL Proceedings sent by the Prime Bank.

26. Would the rights of the Transferee or the Secured Party be enforceable in accordance with the terms of the Master Agreement and the Transfer Annex or the Korean Annex as the case may be, irrespective of the insolvency of the Transferor or the Collateral Provider as the case may be?

DRBL Proceedings

The rights of the Transferee or the Secured Party would be enforceable in accordance with the terms of the Master Agreement and the Transfer Annex or the Korean Annex, irrespective of the insolvency of the Transferor or the Collateral Provider, subject to discussion in Question 25.

CRPL Proceedings

The rights of the Transferee or the Secured Party would be stayed and unenforceable in accordance with the terms of the Master Agreement and the Transfer Annex or the Korean Annex, if the Transferor or the Collateral Provider as a Failing Enterprise becomes subject to the CRPL Proceedings from the time of receipt of notice for CRPL Proceedings. Please see our discussion under Question 25.

27. Will the Transferor or the Collateral Provider (or its administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official) be able to recover any transfers of Eligible Credit Support made to the Transferee or the Secured Party during a certain "suspect period" preceding the date of the insolvency? If so, how long before the insolvency does this suspect period begin? If such a period exists, would the substitution of Eligible Credit Support by a counterparty during this period invalidate otherwise valid transfer, assuming the substitute assets are of no greater value than the assets they are replacing? Would the transfer of additional Eligible Credit Support pursuant to the mark-to-market provisions of the Transfer Annex during the suspect period be subject to avoidance, either because it was considered to relate to an antecedent or pre-existing obligation or for some other reason?

Please see the discussion under Question 18 with respect to the receiver's avoidance power under the DRBL. We do not discuss the CRPL for the purpose of this Question 27, since there is no concept of "suspect period" and avoidance of the legal consequence of the provision of "*Tambo*" made during such suspect period under the CRPL.

Transfer Annex

If a transfer under the Transfer Annex is determined to create a "*Tambo*," the discussion regarding provision of Collateral to secure Qualified Financial Transactions in Question 18 will apply to the transfer and the transfer will be exempted from avoidance unless such provision is made by the insolvent company in collusion with the Transferee for purposes of harming other creditors of the insolvent company. We believe that the same exemption would apply to substitution of collateral or provision of additional Collateral.

In the event that a transfer under the Transfer Annex was determined not to create a "*Tambo*," the transfer would be subject to the receiver's avoidance power.

- Suspect Period: The "suspect period" preceding the date of the insolvency as is indicated under items (iii) and (iv) of the avoidance power under the DRBL is counted from the occurrence of an Insolvency Event being either (a) a suspension of payments or (b) the filing of a petition for rehabilitation/bankruptcy proceedings. However, item (iii) would not apply to the transfer of Eligible Credit Support since the Transferor or the Collateral Provider is obligated to do so and item (iv) would not apply since the transfer of Eligible Credit Support cannot be considered "gratuitous."

- Transfer of Credit Support: The transfer could be recovered by the receiver pursuant to item (i) or (ii) of the avoidance power under the DRBL as described under Question 18 if the conditions for such avoidance as set forth under Question 18 are met.

- Substitution of Credit Support: Although there is no court precedent, we believe that if the Transferor or the Collateral Provider is acting in accordance with a prior contractual obligation and the substitute Credit Support is of no greater value than the assets it is replacing, the substitution of Credit Support, even if made during the "suspect period", should not be subject to avoidance.

- Additional Credit Support: The transfer of additional Credit Support could be recovered by the receiver under item (i) or (ii) of the avoidance power under the DRBL if the conditions for such avoidance as set forth under Question 18 are met.

Korean Annex

If a transfer under the Korean Annex is determined to create a "*Tambo*", the discussion regarding provision of Collateral to secure Qualified Financial Transactions in Question 18 will apply to the transfer and the transfer will be exempted from avoidance unless such provision is made by the insolvent company in collusion with the Transferee or the Secured Party for purposes of harming other creditors of the insolvent company. We believe that the same exemption would apply to substitution of collateral or provision of additional Collateral.

Even in the event that a transfer under the Korean Annex was determined not to create a "*Tambo*," the transfer would not be subject to the receiver's avoidance power since lending of Securities under the Korean Annex would also qualify as a Qualified Financial Transaction under Article 120, Paragraph 3 of the DRBL.

28. Would the parties' agreement on governing law of the Transfer Annex and submission to jurisdiction be upheld in your jurisdiction, and what would be the consequences if it were not?

The parties' agreement on the governing law of the Transfer Annex would be enforced in Korea if such governing law is the law governing the transfer of the relevant Eligible Credit Support under the Private International Law and the application of such law is not against the public policy of Korea and the submission to a specified jurisdiction would be upheld in Korea.

29. Is the Transfer Annex or the Korean Annex in an appropriate form to create the intended outright transfer of ownership in the Eligible Credit Support to the Transferee or the Secured Party? If there are any other requirements to ensure the validity of such transfer in each type of Eligible Credit Support by the Transferor or the Korean Annex under the Transfer Annex or the Korean Annex, please indicate the nature of such requirement. For example, are there any requirements of the type referred to in Question 6?

Assuming that the Transfer Annex or the Korean Annex is in an appropriate form to create the intended outright transfer of ownership in the Eligible Credit Support to the Transferee or the Secured Party under the relevant governing law of such transfer, we believe that for Korean law purposes the Transfer Annex or the Korean Annex is an appropriate form to create the intended outright transfer of ownership in the Eligible Credit Support. But see the discussion under Question 22 for the possibility of recharacterization.

Foreign Company with a Branch in Korea or Foreign Company without a Korean Branch but holding Collateral in Korea

Subject to the discussion under Question 15 above, the Korean laws that govern the creation and/or perfection of a security interest or the validity of a transfer of property apply in the same manner, regardless of where the Transferor or the Collateral Provider is incorporated or organized or whether it is acting through a branch in Korea or not, to the extent that the Korean laws are determined to govern such matters.

Close-out Amount Protocol

We confirm that the changes made by the Close-out Amount Protocol published by ISDA on February 27, 2009 (the "**Protocol**") including, without limitation, Annexes 10, 11 and 12 are not material to and do not affect the conclusions reached in this opinion, based on the assumption that the changes intended by the Protocol are effective as a matter of the governing law of the Covered Master Agreement (as defined in the Protocol) and the relevant Credit Support Document.

