

법제교류 연구 15-18-③
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A Study on Laws Related to Social Economy

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한국법제연구원
KOREA LEGISLATION RESEARCH INSTITUTE

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Abstract

I . Social Enterprise

Significance of Social Enterprises

Emergence of Social Enterprises: Background

- The emergence of social enterprises is based on considerations for the socially vulnerable

Concept of Social Enterprises

- The initial definition and the subsequent expansion of the definition of Social Enterprise through amendments of the Social Enterprise Promotion Act only shows lack of clear explanation as to the boundaries of the Social Enterprises

Social Enterprises and their Current Status

International Situations

- United States currently have various forms of social enterprises legally authorized under laws on corporate/company and not have a distinctive legal entity designated for social enterprises, while European countries such as the United Kingdom or Belgium, although different in details, recognize social enterprise in their legal system

- Current Status of Social Enterprises in Korea

- While the total number of social enterprises operating after certification and the number of the “would-be” social enterprises have been increasing steadily, some fluctuations over the years in the number of newly certified social enterprises each year also exist

- Legislation for Social Enterprises

- Development of the Social Enterprise Promotion Act

- The Social Enterprise Promotion Act aims to help nurturing and supporting social enterprises that pursue social missions such as social services for low-income earners using proceeds from their business activities by providing legal framework for them to be a truly meaningful alternative in our society, and through amendments it also projects to expand the scope and to enhance the supervisory system

- Legal Framework for Social Enterprises

- Although provides no distinction between regular for-profit businesses from social enterprises in terms of the forms of corporations, the Social Enterprise Promotion Act tries to define social enterprises by providing detailed provisions meticulously
- The Social Enterprise Promotion Act also provides different supportive mechanisms throughout the development of social enterprises

□ Legislation for Social Enterprises: Prospects and Challenges

○ Policies under the Social Enterprise Promotion Act and their Achievements

- Policies related to social enterprises are implemented by different government agencies depending on their objectives. While social enterprises are under the jurisdiction of the Ministry of Employment and Labor, there are other forms of organizations with similar social objectives that are governed by different government agencies

○ Policy Improvements Needed for the Social Enterprise Promotion Act

- Lack of diversity, self-sufficiency issues when government supports cease, and tailored support system for individual enterprises are counted as the major issues to be addressed through the amendments of the Social Enterprise Promotion Act in the future

○ Prospect and Challenges

- Social enterprises, social cooperatives, community businesses, self-sufficiency enterprises and other similar organizations have a common goal - growth of social economy and development of voluntary civil economy, consolidation of, or alliance with, similar policies, instead of fragmented implementation by different agencies, will have a much greater impact on social enterprises and the social economic ecosystem

II. Social Cooperative

Definition of Social Cooperative

○ Legislation

- In Korea, the Framework Act on Cooperatives was enacted in December 2011 and came into effect in December 2012 to help local communities create jobs and provide local welfare services.

○ Qualifications

- The Framework Act on Cooperatives is the governing law for eight individual acts on cooperatives. General cooperatives are for-profit entities as defined under the Commercial Act, while social cooperatives are defined as not-for-profit entities under the Civil Act.

○ Characteristics

- Unlike corporations where voting rights are linked to the contribution (one share, one vote) as defined under the Commercial Act, cooperatives are democratic organizations jointly owned by their members with each member having an equal voting right (one member, one vote). Profits generated from their activities are not distributed among members.
- Compared with social enterprises, social cooperatives require approval from the competent authority, but receive no direct financial support. Cooperatives are a form of enterprise, like a corporation, which social cooperatives may choose to be.

□ Facts about Social Cooperatives

○ Key figures

- As of December 2014, the number of social cooperatives is 233, representing 3.7 percent of the total 6,251 cooperatives, and the majority of social cooperatives are of multi-stakeholder type arrangements in which business owners, individuals and organizations come together for mutual benefits.
- Four ministries have granted a combined 70 percent of the total 233 counts of approval granted: Ministry of Employment and Labor (51), Ministry of Health and Welfare (44), Ministry of Education (40), and Ministry of Planning and Finance (27).
- The sectors where social cooperatives are predominantly found are education services (67), healthcare and social welfare services (64), business facilities and support services (24), and art, sport and leisure services (14).
- 222 (or 95.5 percent of the total 233 social cooperatives formed) are new, with only 4.3 percent are those having been created through conversion from existing entities.
- Seventy nine, or 33.9 percent, of the total are registered in Seoul, 66 in Gyeonggi and 15 in Gangwon.
- A combined 24,693 members participated in 233 cooperatives at the time of their formation, with a mean average of 106 members per cooperative. The combined capital stock of all cooperatives is 9.375 billion won, which represents a mean average of 40.23 million won per cooperative.

