Although foreign-invested companies take into account various factors before making investments, they can still face unforeseen situations while doing business. One such example is a company that had trouble selecting and purchasing a factory site in an industrial complex, and the process ended up taking longer than expected. But eventually, investment decisions, including land purchase and factory construction, were made by closely consulting with Korea’s local governments and relevant government agencies.

There were issues that still remained when it came to land purchasing as the company had received foreign capital from the headquarters overseas through another commercial bank instead of a principal transaction bank. This bank had reported the purpose of the foreign exchange transactions as export earnings, considering that the purpose of the company’s foreign exchange transactions was to receive export earnings in Korean currency. Strictly speaking, however, the purpose of foreign exchange transactions was not to receive export earnings but to make foreign investment.

After one year had passed since the initial report on the foreign exchange transactions, the company voluntarily informed the Financial Supervisory Service (FSS) that such report on the foreign capital loans as originally filed had stemmed from procedural errors. It then filed a corrected report on foreign currency transactions but the FSS launched an investigation on charge of violating the Foreign Exchange Transactions Act. After a three-month investigation, the case had not been completed and the company asked our office for assistance so that it could proceed with the project without further delay.

Upon notice, the Ombudsman gave his first priority to the expedited processing of the ongoing investigation and took swift measures to get the case completed quickly. Most notably, the Ombudsman visited the FSS to inform of the company’s willingness to take liability for this case and to request that the lengthy investigation be completed faster. Furthermore, our office beefed up efforts to quickly resolve the issue without resorting to a drawn-out investigation.

Eventually, it turned out that the company had no intention of evading or avoiding foreign currency transaction reporting. Thanks to prompt measures taken by the Ombudsman and the Korean government, the case was resolved.

For overseas market entry, it is essential for foreign companies to operate and comply with the economic regulations of each country. It’s crucial to closely review the country’s economic and social factors including business feasibility, confirmation and approval practices and taxation regulations. On this note, Korea is determined to quickly respond to the needs and demands of foreign-invested companies.

As for foreign capital inflow, legitimate currency transactions shall be conducted in accordance with relevant legal procedures. In some minor cases, the Foreign Transactions Act in Korea stipulates that foreign-invested companies may submit reports and documents, thanks to free overseas remittances and simplified transaction procedures. But in some cases, particularly in the event that overseas capital inflows create negative economic repercussions, the foreign-invested companies are required to get prior confirmation from the relevant authority. Under the Foreign Investment Promotional Act, foreign investment capital transactions may be replaced by foreign investment notifications. Therefore, foreign currency transactions in Korea shall be conducted in close consultation with relevant financial institutions and comply with such law accordingly.

These days, the Korean government and relevant government authorities are making continued efforts to notify companies of amended laws and regulations. In particular, the regulatory information portal has been in place where pre-announced bills or new regulations are publicly available in English on the Ombudsman’s website and they are being delivered to foreign-invested companies to have their opinion reflected in the legislative process. By being well prepared, adapting to change and continuing efforts to improve regulations can jump-start success for businesses in Korea.

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