Bridging Language

We confirm that inclusion of the "Amendments to be made to the Korean law CSA if using with an English law CSA" (the "**Bridging Language**") which would enable parties to use a Korean Annex together with either a Security Document or the Transfer Annex will not affect our opinion herein.

Split Governing Law (Dépeçage)[18]

The Korean Annex will supplement and form part of the Master Agreement which may be governed by either New York law or English law and therefore the contract will be governed by more than one body of laws. Article 25(2) of the Private International Law expressly permits "dépeçage" (split governing law), by providing that parties to an agreement may agree on the governing law for a part of the agreement. The general view is that a Korean court will permit dépeçage to the extent that the split governing law of a contract does not give rise to a contradiction in terms. For example, if a sale and purchase agreement provides that the sale will be governed by the law of X while purchase will be governed by the law of Y, there may be an inherent contradiction in interpretation and application of the agreement. Such a contradiction would not occur where the Korean Annex applies only to Korean collateral while the secured obligation arises under the Master Agreement which is governed by English law or New York law, as applicable.

Collateral Agreement Negative Interest Protocol

We confirm that the 2014 ISDA Collateral Agreement Negative Interest Protocol published on May 12, 2014 do not affect the conclusions reached in this opinion.

[18] Counterparties are advised to seek further advice from their own counsel with respect to English law, New York law and Korean law (as applicable) in connection with the issues that may arise due to the split governing law clauses. The issue of concurrent non-exclusive jurisdiction clauses (either whilst using the Korean Annex (a) under a Master Agreement governed by New York law or English law or (b) in conjunction with an English Law CSA or NY Law CSA), which means that disputes over the same contract could be heard in two different jurisdictions, should also be considered and appropriate legal advice should be obtained by parties as to whether an amendment to the forum in the Korean Annex to either England or the State of New York (as applicable) is recommended and whether an English or a New York court judgment regarding Korean collateral would be upheld and enforced by the Korean courts.

PART 3: VALIDITY AND ENFORCEABILITY OF COLLATERAL ARRANGEMENTS UNDER THE SECURITY DOCUMENTS

In this Part 3 of our memorandum, we discuss the validity and enforceability under the laws of Korea of margin or collateral arrangements entered into in connection with a Master Agreement under one of the following standard form documents published by ISDA, in addition to the 1994 NY Annex, the 1995 Deed and the 1995 Transfer Annex:

1. the 2016 Credit Support Annex for Variation Margin (VM) governed by New York law (the "**VM NY Annex**");

2. the 2016 Phase One Credit Support Annex for Initial Margin (IM) governed by New York law (the "**IM NY Annex**", together with the VM NY Annex, "**VM/IM NY Annex**");

3. the 2016 Phase One IM Credit Support Deed, governed by English law (the "**IM Deed**"); and

4. the 2016 VM Credit Support Annex governed by English law (the "**VM Transfer Annex**").

In this Part 3:

(a) "**Annex**" means each of the 1994 NY Annex, the VM NY Annex and the IM NY Annex;

(b) "**Deed**" means each of the 1995 Deed and the IM Deed;

(c) "**Security Documents**" means the Annexes and the Deeds and, for purposes of question C below, securities documents and other agreements described in assumption (M);

(d) "**IM Security Documents**" means the IM NY Annex and the IM Deed and, for purposes of question C below, securities documents and other agreements described in assumption (M);

(e) "**Non-IM Security Documents**" means the 1994 NY Annex, the VM NY Annex and the 1995 Deed;

(f) "**Transfer Annex**" means each of the 1995 Transfer Annex and the VM Transfer Annex;

(g) "**Credit Support Documents**" means the Security Documents and the Transfer Annexes;

(h) in relation to the Security Documents, the term "**Security Collateral Provider**" shall refer to the Pledgor (under an Annex) or the Chargor (under a Deed), as context requires; and

(i) "**Collateral Provider**" means the Security Collateral Provider under a Security Document or the Transferor under a Transfer Annex, according to context, in relation to which "**Collateral Taker**" means the Secured Party or the Transferee, as the case may be.

Also, we reviewed the following documents for reference purposes only:

(i) the ISDA Euroclear Security Agreement (the "**Euroclear Security Agreement**");

(ii) the ISDA Euroclear Collateral Transfer Agreement (NY Law) (the "**Euroclear NY CTA**");

(iii) the ISDA Euroclear Collateral Transfer Agreement (Multi-Regime) (the "**Euroclear Multi-Regime CTA**"; together with the Euroclear Security Agreement and the Euroclear NY CTA, collectively the "**Euroclear Documents**";

(iv) the ISDA Clearstream 2016 Security Agreement (the "**Clearstream Security Agreement**");

(v) the ISDA Clearstream 2016 Collateral Transfer Agreement (NY Law) (the "**Clearstream NY CTA**"); and

(vi) the ISDA Clearstream 2016 Collateral Transfer Agreement (Multi-Regime) (the "**Clearstream Multi-Regime CTA**"; together with the Clearstream Security Agreement and the Clearstream NY CTA, collectively the "**Clearstream Documents**").

For purposes of Part 3, we have assumed the same facts set forth under the heading "Fact Patterns" of this memorandum.

I. Security Interest Approach Pursuant to the Security Documents

For purposes of Part 3.I of our memorandum, we have made the same assumptions as assumptions (a)[19] through (f) set forth in Part 1. In addition, we make the following assumptions:

[19] For purposes of Part 3, assumption (a) under Part 1 should be read as modified by the following: "In respect of answering the questions in respect of the 1994 NY Annex, the 2016 VM NY Annex and the 1995 Deed, the parties will enter into (i) the 1994 NY Annex and/or the 2016 VM NY Annex in connection with a

(G) Any securities provided as Eligible Collateral are denominated in Korean Won or any freely convertible currency[20] and consist of (1) corporate debt securities whether or not the issuer is organized or located in Korea; (2) debt securities issued by the government of Korea; (3) debt securities issued by the government of a member of the "G-10" group of countries; and (4) corporate equity securities whether or not the issuer is organized or located in Korea, in one of the following forms: (i) directly held bearer securities; (ii) directly held certificated and registered securities; (iii) directly held dematerialized and registered securities; or (iv) intermediated securities.