○ Operations

- As of September 2013, the presidents of 73 social cooperatives had worked for research institutes/schools (20.5 percent), political parties/civic groups (19.2 percent) or welfare organizations (19.2 percent).
- Their business areas include supplying processed agricultural products (23.6%) for disadvantaged groups (21.8%), day care for senior citizens (21.8%), environmental services (14.5%) and education and culture services (14.5%).
- They are more reliant on external funding such as member contributions (84.9%), government subsidy (26.0%) or donations (20.5%) than revenue generated internally by their own businesses.
- The average headcount per cooperative is 13.33. The mean average numbers of regular and non-regular employees per cooperative are 5.74 and 5.88, respectively. There are four times as many female employees working in cooperatives than male employees doing so.
- The average monthly salary is 1.57 million won per executive and 1.49 million won per non-executive employee. A combined 91 percent of all employees are beneficiaries of the four statutory forms of social insurance in Korea.

Prospects for Social Cooperatives

○ Policy Implications

- Social cooperatives can be used as a means to help support social cohesiveness in the wake of major demographic shifts such as the falling fertility rate and societal aging. They can also function to counterbalance the weakened competitiveness of industries that have traditionally provided large numbers of jobs such as manufacturing.
- Instead of spending public money, the government may choose to use cooperatives to change the link between employment and welfare and ultimately help form self-sufficient social infrastructure.
- Unlike Italy or France where citizens have played a leading role in the growth of social cooperatives, Korea has used a top-down approach in which the central government has enacted legislation to promote cooperatives.

○ Limitations and prospects

- At 230, social cooperatives represent a very small number of all cooperatives, and only a few are involved in the alliance business.
- It is necessary to widen the scope of social services eligible for financial support from the state so that social cooperatives can undertake investment in not-for-profit activities through for-profit ones.
- A framework act on social economy, which is currently being discussed by the National Assembly, needs to be passed to help support economic organizations with similar objects to cooperatives, such as social enterprises, village businesses, self-sufficiency businesses and community businesses, in working collaboratively on mutually beneficial activities.

III. Social Economy

Background and Implications

Background

- The growth of capitalism driven by enterprises made the rich even richer and the poor even poorer. At the same time, many challenges emerged, such as inequality of income distribution, economic instability resulting from alternation between recession and boom, disparity between private and public interest, destruction of nature, and human alienation. To help address these challenges resulting from the structural drawbacks of capitalism, new movements emerged.
- Consequently, voices begin to surface indicating that, with respect to the entire economy, balanced progress in economic, environmental and social values should be the goal instead of higher economic growth in a broad spectrum, and with respect to individual enterprises, maximization of social influence should be the goal instead of profit maximization.
- In this regard, social enterprises with a goal of helping socially disadvantaged groups get on their own feet began to emerge, and the concept of corporate social responsibilities started to proliferate. Today, discussions are under way about social economy that goes beyond social interest and responsibility and touches on fundamental transformation.

○ Implications

- Social economy is a process of redistributing wealth created from market economy based on voluntary solidarity and mutual consideration as a response to the failure of government and the drawbacks of the market.
- Mainstream organizations of social economy are not-for-profit organizations in the third sector such as cooperatives and social enterprises (and not government and market). The proposed Framework Act on Social Economy identifies cooperatives, mutual aid cooperatives, social enterprises and other similar organizations as social economic organizations.

□ A snap shot

- Discussions of social economy depend on the socio-economic circumstances and the history of modernization and political system of individual countries. We can see both diversity and uniqueness as well as uniformity in the diverging discussions.

○ Western States

- Social economy started to gain attention again when the welfare model in Europe exhibited a series of crisis symptoms in the 1970s. The globalization of capitalist economies brought tremendous changes to individual countries' economic structure such as a major shift in their demographic composition and the fall of the myth of full employment. These, in turn, led to widespread unemployment and financial burden on welfare states. Amid such

dramatic changes in capitalism, social economy emerged in areas where neither the state nor the market can fill the needs. There was also a highly intentional and strategic need to promote voluntary economic movement in the private sector.

- Social economy in the U.S. emerged in the historic background of charity movements and activities of not-for-profit organizations.

