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Opportunities for Foreign Activist Investors to Take Advantage of Korea's Shifting Corporate Landscape

Fresh developments in the shareholder activist landscape in Korea have made it more favorable for foreign activist investors to find new opportunities and push for change, even against the biggest chaebols. Our team explains what these developments mean and how investors can take advantage.

The Korean corporate landscape is becoming more favorable for activist campaigns.

With continuing *chaebol* (family-owned conglomerate) restructurings as well as a growing trend towards a more nuanced approach to activism, foreign activist investors looking to maximize their value need to find a new balance between various nuanced shareholder priorities on the one hand, and the changing priorities of different *chaebol* management teams on the other.

New Controversies and Approaches

Two major developments in 2022 stand out, indicating shifts in the activist landscape in Korea:

Spin-off and IPO controversy: Despite the new Korean presidential administration announcing its intent to scrutinize the often-used spin-off and IPO combination – which involves the spin-off and merger of a valuable business division with a company more tightly controlled by a *chaebol* family that is then crowned with an IPO – 2022 saw a continued trend of *chaebol* restructuring at the expense of shareholders. The **latest example** is SK Group, the second largest *chaebol*. Still, once the government's plan materializes, we may see changes.

Softer, governance-focused approach: Many Korean local activist funds have taken a softer, governance-focused approach in response to public criticism (whether fair or not). For example, local funds Flashlight Capital Partners and Anda Asset Management have a small combined stake in tobacco maker KT&G, but through friendly relationships, have led

to the company to respond to their demands by unveiling plans to buy back shares and increase dividends.

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These recent trends have led to notable activist victories, often resulting in a substantial rise in share prices. Align Partners Asset Management's recommendations to SM Entertainment led to the latter's stock price to rise 5%, and KT&G stock rose 12.6% two weeks after the start of the activist campaign.

With these opportunities opening up, foreign activist investors should [consider deploying creative strategies](#) to maximize their position. This may include allying with key domestic institutional and even retail investors, launching an on-the-ground public relations campaign, leveraging Korean shareholder participation rules and building a cooperative approach with controlling shareholders or management.

The trends above point to a shift towards a more favorable environment in Korea for activist investors. With annual meetings approaching for many *chaebols*, investors should consult with on-the-ground counsel who can navigate the intricacies of Korean law and local advocacy in order to make the most out of the opportunities and maximize shareholder value.

About Kobre & Kim

Kobre & Kim is a conflict-free Am Law 200 law firm focused on disputes and investigations, often involving fraud and misconduct.

Our team:

- Has significant experience in corporate governance matters, having led and defended initiatives on the formation and conduct of special investigative committees; organization of steering committees of equity holders to remove incumbent directors outside a regularly formulated election; the serving of statutory notices and pursuit of emergency actions relating to books and records access and related asset-freeze applications; applications for involuntary receiverships and liquidations; and other special strategies to place our clients in a position of strength to negotiate a satisfactory resolution.
- Avoids ongoing client relationships with common industry participants and instead focuses on special-situation engagements, allowing us to offer the most aggressive, creative and independent advocacy even in cases involving numerous, overlapping institutional stakeholders' interests.
- Includes native Korean-speaking lawyers based out of our Seoul and U.S. offices, led by former U.S. federal prosecutor Michael Kim, with extensive experience with South Korean regulatory and criminal authorities such as the Korean Financial Supervisory Service and the Korean Public Prosecutors' Office.