The assumptions made in this paragraph (G) will be subject to modification as discussed below in paragraphs (L), (M) and (O).

(H) Any cash Collateral is denominated in Korean Won or a freely convertible currency[21] and is held in an account under the control of the Secured Party.

The assumptions made in this paragraph (H) will be subject to modification as discussed below in paragraphs (L), (M) and (O).

(I) Pursuant to the terms and conditions of the Master Agreement, the Security Collateral Provider enters into a number of Transactions with the Secured Party. Such Transactions include any or all of the transactions described in Appendix A. Under the terms of each Security Document, the security interest created in the relevant Collateral secures the Obligations of the Security Collateral Provider arising under the Master Agreement as a whole, including the net amount, if any, that would be due from the Security Collateral Provider under Section 6(e) of the Master Agreement if an Early Termination Date were designated or deemed to occur as a result of an Event of Default in respect of the Security Collateral Provider.

(J) In the case of Questions 12 to 15 above, after entering into the Transactions and prior to the maturity thereof, the rights of the Security Collateral Taker under paragraph 8 of the relevant Annex or Deed (as applicable) have become exercisable following the occurrence of any of the relevant pre-conditions specified in the Annex or Deed (which shall comprise solely of the events listed in Paragraph 8 or as an election in the pro-forma Paragraph 13) which are then continuing, but that an insolvency proceeding

---

New York law governed ISDA Master Agreement; and (ii) the 1995 Deed in connection with an English law governed ISDA Master Agreement."

[20] Korean Won is not a freely convertible currency.

[21] Korean Won is not a freely convertible currency.

has not been instituted (which is addressed separately in assumption (K) and Questions 16 to 18 above).

(K) In the case of Questions 16 to 18 above, an Event of Default under Section 5(a)(vii) of the Master Agreement with respect to the Security Collateral Provider has occurred and a formal bankruptcy, insolvency, liquidation, reorganization, administration or comparable proceeding (collectively, the "**insolvency**") has been instituted by or against the Security Collateral Provider.

(L) With respect to IM Security Documents only, if any of the Collateral provided under any IM Security Document is held in an account which may hold cash (in a freely convertible currency)[22] and securities (a "**Custodial Account**") with a third-party custodian ("**Custodian**"), it is held in any of the following form, which is subject to assumption (O):

(x) the Custodian holds the Collateral in the Collateral Provider's name pursuant to a custodial agreement between the Collateral Provider and custodian;

(y) the Custodial Account is used exclusively for the Collateral provided by the Collateral Provider to the relevant Collateral Taker;[23] and

(z) the Collateral Provider, the Collateral Taker and the Custodian have entered into an agreement (which may be a separate control agreement or may be part of the custodial agreement) under which the Collateral Taker can take control[24] of the margin under certain circumstances, including an occurrence of an Event of Default with respect to the Collateral Provider.

We further assume that the procedures described above will satisfy the requirements for the valid creation and perfection of a security interest in the Collateral that secures the Obligations of the Collateral Provider owed to the Collateral Taker under the Master Agreement in accordance with the law that governs the creation and perfection of the security interest in the Collateral as determined under the conflict of law principles of Korea.

---

[22] Korean law does not permit deposit of cash in a securities account. Therefore, we further assume that an account that holds Korean Securities will not hold Cash (in Korean Won or any foreign currency).

[23] Under Korean law, it is not possible to use a Custodial Account exclusively for the collateral-providing purposes except in the limited cases where the entire securities held by the account holder are provided as collateral. A Custodial Account is a securities account at a Korean custodian opened for purposes of holding and/or trading Korean Securities. Accordingly, this assumption (L)(y) may not apply to Korean Collateral.

[24] For Korean law purposes, the Collateral Taker taking control of the margin means that the Collateral Taker has the right to instruct the Custodian with respect to disposition of the Collateral.

(M) In certain circumstances, "initial margin" Collateral may be held at a central securities depository. In these circumstances, (x) the Custodian is a central securities depository and holds the Collateral in the Custodian's name, acting in its own name but for the account of the Collateral Taker;[25] (y) the parties have entered into securities documents and/or other agreements governing the pledge of the Collateral held by the central securities depository and movement of the Collateral into and out of the Custodial Account; and (z) such securities documents and/or other agreements fully reflect the arrangements under (x) and (y) above and are enforceable in accordance with their terms under applicable law.

We further assume that the procedures described in (x) and (y) will satisfy the requirements for the valid creation and perfection of the pledge of the Collateral that secures Obligations of the Collateral Provider owed to the Collateral Taker under the Master Agreement in accordance with the law that governs the creation and perfection of the pledge of the Collateral as determined under the conflict of law principles of Korea.

The Korean Collateral is excluded from the scope of "Collateral" under this assumption (M) for reasons set forth in footnote 24.

(N) The parties may enter into more than one Credit Support Document and may also enter into arrangements described in assumption (M).

(O) Korean Collateral will be provided under the VM/IM NY Annex with appropriate modifications to satisfy Korean law pledge requirements ("**Modified VM/IM NY Annex**").[26]

(P) In respect of IM Security Documents, each IM Security Document could be entered into in connection with either a New York law or English law

---

[25] In this respect, KSD which is the sole central securities depository in Korea is unable to hold the Korean Securities in the KSD's name for the account of a third party. Under Korean law, there is a presumption that the securities account holder is the *bona fide* owner of the securities held in the account. Accordingly, the arrangement described in assumption (M) would not be feasible for the Korean Collateral.

[26] We are asked to make this assumption in view of the fact that there is as yet no Credit Support Document governed by Korean law that may be used to provide and take Korean Collateral as initial margin and variation margin. The Korean law of pledge does not permit "rehypothecation" and therefore, the Korean Collateral provided under the Modified VM/IM NY Annex cannot be re-used or rehypothecated. A better solution would be to use the Korean Annex with appropriate modifications that satisfy all the requirements relating to provision of initial margin and variation margin (including but not limited to "Margin requirements for non-centrally cleared derivatives" issued in March 2015 by Basel Committee on Banking Supervision, Board of the International Organization of Securities Commissions and all relevant national regimes). Under such modified Korean Annex, parties may wish to adopt the lending collateral approach for the variable margin which can then be freely rehypothecated while choosing the pledge collateral approach for the initial margin.

governed ISDA Master Agreement and may be subject to a different governing law than the relevant ISDA Master Agreement (depending on whether the parties choose to align the governing law of the IM Security Document to (i) the Location of the relevant Custodial Account; or (ii) the governing law of the ISDA Master Agreement). The IM NY Annex forms a part of the relevant ISDA Master Agreement and therefore, unless revised by the counterparties, is subject to the same governing law as the relevant ISDA Master Agreement. In respect of an IM NY Annex entered into in connection with an English law governed ISDA Master Agreement, the parties will provide in paragraph 13 of the IM NY Annex that the Annex is governed by and construed in accordance with New York law.