○ Korea

- Private groups that emerged in the course of democratization in the 1980s ushered in the start of a new social economy.
- Korea has adopted many systems designed to assist diverse social economic organizations such as social enterprises that have different goals for protection of socially vulnerable groups, an extended welfare safety net or restoration of local communities. The policies and institutions concerning social economic organizations, however, have been adopted discreetly without any connectivity. Yet discussions of social economy started in the 2000s and recently have begun to heat up.
- Over 1,000 social enterprises have been certified nationwide since the passing of the Social Enterprise Promotion Act in 2007, and over 4,000 cooperatives were created within just 16 months after the Framework Act on Cooperatives went into effect in 2012. Recently, a bill entitled “Framework Act on Social Economy” has been proposed to house all these individual acts under a single structure.

□ Legislation on Social Economy

○ Proposed Framework Act on Social Economy

- The Framework Act on Social Economy has been proposed by Lawmakers Yoo Seung-min, Shin Gye-ryun and Park Seok-won, respectively. Their bills have many provisions in common such as those regarding development funds for social economy and assistance, and nurturing and operation for social economic organizations.
- Yoo's bill states "the purpose of the Proposed Act is to help address income disparity, form healthy and sound communities and achieve balanced growth of the national economy by building an integrated ecosystem and developing an integrated implementation system for the sustainable growth of social economy."
- Article 2 of the bill provides the definitions of social economy, social economy promotion projects and social economic organizations. "Social economy refers to all economic activities aimed at creating social values such as expanded social services, greater availability of welfare services, more job opportunities, and community development through cooperation and solidarity among members and their practive self-innovation and voluntary participation."
- The article also states "other legal entities or associations formed to help realize social economy or support social economic organizations," which broadens the scope of social economic organizations. Organizations not eligible under the preceding paragraphs may be accepted as social economic organizations under the bill.

- Framework Act on Realization of Social Values by Public Organizations

- The Framework Act on Realization of Social Values by Public Organizations was proposed on June 17, 2014 with a goal of realizing social cohesion by causing public organizations to take social values into account in addition to economic values when they set up and implement their policies.

- Proposed Special Act on Greater Sales and More Marketing Channels for Social Economic Enterprises

- This bill was proposed in 2013 in connection with social economic enterprises eligible for preferred purchase and greater market access.

- Benefits and prospect

- Benefits

- Potential benefits include more job opportunities, rollout of values of solidarity in the community, shift in social relationship network and realization of democracy.

- Prospects

- Although social economy has just started to be discussed, expectations of its benefits are very high.
- To make it successful in Korea, it is imperative to remove any overlapping or conflict with existing regulatory framework, have everything required to determine whether and how much it realizes

intangible and abstract social values and identify anything that may cause issues in relations with other countries.

➤ Key words : Laws of Social Economy, Social Enterprise, Social Enterprise Promotion Act, Social Cooperative, Framework Act on Social Cooperative, Framework Act on Social Economy

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Part 1. Social Enterprises¹⁾

1) In this Part I, Social Enterprises, works were divided between two researchers and research was conducted following the respective division of chapters. Chapters II and IV were written by Jiyeon Choi of Korea Legislation Research Institute while Chapters I and III were provided by Junseob Yi of Aju University Law School.

Chapter 1. Significance of Social Enterprises

Section 1. Emergence of Social Enterprises: Background

1. Socioeconomic Background

The emergence of social enterprises is based on considerations for the socially vulnerable. Caregiving services and public aid for the socially weak, such as the physically handicapped, those living alone, and the elderly, can neither be sustained with the state's assistance alone nor be offered by regular for-profit companies. This has led the private sector to either voluntarily, or entrusted by the public sector to, provide necessary services or offer job opportunities for them. The government, in turn, decided to provide support for the social economic entities (enterprises) providing such public obligations. It can be said that such an approach is the inevitable consequence of the European society with its social or socialistic traditions and the product of proactive transfer of welfare services to the hands of the private sector.²⁾

2. Theoretical Background

The concept of social enterprises, like those of other socioeconomic institutions, is the historical product of long-standing theoretical debate under complex and diverse socioeconomic environment, which provides the theoretical and philosophical foundation for social enterprises. While the

2) Kim Jong-ho, Legal Discourse of Categorization of the Concept of Social Enterprises, Legal Studies Issue 47, Kyungpook National University (August 2014), page 134

forms of social enterprises substantiated in different countries are based on the conditions specific to their countries, socio economic conditions, institutionally they build on economic constitution.

In Europe, where the principle of social state or social market economy serves as its economic constitutional order, it is natural and easy to define the concept of social enterprises or discuss their theoretical foundations as their philosophical and theoretical foundation is clearly historical tradition. This does not mean, however, that the philosophical and theoretical foundations of social enterprises in Europe have superior value.

