

SECTION B - AVAILABILITY AND FORMS OF FINANCING FOR ENTERPRISES

B1. Business financing arrangements generally

- (a) For a *busi k hoesa*, it is more common to meet its financing needs through external borrowings.
- (b) On average, external borrowings from non-banking institutions were higher than borrowings from banking institutions.
- (c) Whether there is competition among the lenders depends on the creditworthiness and other factors relating to a particular company. Companies borrow funds from various financial and non-financial institutions, both Korean and foreign.
- (d) Due to financial difficulties in Korea, the interest rate is comparatively volatile. The interest rate also differs depending on the creditworthiness of a particular company. As a point of reference, the interest rate for corporate bonds is approximately 9.5%.
- (e) Short, medium and long term borrowings are generally available. Due to financial difficulties, however, the companies are putting greater emphasis on long term borrowing rather than short term.

B2. Central or other similar bank control or influences

- (a) The Bank of Korea issues currency and acts as the banks' bank. It also implements monetary policies and administers foreign currency reserves. The Bank of Korea also supervises banks through Bank Supervisory Board, and in such capacity, may be able to exert indirect control over corporations with large debt exposure to banks by way of capital adequacy requirement, discount rate or other means.
- (b) It is generally the case that the "lead" bank will act as the leader among the in case of insolvency of a large corporate borrower. The "lead" banks will gather information, seek to improve the financial condition of the financially distressed company and act as the negotiator.

B3. Assessment of borrowing risk and monitoring of financial position

- (a) Financial institutions will generally perform a credit risk analysis of the borrower.
- (b) Although the average lending bank make assessment of risk analysis, the general consensus is that factors other than risk analysis are often involved in making the decision to lend money.
- (c) It is common for a lending bank to regularly monitor the financial performance of a corporate borrower. The actual frequency and scope of monitoring activity will depend on the lender and the financial stability of the borrower.
- (d) It is common for a lender to request financial statements during the tenor of the loan.

B4. Foreign bank lending

- (a) Foreign bank lending is an important source of borrowings in Korea, especially for large corporate borrowers.
- (b) Although there are lendings by foreign banks alone, it is more common to have a syndicated loan with Korean financial institutions participating in the loan.
- (c) (d) Because foreign banks will be lending mostly foreign currency rather than Korean Won, there may be differences in the approach and funding terms. The interest rate is also different compared to Korean Won-denominated loans. Generally, for foreign currency loans, the loan documentation used is similar to those used in international financial markets, which is often different with an ordinary loan contract used for domestic borrowings in Korean Won. Thus, provisions that are often found in international loan contracts may be absent in Korean loan documents and vice versa.

B5. Exclusive lending

(a) A company may deal with 2 or 3 banks. Large companies may deal with 10 or more banks. If a company deals with a number of banks, it will often have a “lead” bank.

(b) n/a

B6. Syndicated lending

(a) Although there are syndicated financing for project finance type of loans, in general syndicated lending for Won-denominated loans are not common. However, for foreign currency-denominated lending, syndication is common.

(b) (i) Although the lead bank often acts as the agent in syndicated lending, this is not always the case.

(ii) Same as in (i).

(iii) The agent takes actions stated in the relevant loan documentation. Generally, this would be liaising between corporate borrower and the lenders, administrating the loan, declaring default and taking other actions as the lenders may direct in accordance with the loan documents.

B7. Subordinated debt

(a) Yes, the concept of “subordinated debt” exists in Korea.

(b) Yes, debt subordination will be enforced as set forth in the insolvency laws of Korea. Namely, there may be restrictions on repayment of subordinated debt in the event of insolvency.

B8. Banks and equity/debt

(a) Unless otherwise permitted by Financial Supervisory Commission, banks are not allowed to own in excess of 15% of issued shares of another company.

(b) In principle, it is permissible for a bank to convert debt into equity. As noted above, however, banks may not own more than 15% of issued shares of a company without Financial Supervisory Commission’s permission.

- (c) (i) Yes, there are instances where debt has been converted to equity in the context of a “work out”. Recently, Gopyung, Kohap and Kabul (which all faced financial difficulties) agreed with the creditors group to convert debt to equity as part of its respective overall restructuring plan.
- (ii) No, we are not aware of instances where debt has been actually converted to equity in the context of formal insolvency proceeding.
- (d) It has become possible for the bank to become the controlling shareholder and it is possible that the bank may be represented on the management or the board of such companies.

B9. Debt trading

- (a) There is a market for commercial paper and corporate bonds and debentures in Korea.
- (b) If a corporate borrower is insolvent or near insolvent, it is unlikely that a market for trading of debt securities issued by such company would be active.

B10. Guarantees to support lending

- (a) Third party guarantee is known and widely practiced in Korea.
- (b) Other than limitations placed on guarantees by the parent company to its subsidiaries in connection with off-shore borrowing by such subsidiaries, Korean antitrust laws also restrict companies belonging to the same “large enterprise group” to cross-guarantee among each other.
- (c) It is common and usual for corporate borrowing to be supported by guarantees.
- (d) In the past, it was common for owner/directors to guarantee the loan. However, it is expected that beginning 1999, banks will not require guarantees from hired directors. As for third party guarantees, only certain types of guarantees would be allowed. And finally, for guarantees by affiliates/subsidiaries, guarantees by these companies are subject to

restrictions described above if they are within the same “large enterprise group”.

- (e) Guarantees can be enforced in accordance with Civil Procedure Act.
- (f) There are various factors which determine whether a particular guarantee may be enforced with relative ease or not. Filing of a legal proceeding for enforcement of guarantee is a common legal action.
- (g) It is not unusual for a bank to require security over property as additional comfort.
- (h) Insolvency of the obligor does not extinguish the guarantee and may be enforced.