A. For Non-IM Security Documents, would any of your responses to Questions 1 through 21 that you provided in Part 1 be different as a result of (a) any changes in law in your jurisdiction, (b) the inclusion of Security Documents in this opinion that were not previously included, or (c) the inclusion of equity securities as Eligible Collateral described in assumption (G)(4)? If so, please comment specifically on any such changes.

For Non-IM Security Documents, our responses to Questions 1 through 21 that we provided in Part 1 would not be different as a result of (a) any changes in law in Korea (as of the date of this memorandum), (b) the inclusion of Security Documents in our memorandum that were previously included, or (c) the including of equity securities as Eligible Collateral; provided, however, that our discussions in respect of the Korean Annex will not apply to this Part 3.

With respect to "the inclusion of equity securities as Eligible collateral described in assumption (G)(4)", we note that under the current Korean law, equity securities (i.e., shares) may not be issued in dematerialized and registered form. If equity securities are in the form of (i) directly held bearer securities or (ii) directly held certificated and registered securities, the equity securities may be pledged by delivery of share certificates and registration of pledge with a shareholder registry, which is so-called "registered pledge". This registered pledge provides an additional protection to the secured party in that the security interest is perfected against the issuer as well as other third parties and therefore is effective with respect to any distributions from the shares (e.g., dividend, distribution in liquidation proceedings, etc.)

B. For the IM Security Documents only, assume that the Collateral will be held in a Custodial Account with a Custodian as described in assumption (L) above and not pursuant to (i) the assumptions in (G)(i) to (iv) and (H) above or (ii) assumption (M) above.

(i) Would any of your responses to Questions 1 through 21 above with respect to Collateral held pursuant the custodial arrangement described in assumption (L) above be different than the responses to such questions that you provided in Part 1 as a result of (a) any changes in law in your

jurisdiction, (b) the inclusion of the IM Security Documents in this opinion, (c) the inclusion of equity securities as Eligible Collateral described in assumption (G)(4), or (d) the holding of the Collateral pursuant to one of the custodial arrangements described in (L) above, subject to Assumption (O) above? If so, please comment specifically on any such changes.

For the IM Security Documents only, any of our responses to Questions 1 through 21 above with respect to Collateral held pursuant the custodial arrangement described in assumption (L) above would not be different than the responses to such questions that we provided in Part 1 of our memorandum as a result of (a) any changes in law in Korea (as of the date of this memorandum), (b) the inclusion of the IM Security Documents in our memorandum, (c) the inclusion of equity securities as Eligible Collateral, or (d) the holding of the Collateral pursuant to one of the custodial arrangements described in (L) above.

With respect to "the inclusion of equity securities as Eligible collateral described in assumption (G)(4)", we note that under the current Korean law, equity securities (i.e., shares) may not be issued in dematerialized and registered form. If equity securities are in the form of (i) directly held bearer securities or (ii) directly held certificated and registered securities, the equity securities may be pledged by delivery of share certificates and registration of pledge with a shareholder registry, which is so-called "registered pledge". This registered pledge provides an additional protection to the Collateral Taker in that the security interest is perfected against the issuer as well as other third parties and therefore is effective with respect to any distributions from the shares (e.g., dividend, distribution in liquidation proceedings of the issuer, etc.)

(ii) Please describe any requirements that the custodial arrangements described in assumption (L) above must meet to permit the Collateral Taker to exercise its rights as secured party.

We are not aware of any further requirements under Korean law that the custodial arrangements described in assumption (L) above must meet to permit the Collateral Taker to exercise its rights as the Secured Party under the Security Documents, subject to the discussions under Questions 1 through 21. Further, please note that our opinion is subject to assumption (O) above.

C. Assume that the Collateral will be held in a central securities depository as described in assumption (M) above and not pursuant to assumptions (G)(i)-(iv) and (H) above or assumption (L) above.

(i) Would any of your responses to Questions 1 through 9 and 12-21 above with respect to Collateral held pursuant the custodial arrangement described in assumption (M) above be different than the responses to such questions that you provided in Part 1 as a result of the holding of the

Collateral pursuant to one of the custodial arrangements described in (M) above? If so, please comment specifically on any such changes. As noted in assumption (M) above, you may assume that the securities documents and other agreements referred to in assumption (M) are enforceable in accordance with their terms under applicable law (which may be different than the law of your jurisdiction).

In respect of the Collateral that is not Korean Collateral, any of our responses to Questions 1 through 9 and 12-21 above with respect to the Collateral held in a central securities depository as described in assumption (M) above would not be different than the responses to such questions that we provided in Part 1 of our memorandum as a result of the holding of the Collateral pursuant to one of the custodial arrangements described in (M) above.

In respect of Korean Collateral, the arrangements under assumption (M) would not be legally feasible. As discussed in footnote 24, KSD which is the sole central securities depository in Korea cannot hold the Korean securities in the KSD's name for the account of a third party.

(ii) Please describe any requirements that the collateral holding arrangements described in assumption (M) above must meet to permit the Collateral Taker to exercise its rights as secured party.

In respect of the Collateral that is not Korean Collateral, we are not aware of any further requirements under Korean law that the collateral holding arrangements described in assumption (M) above must meet to permit the Collateral Taker to exercise its rights as the Secured Party under the Security Documents, subject to the discussions under Questions 1 through 21.

As discussed, in respect of Korean Collateral, the arrangements under assumption (M) are not legally feasible.

II. Title Transfer Approach Pursuant to the Transfer Annex

We have assumed the same facts as set forth in Part 3.I, but on the assumption that the parties have entered into a Transfer Annex in connection with a Master Agreement rather than a Security Document. For this purpose, assumptions (A) to (K) under Part 3.I should be read as modified by the following: references to the "Security Document(s)" should be deemed to be references to the "Transfer Annex(es)", references to the "Security Collateral Provider" and "Secured Party" with respect to the Transfer Annex should be deemed to be references to "Transferor" and "Transferee" respectively; and references to "Eligible Collateral" with respect to the Transfer Annex should be deemed to be references to "Eligible Credit Support". Assumptions (L) and (M) in Part 1 will not apply to this Part 3.II.