The state and constitutional order of Korea, despite its relatively short history, rests on history that has been established after fierce theoretical debate and countless processes of transformation. It is, however, imperative to create and establish a philosophical and theoretical foundation that extends through, and embraces, the entire socioeconomic system of Korea. Such work, on one hand, should assemble what has been discussed in different corners of the socioeconomic system and, on the other hand, aim to help create a new foundation.

Only when the philosophical foundation for social enterprises has been firmly established can their concept and scope be determined, the course of their development be predicted, and organic harmony be realized across the socioeconomic system. In addition, establishing a theoretical foundation specific to social enterprises in Korea will provide flexibility and freedom for policies concerning social enterprises.

Section 2. Concept of Social Enterprises

1. Change in the Concept of the Social Enterprise Promotion Act

(1) Concept of social enterprise in the Act 2007³⁾

When the Social Enterprise Promotion Act (the “Act”) was initially enacted, it defined a social enterprise as an entity certified by the Minister of Employment and Labor to be one that pursues social objectives such as enhancing the quality of life for the community by providing social services or job opportunities for the socially vulnerable. Meanwhile, conducting business activities, such as manufacture or sale of goods and services, also help to emphasize that the primary purpose of the Act is to help create jobs.

(2) Expansion of the concept of a social enterprise in the amendment to the Act in 2010

Upon being amended in 2010, the Act defined a social enterprise as an entity certified as provided in Article 7 of the Act to be one that pursues social objectives such as enhancing the quality of life for the community by providing social services or job opportunities for the socially vulnerable or making other contributions to it. Meanwhile, conducting business activities such as manufacturing or sales of goods and services, helped to expand the concept of a social enterprises. The amendment focused on addressing the need that had been felt for the 3 years after the Act went into

3) Act No. 8217, enacted on Jan. 3 2007 and went into effect on Jul. 1, 2007

effect: including organizations making contributions to the community in the scope of social enterprises. Such expansion encouraged many organizations that had been making contributions to the community by other means than providing social services or creating jobs for the socially vulnerable to convert into social enterprises.

The amendment also included provisions for local governments to set up support plans for social enterprises in their region so that they can be nurtured in a more systematic manner.⁴⁾

2. Conceptual Elements of a Social Enterprise

The Act provides three conceptual elements of a social enterprise:

- ① For-profit disposition: A social enterprise must be commercial by engaging in the production and sales of goods or services.
- ② Realization of social objectives: A social enterprise must pursue social objectives, such as enhancing the quality of life for the community, by providing jobs or social services for the socially vulnerable or making other contributions.
- ③ Unlike for-profit organizations, all social enterprises must not allow distribution of their profits and have a decision-making system where their stakeholders can participate.

Social enterprises shall be certified as such by the Minister of Labor and Employment for them to be eligible for support from the government (Article 2 of the Act).

4) Justification for the amendment to the Social Enterprise Promotion Act on December 9, 2010

(1) Enterprise as an entity performing commercial activities

The Act does not say anything about what an enterprise is. Presumably, this is because the English term ‘enterprise’ is hard to define, and no clue to its concept was anywhere to be found in the draft of the Act during the comparative review.

An enterprise is an entity that performs commercial activities, no matter which legal form it might take. In Korea, it is understood that all kinds of companies, incorporated associations, foundations, associations and cooperatives are included in the definition.

The matter of defining the scope of an enterprise, however, is nothing less than simply delimiting social enterprises because it has to do with conflict with their for-profit disposition that triggered heated debate in the U.S., UK and other countries. This is why a philosophical and theoretical foundation is required for social enterprises.

(2) Socially vulnerable groups who need to be given job opportunities or social services

A socially vulnerable person means someone who suffers hardship in purchasing needed social services at market prices or are confronted with particular difficulties in getting a job under normal conditions of the labor market, for whom further specific criteria shall be prescribed by the Presidential Decree (Article 2.2 of the Act). Under the Decree (Article 2), one shall be deemed as a socially vulnerable person if he/she: i) Is from a household that earns 60 percent or less of the national average monthly household income; ii) A senior citizen as defined in Act on Prohibition of Age Discrimination in Employment and Aged Employment

Promotion; iii) A handicapped person under the Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons; iv) A victim of sex trafficking under the Act on the Punishment of Acts of Arranging Sexual Traffic; or v) A youth who remains unemployed for a long time or similar certified as socially vulnerable by the Minister of Employment and Labor based on the condition of the job market.

In other words, those who are socially vulnerable include low-income earners, senior citizens, the disabled, victims of sex trafficking, and the long-term unemployed.

(3) Concept of social services

Social services offered by social enterprises means services in the fields prescribed by Presidential Decree, including educational, health, social welfare, environmental, cultural services and others similar thereto (Article 2.3 of the Act).

