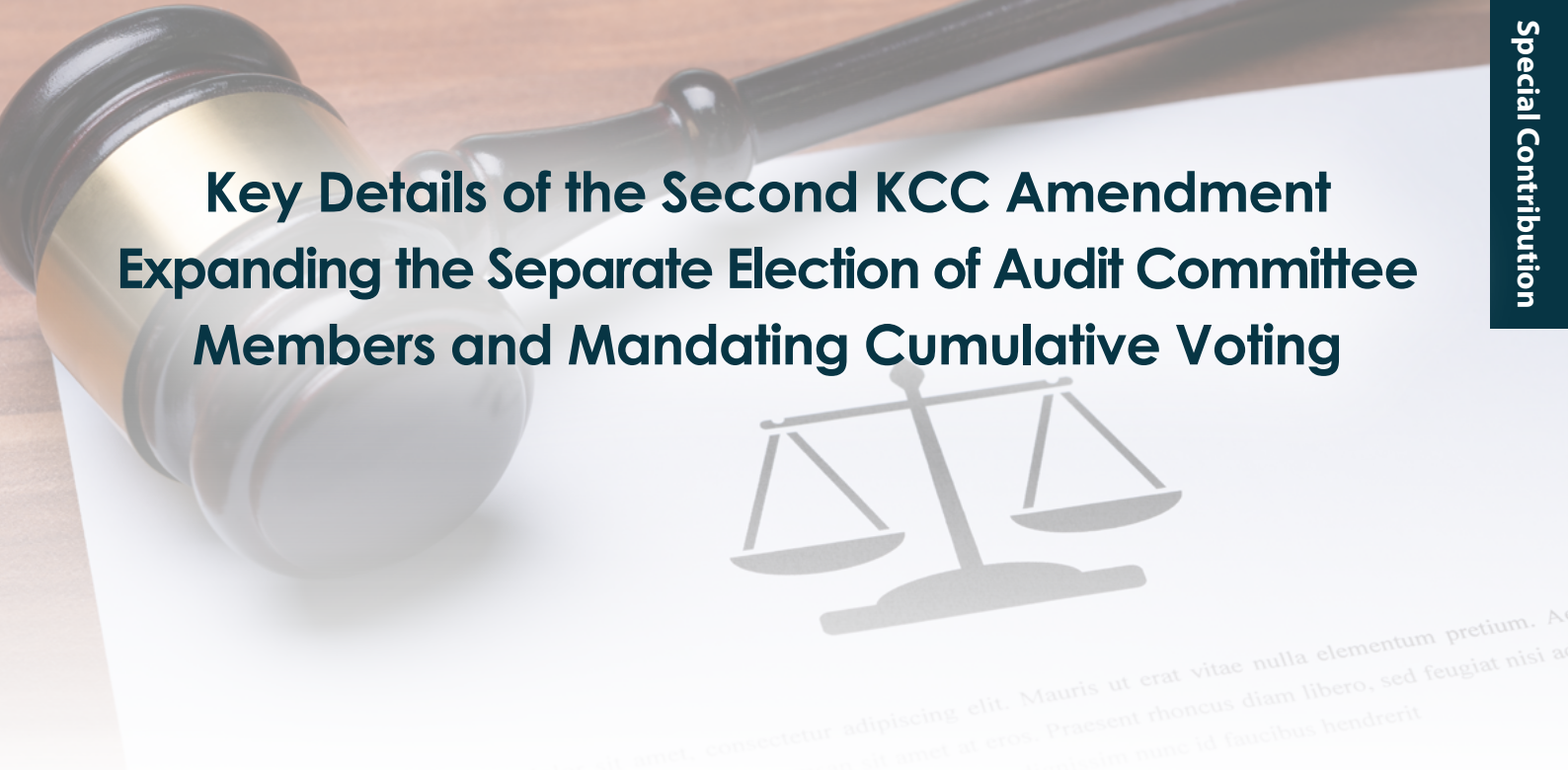

Key Details of the Second KCC Amendment Expanding the Separate Election of Audit Committee Members and Mandating Cumulative Voting

I. Promulgation and Implementation of the Second KCC Amendment

The first proposed amendment to the Korean Commercial Code (the "First KCC Amendment"), which includes provisions expanding the fiduciary duties of directors to include protection of shareholders' interests, was passed by the National Assembly at its plenary session on July 3, 2025 and was promulgated and took effect on July 22, 2025. Subsequently, the second proposed amendment to the KCC (the "Second KCC Amendment"), which mandates cumulative voting for large listed companies and expands the separate election of their audit committee members, was passed by the National Assembly at its plenary session on August 25, 2025 and promulgated on September 9, 2025.