D. For Transfer Annexes, would any of your responses to Questions 22 through 29 that you provided in Part 2 be different as a result of (a) any changes in law in your jurisdiction, (b) the inclusion of the VM Transfer Annex in this opinion that was not previously included, or (c) the inclusion of equity securities as Eligible Collateral described in assumption (G)(4)? If so, please comment specifically on any such changes.

For Transfer Annexes, in respect of the Collateral that is not Korean Collateral, any of our responses to Questions 22 through 29 that we provided in Part 2 of our memorandum would not be different as a result of (a) any changes in law in Korea (as of the date of this memorandum), (b) the inclusion of the VM Transfer Annex in our memorandum that was not previously included, or (c) the inclusion of equity securities as Eligible Collateral.

If Korean Securities are provided as Credit Support under the Transfer Annex, our responses to Questions 22 through 29 will raise some legal issues under Korean law, including the following:

(i) recharacterization of the transfer as a security interest (*Tambo*) and related insolvency law issues (please refer to our discussion in Question 22 above); and

(ii) regulatory issues relating to foreigners' investment in and trading of Korean Securities if the transferor and/or the transferee is a non-resident of Korea.[27]

As for the registered pledge, which is a special method to create pledge over equity securities, please see our discussion in Question A above.

* * * * *

This revised and restated memorandum of law is rendered solely to ISDA for the benefit and use of its members. This revised and restated memorandum of law may not be relied upon by any other person or used, circulated, quoted or otherwise referred to or relied upon for any other purpose without our prior written consent.

[27] Under Korean law, the Korean securities listed on the Korea Exchange ("**Korean Listed Securities**") may not be transferred outside exchange (i.e., OTC transaction) if a transferee and/or a transferor is a non-resident of Korea and thus the transfer of the Korean Listed Securities under the Transfer Annex would not be feasible. However, this restriction does not apply to the transfer of Korean Listed Securities under the Korean Annex, since the Korean Annex takes the form of "securities lending" through KSD and the transfer of Korean Listed Securities for a lending transaction (through KSD) is permissible outside exchange.

Kim & Chang

SKH/CSK/WYC

APPENDIX A
AUGUST 2015

CERTAIN TRANSACTIONS UNDER THE ISDA MASTER AGREEMENTS

Basis Swap. A transaction in which one party pays periodic amounts of a given currency based on a floating rate and the other party pays periodic amounts of the same currency based on another floating rate, with both rates reset periodically; all calculations are based on a notional amount of the given currency.

Bond Forward. A transaction in which one party agrees to pay an agreed price for a specified amount of a bond of an issuer or a basket of bonds of several issuers at a future date and the other party agrees to pay a price for the same amount of the same bond to be set on a specified date in the future. The payment calculation is based on the amount of the bond and can be physically-settled (where delivery occurs in exchange for payment) or cash-settled (where settlement occurs based on the difference between the agreed forward price and the prevailing market price at the time of settlement).

Bond Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to purchase (in the case of a call) or sell (in the case of a put) a specified amount of a bond of an issuer, such as Kingdom of Sweden or Unilever N.V., at a specified strike price. The bond option can be settled by physical delivery of the bonds in exchange for the strike price or may be cash settled based on the difference between the market price of the bonds on the exercise date and the strike price.

Bullion Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to purchase (in the case of a call) or sell (in the case of a put) a specified number of Ounces of Bullion at a specified strike price. The option may be settled by physical delivery of Bullion in exchange for the strike price or may be cash settled based on the difference between the market price of Bullion on the exercise date and the strike price.

Bullion Swap. A transaction in which one party pays periodic amounts of a given currency based on a fixed price or a fixed rate and the other party pays periodic amounts of the same currency or a different currency calculated by reference to a Bullion reference price (for example, Gold-COMEX on the COMEX Division of the New York Mercantile Exchange) or another method specified by the parties. Bullion swaps include cap, collar or floor transactions in respect of Bullion.

Bullion Trade. A transaction in which one party agrees to buy from or sell to the other party a specified number of Ounces of Bullion at a specified price for settlement either on a "spot" or two-day basis or on a specified future date. A Bullion Trade may be settled by physical delivery of Bullion in exchange for a specified price or may be cash settled based on the difference between the market price of Bullion on the settlement date and the specified price.

For purposes of Bullion Trades, Bullion Options and Bullion Swaps, "Bullion" means gold, silver, platinum or palladium and "Ounce" means, in the case of gold, a fine troy ounce, and in

the case of silver, platinum and palladium, a troy ounce (or in the case of reference prices not expressed in Ounces, the relevant Units of gold, silver, platinum or palladium).

Buy/Sell-Back Transaction. A transaction in which one party purchases a security (in consideration for a cash payment) and agrees to sell back that security (or in some cases an equivalent security) to the other party (in consideration for the original cash payment plus a premium).

Cap Transaction. A transaction in which one party pays a single or periodic fixed amount and the other party pays periodic amounts of the same currency based on the excess, if any, of a specified floating rate (in the case of an interest rate cap), rate or index (in the case of an economic statistic cap) or commodity price (in the case of a commodity cap) in each case that is reset periodically over a specified per annum rate (in the case of an interest rate cap), rate or index (in the case of an economic statistic cap) or commodity price (in the case of a commodity cap).

Collar Transaction. A collar is a combination of a cap and a floor where one party is the floating rate, floating index or floating commodity price payer on the cap and the other party is the floating rate, floating index or floating commodity price payer on the floor.

Commodity Forward. A transaction in which one party agrees to purchase a specified quantity of a commodity at a future date at an agreed price, and the other party agrees to pay a price for the same quantity to be set on a specified date in the future. A Commodity Forward may be settled by the physical delivery of the commodity in exchange for the specified price or may be cash settled based on the difference between the agreed forward price and the prevailing market price at the time of settlement.

Commodity Index Transaction. A transaction, structured in the form of a swap, cap, collar, floor, option or some combination thereof, between two parties in which the underlying value of the transaction is based on a rate or index based on the price of one or more commodities.