Social services defined in the Decree include: i) child-care services; ii) art, tourism and sporting services; iii) forest conservation and management services; iv) caregiving and housekeeping services; and v) other services declared as such by the Minister of Employment and Labor based on decision by the Social Enterprise Support Committee (“Support Committee”) (Article 3 of the Decree).

(4) Concept of social objectives

Although the Act includes “social objectives” as a general and abstract concept that embraces its initial missions - the provision of job opportunities or social services - and the mission added upon its amendment - contributions to the community, it also fails to provide a clear definition

for the term. Presumably, this is because although it is a concept requiring very speculative and philosophical discussion, there was neither time nor attempt for it. Without clarifying the concept of social objectives, however, the poor philosophy of social enterprises or their lack of ideology will not be addressed. Only when they are clarified can the ambiguity of the overall philosophical foundation of social enterprises be fully resolved.

3. Problems with the Definition of Social Enterprises in the Act

Based on the definition of a social enterprise under the Act, it is not clear whether a social enterprise should:

- Pursue social services or social assistance for the socially vulnerable;
- Focus on providing job opportunities for the socially vulnerable;
- Distribute their operating income to the socially vulnerable; or
- Perform any of the above activities.

Such lack of clarity in the definition or delimitation of social enterprises, however, is not problematic or something to be ashamed of. If our society needs or accepts social enterprises of such a broad concept, all that is necessary is to provide a philosophical and theoretical foundation for them.

Chapter 2. Social Enterprises and their Ecosystems

Section 1. International Situations

1. United States

Not-for-profit organizations, by nature, are always concerned about how they can be financially sustainable. Operating for the benefit and welfare of the public can be a good advantage in attracting financial support from the government as well as other players in the society. That is how they can operate in a sustainable way. This, however, is interpreted to apply to successful and well-known not-for-profit organizations. Locally-based small ones are much less likely to attract as much financial support as the larger ones due to their lower awareness, thus financial viability being among their highest priorities.

For-profit companies geared to maximizing the interest of their shareholders and their own growth do not feel as much pressure as not-for-profit organizations to ensure their financial viability. Since the reason for companies to exist is to generation profits, their success is often measured by something beyond the securing of funds necessary for their operation: expansion of business, asset value, and dividends paid to the shareholders, to name a few. Companies that have successfully increased their asset value within a short time often lend their operating strategies and tactics as references for others. The new social sentiment that highly regards companies pursuing value beyond profits and the emergence of social consensus that realizing social values for the public good would eventually lead to the generation of more effective and meaningful profits have made even for-profit organizations think about how to contribute to the

realization of the public good. Instead of fulfilling their social responsibilities by returning part of what they earn from society, they now started to think if it is possible to align the effort to contribute to the public good with their expansion and development.

After extensively pondering their challenges, these two contrasting groups - not-for-profit and for-profit organizations - concluded that expansion into the others' domain can be a dramatic breakthrough for their sustainable growth and development. This is how social enterprises, a new type of business entities that pursue both profit and public good at the same time, started to emerge, and their emergence in turn entailed the passing of acts governing them.

Legislation on social enterprises took place in different forms in different states, depending on their own legal framework. Low-profit limited liability companies (L3C) were first legalized in Vermont in 2008 and then in another 8 states and 3 federal jurisdictions.⁵⁾ The legislation proceeded in a way that provisions regarding L3Cs were added to the existing acts on limited liability companies, instead of separate acts being established. This way, L3Cs could continue to enjoy their flexibility as regular limited liability companies,⁶⁾ and at the same time, the legislation process itself could be simplified and thus accelerated. The resemblance of L3Cs to traditional limited liability companies means that L3Cs have no limit in the amount of dividends payable to its shareholders.⁷⁾ They can also become regular limited liability companies again when they no longer

5) Legislation was made in Illinois, L3Cs were legalized Illinois, Kansas, Louisiana, Maine, Michigan, North Carolina (authorizing legislation repealed in 2013), North Dakota, Rhode Island, Utah, Vermont, Wyoming and 3 federal jurisdictions.

6) InterSector Partners, L3C at http://www.intersectorl3c.com/l3c_tally.html (last visited on August 14, 2015)

7) This may differ across states. Dana Brakman Reiser, Benefit Corporations - A sustainable Form of Organization? Wake Forest Law Review, Vol. 46 (2011) page 593

pursue social missions declared upon incorporation as L3Cs such as education and charity, which, along with the no-limit provision regarding dividend payment, should always be kept in mind by all L3Cs.