Key details of the Second KCC Amendment are: (i) Article 542-7 of the KCC has been amended to require large listed companies with total assets of KRW 2 trillion or above to adopt cumulative voting and to prohibit, notwithstanding Article 382-2(1) of the KCC, such large listed companies from excluding the cumulative voting system from their articles of incorporation; and (ii) Article 542-12 of the KCC has been amended to require the election of two audit committee members (instead of one, as was previously required) to be subject to the 3% voting cap separately from other directors (the number of such separately elected members may be increased through the articles of incorporation) for (A) large listed companies with total assets of KRW 2 trillion or more , which are required to establish an audit committee, and (B) listed companies with total assets of KRW 100 billion or more that have opted to establish an audit committee, instead of appointing a standing auditor. The Second KCC Amendment will take effect on September 10, 2026, which is one year after its promulgation. However, the provision mandating cumulative voting will be applicable to a listed company from the first general meeting of its shareholders convened to elect directors following the Second KCC Amendment taking effect (i.e., September 10, 2026).

II. Mandating Cumulative Voting for Large Listed Companies

Under the Second KCC Amendment, large listed companies with total assets of KRW 2 trillion or more will be prohibited, notwithstanding Article 382-2(1) of the KCC, from excluding cumulative voting from their articles of incorporation. Accordingly, if shareholders request the election of directors through cumulative voting pursuant to Article 382-2 of the KCC, each shareholder will have voting rights equal to the number of directors to be elected for each share they hold, with respect to the agenda of adopting a resolution on the election of directors submitted to the relevant general meeting of shareholders. In such cases, shareholders may exercise their voting rights by concentrating votes on one or more director candidates.

Current Provisions	Proposed Amendment
Article 542-7 (Special Cases Concerning Cumulative Voting) (1) – (2) *(Omitted)* (3) When a listed company under Paragraph (2) intends to exclude cumulative voting by its articles of incorporation or revise the excluded provisions in the articles of incorporation, shareholders who hold stocks exceeding three percent of the total number of issued and outstanding shares other than nonvoting stocks shall be prohibited from exercising their voting rights on the stocks held in excess; provided, however, that a lower ratio of holding shares may be determined in the articles of incorporation. (4) When a listed company under Paragraph (2) intends to submit a proposal on revision of the articles of incorporation concerning the exclusion of cumulative voting under Paragraph (3) as an agenda item for a general meeting of shareholders, the company shall propose and resolve the proposal separately from a proposal on revision of other articles of incorporation.	**Article 542-7 (Special Cases Concerning Cumulative Voting)** (1) – (2) *(Omitted)* (3) A listed company under Paragraph (2), notwithstanding Article 382-2(1), shall not exclude cumulative voting by its articles of incorporation. *<Proviso Deleted>* *(4) <Deleted>*

III. Expanding the Separate Election of Audit Committee Members

Until recently, a large listed company with total assets of KRW 2 trillion or more was required to have at least one audit committee member separately elected. The Second KCC Amendment has increased such minimum number to two.

Unlike other directors who may be appointed as audit committee members after being appointed as directors, all audit committee members subject to separate election requirements must be elected separately from other directors. Further, when appointing or dismissing an audit committee member, any shareholder who holds more than 3% (or a lower shareholding percentage as may be specified in the articles of incorporation) of the total number of issued and outstanding shares, excluding non-voting shares, will be prohibited from exercising its voting rights on the shares held in excess of that threshold.

Due to the absence of supplementary regulations on the expanded separate election of audit committee members, there are two conflicting interpretations regarding when the relevant provision will take effect: either immediately from the effective date of the Second KCC Amendment, or from the first election of a new audit committee member following the effective date of the Second KCC Amendment. However, the interpretation that such provision applies immediately from the effective date of the Second KCC Amendment appears more reasonable and practical, considering that (i) there is no legal basis in the Second KCC Amendment supporting the other interpretation, and (ii) the addenda to the Second KCC Amendment explicitly provide that only the requirements of cumulative voting will apply from the first general meeting of shareholders convened to elect directors following the effective date of the Second KCC Amendment.

IV. Implications and Significance of the Second KCC Amendment

With the implementation of the Second KCC Amendment, which prohibits large listed companies from excluding cumulative voting from their articles of incorporation, minority shareholders will be able to exercise their rights to make proposals for director appointments pursuant to Articles 363-2 and 542-6 of the KCC and request that directors be elected through cumulative voting pursuant to Articles 382-2 and 542-7 of the KCC. Once the cumulative voting system is adopted, directors will be elected in order of the number of votes received, rather than by a majority affirmative vote for each candidate pursuant to Article 382-2(4) of the KCC, thereby increasing the likelihood that candidates recommended by minority shareholders will be elected as directors.

In addition to the First KCC Amendment, scheduled to take effect on July 23, 2026, which includes the "3% rule" (i.e., the rule which aggregates and limits the voting rights of the largest shareholder and related parties to 3% in the appointment of members of the audit committee, regardless of whether they are inside or outside directors), the Second KCC Amendment expands the scope of separately elected audit committee members. This expansion will be applied in conjunction with the 3% rule, increasing the likelihood that a number of directors will be elected with votes cast by non-controlling shareholders.

Accordingly, listed companies should pay close attention to these KCC amendments as they may have significant implications for investor relations activities, operation of general shareholder meetings, proxy solicitations for minority shareholder proposals, and resolution procedures.

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** The opinions expressed in this article are the author's own and do not reflect the views of KOTRA.*