Commodity Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to purchase (in the case of a call) or sell (in the case of a put) a specified quantity of a commodity at a specified strike price. The option can be settled either by physically delivering the quantity of the commodity in exchange for the strike price or by cash settling the option, in which case the seller of the option would pay to the buyer the difference between the market price of that quantity of the commodity on the exercise date and the strike price.

Commodity Swap. A transaction in which one party pays periodic amounts of a given currency based on a fixed price and the other party pays periodic amounts of the same currency based on the price of a commodity, such as natural gas or gold, or a futures contract on a commodity (e.g., West Texas Intermediate Light Sweet Crude Oil on the New York Mercantile Exchange); all calculations are based on a notional quantity of the commodity.

Contingent Credit Default Swap. A Credit Default Swap Transaction under which the calculation amounts applicable to one or both parties may vary over time by reference to the mark-to-market value of a hypothetical swap transaction.

Credit Default Swap Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to enter into a Credit Default Swap.

Credit Default Swap. A transaction in which one party pays either a single fixed amount or periodic fixed amounts or floating amounts determined by reference to a specified notional amount, and the other party (the credit protection seller) pays either a fixed amount or an amount determined by reference to the value of one or more loans, debt securities or other financial instruments (each a "Reference Obligation") issued, guaranteed or otherwise entered into by a third party (the "Reference Entity") upon the occurrence of one or more specified credit events with respect to the Reference Entity (for example, bankruptcy or payment default). The amount payable by the credit protection seller is typically determined based upon the market value of one or more debt securities or other debt instruments issued, guaranteed or otherwise entered into by the Reference Entity. A Credit Default Swap may also be physically settled by payment of a specified fixed amount by one party against delivery of specified obligations ("Deliverable Obligations") by the other party. A Credit Default Swap may also refer to a "basket" (typically ten or less) or a "portfolio" (eleven or more) of Reference Entities or may be an index transaction consisting of a series of component Credit Default Swaps.

Credit Derivative Transaction on Asset-Backed Securities. A Credit Default Swap for which the Reference Obligation is a cash or synthetic asset-backed security. Such a transaction may, but need not necessarily, include "pay as you go" settlements, meaning that the credit protection seller makes payments relating to interest shortfalls, principal shortfalls and write-downs arising on the Reference Obligation and the credit protection buyer makes additional fixed payments of reimbursements of such shortfalls or write-downs.

Credit Spread Transaction. A transaction involving either a forward or an option where the value of the transaction is calculated based on the credit spread implicit in the price of the underlying instrument.

Cross Currency Rate Swap. A transaction in which one party pays periodic amounts in one currency based on a specified fixed rate (or a floating rate that is reset periodically) and the other party pays periodic amounts in another currency based on a floating rate that is reset periodically. All calculations are determined on predetermined notional amounts of the two currencies; often such swaps will involve initial and or final exchanges of amounts corresponding to the notional amounts.

Currency Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to purchase (in the case of a call) or sell (in the case of a put) a specified amount of a given currency at a specified strike price.

Currency Swap. A transaction in which one party pays fixed periodic amounts of one currency and the other party pays fixed periodic amounts of another currency. Payments are calculated on a notional amount. Such swaps may involve initial and or final payments that correspond to the notional amount.

Economic Statistic Transaction. A transaction in which one party pays an amount or periodic amounts of a given currency by reference to interest rates or other factors and the other party pays or may pay an amount or periodic amounts of a currency based on a specified rate or index

pertaining to statistical data on economic conditions, which may include economic growth, retail sales, inflation, consumer prices, consumer sentiment, unemployment and housing.

Emissions Allowance Transaction. A transaction in which one party agrees to buy from or sell to the other party a specified quantity of emissions allowances or reductions at a specified price for settlement either on a "spot" basis or on a specified future date. An Emissions Allowance Transaction may also constitute a swap of emissions allowances or reductions or an option whereby one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to receive a payment equal to the amount by which the specified quantity of emissions allowances or reductions exceeds or is less than a specified strike. An Emissions Allowance Transaction may be physically settled by delivery of emissions allowances or reductions in exchange for a specified price, differing vintage years or differing emissions products or may be cash settled based on the difference between the market price of emissions allowances or reductions on the settlement date and the specified price.

Equity Forward. A transaction in which one party agrees to pay an agreed price for a specified quantity of shares of an issuer, a basket of shares of several issuers or an equity index at a future date and the other party agrees to pay a price for the same quantity and shares to be set on a specified date in the future. The payment calculation is based on the number of shares and can be physically-settled (where delivery occurs in exchange for payment) or cash-settled (where settlement occurs based on the difference between the agreed forward price and the prevailing market price at the time of settlement).

Equity Index Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to receive a payment equal to the amount by which an equity index either exceeds (in the case of a call) or is less than (in the case of a put) a specified strike price.

Equity Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to purchase (in the case of a call) or sell (in the case of a put) a specified number of shares of an issuer or a basket of shares of several issuers at a specified strike price. The share option may be settled by physical delivery of the shares in exchange for the strike price or may be cash settled based on the difference between the market price of the shares on the exercise date and the strike price.

Equity Swap. A transaction in which one party pays periodic amounts of a given currency based on a fixed price or a fixed or floating rate and the other party pays periodic amounts of the same currency or a different currency based on the performance of a share of an issuer, a basket of shares of several issuers or an equity index, such as the Standard and Poor's 500 Index.

Floor Transaction. A transaction in which one party pays a single or periodic amount and the other party pays periodic amounts of the same currency based on the excess, if any, of a specified per annum rate (in the case of an interest rate floor), rate or index level (in the case of an economic statistic floor) or commodity price (in the case of a commodity floor) over a specified floating rate (in the case of an interest rate floor), rate or index level (in the case of an economic statistic floor) or commodity price (in the case of a commodity floor).

Foreign Exchange Transaction. A deliverable or non-deliverable transaction providing for the purchase of one currency with another currency providing for settlement either on a "spot" or two-day basis or a specified future date.

Forward Rate Transaction. A transaction in which one party agrees to pay a fixed rate for a defined period and the other party agrees to pay a rate to be set on a specified date in the future. The payment calculation is based on a notional amount and is settled based, among other things, on the difference between the agreed forward rate and the prevailing market rate at the time of settlement.