Another innovative form of social enterprises is B Corporation that first emerged in 2006. B Corp is a private certification issued to for-profit companies by B Lab, a non-profit organization. This is different from the certification issued by the government under the applicable law to entities that have demonstrated their public missions. B Corp is issued by B Lab, a voluntary public organization, to a company that B Corp deems uses its capability to help address social and environmental problems.⁸⁾ In order to be granted and maintain the certification, companies must meet requirements set by B Lab and continue to honor their commitment to social missions as defined B Lab.

A new type of social enterprise possessing characteristics of both L3C and B Corp, which are legalized like L3Cs and granted certification by a voluntary organization like B Corps, emerged in Maryland in 2010. Called 'benefit corporations',⁹⁾ they differ from traditional corporations, but basically have many aspects in common with L3Cs that rely on state laws for their existence. In stark contrast to the United Kingdom's CIC to be discussed later, the L3C and benefit corporation may offer investors unlimited midstream and residual returns and is subject to no government regulations concerning its purposes or activities.¹⁰⁾ Another major characteristic of benefit corporations is that, unlike other social enterprises, they enjoy tax relief.

8) Cater G. Bishop, Fifty State Series: L3C and B Corporation Legislation Table Legal Studies Research Paper Series, Research Paper 10-11, May 26, 2011

9) Md. Code Ann., Corps. & Associations section 5-6C-01 to -08

10) Dana Brakman Reiser, Benefit Corporations - A Sustainable Form of Organization? Wake Forest Law Review, Vol. 46 (2011) page 606

2. Europe

There are three types of social enterprises in Europe. The first is social enterprises that resemble cooperatives by pursuing public benefits. They can be seen in such countries as Italy, Portugal, France, and Poland. The second is those not distinctively defined by the government or the law, but labeled as social enterprises depending on the work they achieve. These types of enterprises are commonly seen in Finland. The last is those created in the form of regular for-profit companies whose activities, however, contribute to the benefit of the entire society. They are commonly witnessed in the UK and Belgium. This section will focus on the third type of social enterprises that take the form of for-profit companies and, at the same time, pursue public good, especially those in the UK and Belgium where their way of operation differ from others.

(1) United Kingdom

The United Kingdom government introduced a community interest company, or CIC, a new type of company, in 2005. CICs vary in sizes and legal forms ranging from sole proprietorships to large corporations worth millions of dollars with over 1000 employees.¹¹⁾ In addition to such flexibility in terms of size and form, they embrace both for-profit and not-for-profit enterprises as long as they meet the criteria to become CICs. Any concern about over-flexibility in the legal form and operation of CICs is addressed by requirements regarding, among other things, the purpose of

11) CICRegulator.gov.uk, Annual Report 2009-10, July 2010,
<http://www.cicregulator.gov.uk/news/Annual%20Report/Annual%20Report%202009-10-%20Final.pdf>. (last visited on August 14, 2015)

formation, method of regulations and restrictions on distribution of surplus.

A CIC must pass community interest review in order to be formed. It must demonstrate that its activities are geared to ultimately providing interest for the whole or part of the community. Even after being declared a CIC after such review, it will be subject to a CIC regulator's supervision, who will monitor its operation. The regulator is a government agency that not only monitors and supervises CICs' activities, but also assists them in the stage of their formation in adapting as a new type of enterprise. Once formed, CICs work to maximize interest for both their shareholders and the community and distribute profits in the form of dividends just as other for-profit companies do, but with a limit on the dividends payable per year, which is in stark contrast with regular for-profit companies. Such a limit can be viewed as a measure to avoid all profits generated from a CIC's activities being paid to its shareholders as dividends with nothing left for investment in public missions, which is not in consistence with its primary purpose of formation: pursuit of interest for the community. Another important measure available regarding the limit on dividends payable to shareholders is the CIC's regulator's discretion to set the limit on yearly dividends. This means that he/she may step in to adjust or reduce dividends payable to shareholders even when a CIC intends to take a form closer to a limited company rather than a pure not-for-profit organization and include a certain level of dividends for its shareholders at the time of its association. Another important aspect of the limit on dividends is that while dividends payable to the shareholders of a CIC may be limited, their voting rights regarding businesses of the CIC are not to be limited. This is in contrast with the practices witnessed in social enterprises in Belgium, to be

discussed later, where not only dividends but also voting rights are limited. Although the regulations imposed on CICs in UK may seem a bit harsh, the UK government states that they are much milder than those imposed on other not-for-profit organizations. One example cited by the government involves dividends allowed for shareholders of CICs, which lacks in not-for-profit organizations. This may appear to be a privilege for CICs, but considering their counterparts in Belgium enjoying a similar level of tax relief to not-for-profit organizations, one can still think that the regulations on CICs in UK are harsh.