Freight Transaction. A transaction in which one party pays an amount or periodic amounts of a given currency based on a fixed price and the other party pays an amount or periodic amounts of the same currency based on the price of chartering a ship to transport wet or dry freight from one port to another; all calculations are based either on a notional quantity of freight or, in the case of time charter transactions, on a notional number of days.

Fund Option Transaction: A transaction in which one party grants to the other party (for an agreed payment or other consideration) the right, but not the obligation, to receive a payment based on the redemption value of a specified amount of an interest issued to or held by an investor in a fund, pooled investment vehicle or any other interest identified as such in the relevant Confirmation (a "Fund Interest"), whether i) a single class of Fund Interest of a Single Reference Fund or ii) a basket of Fund Interests in relation to a specified strike price. The Fund Option Transactions will generally be cash settled (where settlement occurs based on the excess of such redemption value over such specified strike price (in the case of a call) or the excess of such specified strike price over such redemption value (in the case of a put) as measured on the valuation date or dates relating to the exercise date).

Fund Forward Transaction: A transaction in which one party agrees to pay an agreed price for the redemption value of a specified amount of i) a single class of Fund Interest of a Single Reference Fund or ii) a basket of Fund Interests at a future date and the other party agrees to pay a price for the redemption value of the same amount of the same Fund Interests to be set on a specified date in the future. The payment calculation is based on the amount of the redemption value relating to such Fund Interest and generally cash-settled (where settlement occurs based on the difference between the agreed forward price and the redemption value measured as of the applicable valuation date or dates).

Fund Swap Transaction: A transaction a transaction in which one party pays periodic amounts of a given currency based on a fixed price or a fixed rate and the other party pays periodic amounts of the same currency based on the redemption value of i) a single class of Fund Interest of a Single Reference Fund or ii) a basket of Fund Interests.

Interest Rate Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to receive a payment equal to the amount by which an interest rate either exceeds (in the case of a call option) or is less than (in the case of a put option) a specified strike rate.

Interest Rate Swap. A transaction in which one party pays periodic amounts of a given currency based on a specified fixed rate and the other party pays periodic amounts of the same currency based on a specified floating rate that is reset periodically, such as the London inter-bank offered rate; all calculations are based on a notional amount of the given currency.

Longevity/Mortality Transaction. (a) A transaction employing a derivative instrument, such as a forward, a swap or an option, that is valued according to expected variation in a reference

index of observed demographic trends, as exhibited by a specified population, relating to aging, morbidity, and mortality/longevity, or (b) A transaction that references the payment profile underlying a specific portfolio of longevity- or mortality- contingent obligations, e.g. a pool of pension liabilities or life insurance policies (either the actual claims payments or a synthetic basket referencing the profile of claims payments).

Physical Commodity Transaction. A transaction which provides for the purchase of an amount of a commodity, such as oil including oil products, coal, electricity or gas, at a fixed or floating price for actual delivery on one or more dates.

Property Index Derivative Transaction. A transaction, often structured in the form of a forward, option or total return swap, between two parties in which the underlying value of the transaction is based on a rate or index based on residential or commercial property prices for a specified local, regional or national area.

Repurchase Transaction. A transaction in which one party agrees to sell securities to the other party and such party has the right to repurchase those securities (or in some cases equivalent securities) from such other party at a future date.

Securities Lending Transaction. A transaction in which one party transfers securities to a party acting as the borrower in exchange for a payment or a series of payments from the borrower and the borrower's obligation to replace the securities at a defined date with identical securities.

Swap Deliverable Contingent Credit Default Swap. A Contingent Credit Default Swap under which one of the Deliverable Obligations is a claim against the Reference Entity under an ISDA Master Agreement with respect to which an Early Termination Date (as defined therein) has occurred.

Swap Option. A transaction in which one party grants to the other party the right (in consideration for a premium payment), but not the obligation, to enter into a swap with certain specified terms. In some cases the swap option may be settled with a cash payment equal to the market value of the underlying swap at the time of the exercise.

Total Return Swap. A transaction in which one party pays either a single amount or periodic amounts based on the total return on one or more loans, debt securities or other financial instruments (each a "Reference Obligation") issued, guaranteed or otherwise entered into by a third party (the "Reference Entity"), calculated by reference to interest, dividend and fee payments and any appreciation in the market value of each Reference Obligation, and the other party pays either a single amount or periodic amounts determined by reference to a specified notional amount and any depreciation in the market value of each Reference Obligation.

A total return swap may (but need not) provide for acceleration of its termination date upon the occurrence of one or more specified events with respect to a Reference Entity or a Reference Obligation with a termination payment made by one party to the other calculated by reference to the value of the Reference Obligation.

Weather Index Transaction. A transaction, structured in the form of a swap, cap, collar, floor, option or some combination thereof, between two parties in which the underlying value of the transaction is based on a rate or index pertaining to weather conditions, which may include measurements of heating, cooling, precipitation and wind.

APPENDIX B
SEPTEMBER 2009

CERTAIN COUNTERPARTY TYPES[28]

Description	**Covered by opinion**	**Legal form(s)**
Bank/Credit Institution. A legal entity, which may be organized as a corporation, partnership or in some other form, that conducts commercial banking activities, that is, whose core business typically involves (a) taking deposits from private individuals and/or corporate entities and (b) making loans to private individual and/or corporate borrowers. This type of entity is sometimes referred to as a "commercial bank" or, if its business also includes investment banking and trading activities, a "universal bank". (If the entity only conducts investment banking and trading activities, then it falls within the "Investment Firm/Broker Dealer" category below.) This type of entity is referred to as a "credit institution" in European Community (**EC**) legislation. This category may include specialised types of bank, such as a mortgage savings bank (provided that the relevant entity accepts deposits and makes loans), or such an entity may be considered in the local jurisdiction to constitute a separate category of legal entity (as in the case of a building society in the United Kingdom (**UK**)).	Yes	For purposes of this memorandum, a "Bank/Credit Institution" is (i) a commercial bank organized as a joint-stock company (*Chusik Hoesa*) under the Commercial Code of Korea (the "**Commercial Code**") and licensed under the Banking Act of Korea (the "**Banking Act**"), (ii) a foreign bank branch located in Korea and licensed under the Banking Act and (iii) a Korean statutory bank organized under and pursuant to a special statute.
Central Bank. A legal entity that performs the function of a central bank for a Sovereign or for an area of monetary union (as in the case of the European Central Bank in respect of the euro zone).	No	
Corporation. A legal entity that is organized as a corporation or company rather than a partnership, is engaged in industrial and/or commercial activities and does not fall within one of the other categories in this Appendix B.	Yes	For purposes of this memorandum, a "Corporation" is (i) a general corporation organized as a joint-stock company (*Chusik Hoesa*) under the Commercial Code and (ii) a special purpose company organized as a limited liability company

[28] In these definitions, the term "legal entity" means an entity with legal personality other than a private individual.

Description	Covered by opinion	Legal form(s)
		(*Yuhan Hoesa*) under the Commercial Code for purposes of securitization pursuant to the Asset-Backed Securitization Law of Korea.
Hedge Fund/Proprietary Trader. A legal entity, which may be organized as a corporation, partnership or in some other legal form, the principal business of which is to deal in and/or manage securities and/or other financial instruments and/or otherwise to carry on an investment business predominantly or exclusively as principal for its own account.	No	
Insurance Company. A legal entity, which may be organised as a corporation, partnership or in some other legal form (for example, a friendly society or industrial & provident society in the UK), that is licensed to carry on insurance business, and is typically subject to a special regulatory regime and a special insolvency regime in order to protect the interests of policyholders.	Yes	For purposes of this memorandum, an "Insurance Company" is an insurance company organized as a joint-stock company (*Chusik Hoesa*) under the Commercial Code and licensed under the Insurance Business Act of Korea.
International Organization. An organization of Sovereigns established by treaty entered into between the Sovereigns, including the International Bank for Reconstruction and Development (the World Bank), regional development banks and similar organizations established by treaty.	No	
Investment Firm/Broker Dealer. A legal entity, which may be organized as a corporation, partnership or in some other form, that does not conduct commercial banking activities but deals in and/or manages securities and/or other financial instruments as an agent for third parties. It may also conduct such activities as principal (but if it does so exclusively as principal, then it most likely falls within the "Hedge Fund/Proprietary Trader" category above.) Its business normally includes holding	Yes	For purposes of this memorandum, an "Investment Firm/Broker Dealer" is (i) a financial investment company organized as a joint-stock company (*Chusik Hoesa*) under the Commercial Code and licensed under

Description	Covered by opinion	Legal form(s)
securities and/or other financial instruments for third parties and operating related cash accounts. This type of entity is referred to as a "broker-dealer" in US legislation and as an "investment firm" in EC legislation.		the Financial Investment Services and Capital Markets Act of Korea (the "**FSCMA**") to engage in dealing and brokerage of securities and over-the-counter derivatives and (ii) a foreign financial investment company branch located in Korea and licensed under the FSCMA.
Investment Fund. A legal entity or an arrangement without legal personality (for example, a common law trust) established to provide investors with a share in profits or income arising from property acquired, held, managed or disposed of by the manager(s) of the legal entity or arrangement or a right to payment determined by reference to such profits or income. This type of entity or arrangement is referred to as a "collective investment scheme" in EC legislation. It may be regulated or unregulated. It is typically administered by one or more persons (who may be private individuals and/or corporate entities) who have various rights and obligations governed by general law and/or, typically in the case of regulated Investment Funds, financial services legislation. Where the arrangement does not have separate legal personality, one or more representatives of the Investment Fund (for example, a trustee of a unit trust) contract on behalf of the Investment Fund, are owed the rights and owe the obligations provided for in the contract and are entitled to be indemnified out of the assets comprised in the arrangement.	No	
Local Authority. A legal entity established to administer the functions of local government in a particular region within a Sovereign or State of a Federal Sovereign, for example, a city, county, borough or similar area.	No	
Partnership. A legal entity or form of arrangement without legal personality that is (a) organised as a	No	

Description	Covered by opinion	Legal form(s)
general, limited or some other form of partnership and (b) does not fall within one of the other categories in this Appendix B. If it does not have legal personality, it may nonetheless be treated as though it were a legal person for certain purposes (for example, for insolvency purposes) and not for other purposes (for example, tax or personal liability).		
Pension Fund. A legal entity or an arrangement without legal personality (for example, a common law trust) established to provide pension benefits to a specific class of beneficiaries, normally sponsored by an employer or group of employers. It is typically administered by one or more persons (who may be private individuals and/or corporate entities) who have various rights and obligations governed by pensions legislation. Where the arrangement does not have separate legal personality, one or more representatives of the Pension Fund (for example, a trustee of a pension scheme in the form of a common law trust) contract on behalf of the Pension Fund and are owed the rights and owe the obligations provided for in the contract and are entitled to be indemnified out of the assets comprised in the arrangement.	No	
Sovereign. A sovereign nation state recognized internationally as such, typically acting through a direct agency or instrumentality of the central government without separate legal personality, for example, the ministry of finance, treasury or national debt office. This category does not include a State of a Federal Sovereign or other political sub-division of a sovereign nation state if the sub-division has separate legal personality (for example, a Local Authority) and it does not include any legal entity owned by a sovereign nation state (see "Sovereign-owned Entity").	No	
Sovereign Wealth Fund. A legal entity, often created by a special statute and normally wholly owned by a Sovereign, established to manage assets of or on behalf of the Sovereign, which may or may not hold those assets in its own name. Such an entity is often referred to as an "investment authority". For certain Sovereigns, this function is performed by the Central Bank, however for	No	

Description	Covered by opinion	Legal form(s)
purposes of this Appendix B the term "Sovereign Wealth Fund" excludes a Central Bank.		
Sovereign-Owned Entity. A legal entity wholly or majority-owned by a Sovereign, other than a Central Bank, or by a State of a Federal Sovereign, which may or may not benefit from any immunity enjoyed by the Sovereign or State of a Federal Sovereign from legal proceedings or execution against its assets. This category may include entities active entirely in the private sector without any specific public duties or public sector mission as well as statutory bodies with public duties (for example, a statutory body charged with regulatory responsibility over a sector of the domestic economy). This category does not include local governmental authorities (see "Local Authority").	No	
State of a Federal Sovereign. The principal political sub-division of a federal Sovereign, such as Australia (for example, Queensland), Canada (for example, Ontario), Germany (for example, Nordrhein-Westfalen) or the United States of America (for example, Pennsylvania). This category does not include a Local Authority.	No	