(2) Belgium

The legal foundation for social enterprises (*Société à finalité sociale*) was formed through amendments to the Company Act in 1995. Prior to the amendments, most business activities for the public good were conducted by not-for-profit organizations, and, naturally, the act governing the activities of not-for-profit organizations (*Solidarité des Alternatives Wallonnes et Bruxelloises*) did not allow them to pursue profits and distribute them, if any. Under the new Company Act 1995, social enterprises may distribute dividends,¹²⁾ provided, however, that they perform their activities primarily for the public good and their payment is within the limit as specified in the laws applicable to social enterprises. In addition to the limit on dividends for shareholders, social enterprises in Belgium also have restrictions on rights of their employees and voting rights of their shareholders. Any employee of a social enterprise gets entitled to become a partner of the enterprise when his/her employment with it reaches one year or longer, and the entitlement demises when he/she leaves the

12) This is often as high as 5 to 10 percent.

enterprise. In addition, no single shareholder of a social enterprise may have a voting right equivalent to more than 10 percent of the capital stock of the enterprise. Although these restrictions may drive participation by employees in their enterprises, employers can find them, especially the one concerning shareholders' voting rights, to be too harsh to accept.

In parallel with restrictions on for-profit enterprises, a wide range of benefits are offered to social enterprises in the country. Among them is tax relief. Social enterprises are entitled to reduction in many categories of tax such as income tax and employment tax as long as they maintain their legal forms. Despite the fact that such tax relief is very lucrative for employers, social enterprises have failed to thrive in the country. Many point to the restrictions on dividends and voting rights as one reason for such failure. Although they are effective in reinforcing the public nature of social enterprises, they also work as a major deterrent to investment in social enterprises because investors think they can make return on their investment slower or the operation of social enterprises less transparent.

Section 2. Ecosystem for Social Enterprises in Korea

1. Some Statistics and Roles

In December 2012, the Korean government announced the Framework Plan for the Promotion of Social Enterprises: Phase II (2013-2017) to help build warm-hearted communities through proliferation of social enterprises.¹³⁾

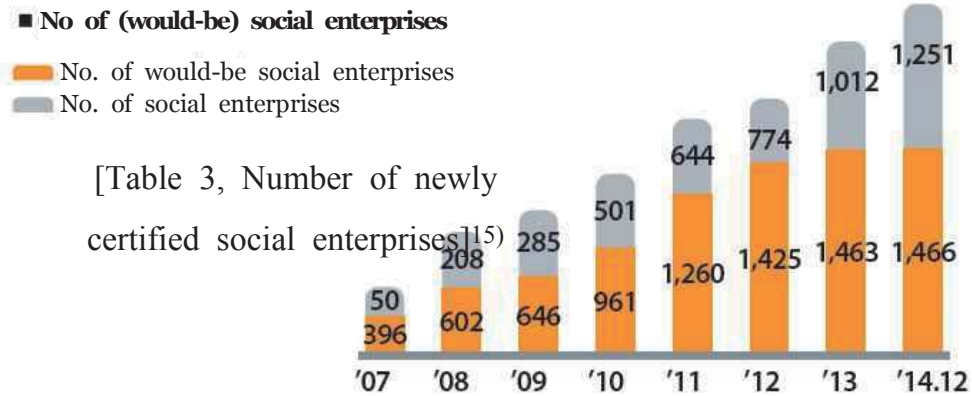
13) Framework Plan for the Promotion of Social Enterprises: Phase II (2013-2017) prepared jointly by concerned ministries, December 2012

Most importantly, through this plan, about 3,000 social enterprises will be nurtured by 2017 to help provide momentum for their growth. In the background of this plan are i) rising interest in social enterprises as an alternative solution to increasing demand for social services and job opportunities resulting from the low-birth rate and aging society and ii) the need to help social enterprises be more sustainable and create larger value as their network was starting to expand across the nation. It is now necessary to determine whether the certification of social enterprises has worked as planned to contribute to the proliferation of social enterprises, just as the first phase of the framework plan up to 2007 fulfilled its objectives.

(1) Yearly data

There are as many as 1,321 certified social enterprises in Korea as of August 2015 in comparison with 1,251 at the end of 2014. At the end of the same year, the number of would-be social enterprises is as high as 1,466, a figure clearly larger than that in 2007 when social enterprises were first introduced. At the end of 2007, there were 50 social enterprises and 396 would-bes. One year later, social enterprises more than quadrupled and would-bes increased to as many as 602. By 2012, the last year of the framework plan: phase 1, social enterprises increased to 774. As of June 2015, the number of certified social enterprises is 1,453, up 200 percent

[Table 1. Number of (would-be) social enterprises]¹⁴⁾



[Table 2. Certified social enterprises in Korea]¹⁶⁾

<Certified social enterprises in Korea>

Year	Application	Certified	Currently operating
'07	166	55	42
'08	285	166	133
'09	199	77	72
'10	408	216	186
'11	224	155	140
'12	317	142	141
'13	469	269	265
'14	481	265	263
'15	169	108	108
Total	2,718	1,453	1,350

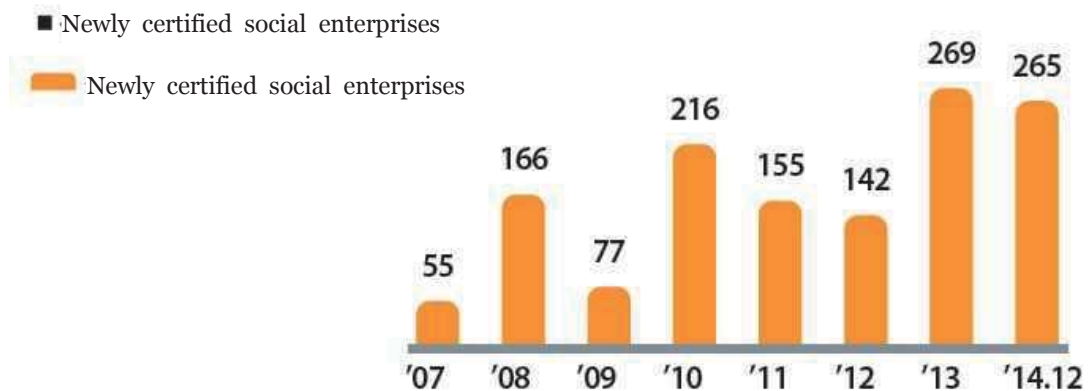
14) Social Enterprise Directory 2014, Korea Institute for Social Enterprises, page 13

15) Social Enterprise Directory 2014, Korea Institute for Social Enterprises, page 13

16) data concocted from the website of the Korea Institue for Promotion of Social Enterprise, available at <http://www.socialenterprise.or.kr> (last visited Sep. 30, 2015)

While the total number of social enterprises operating after certification and would-be social enterprises have been increasing steadily, as shown in the table below, the same table also reveals some fluctuations over the years in the number of newly certified social enterprises each year. In 2007, the first year, the number was 55 and more than tripled to 166 in 2008. In 2009, it dropped to 77, a number slightly greater than the figure for the first year and then surged threefold to 216 in the following year. Afterwards, it stabilized to between 150 to 260 each year.

[Table 3. Number of newly certified social enterprises]¹⁷⁾

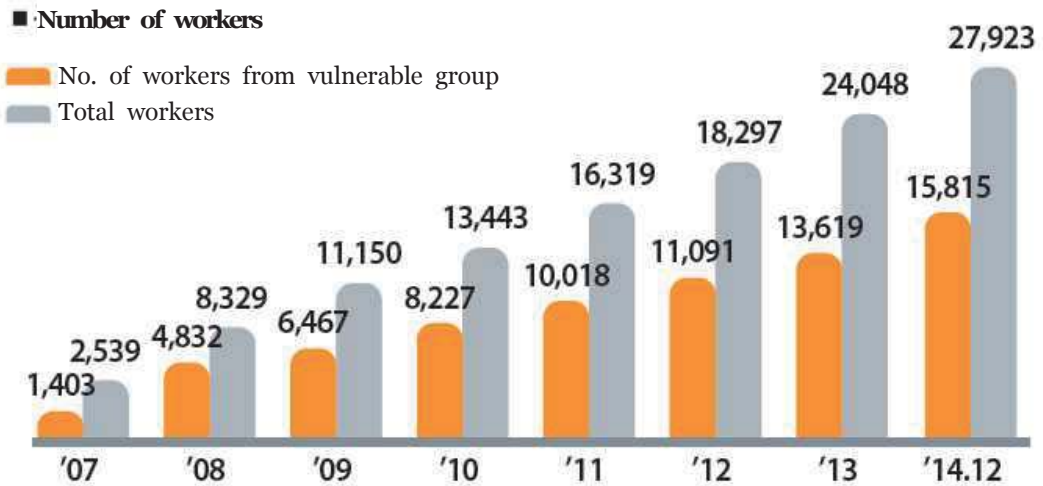


Aside from the amount, another important parameter regarding social enterprises is how many jobs they create and how many of them are offered for those from socially vulnerable groups. This can be judged by looking at how many workers have been employed by social enterprises relative to their growth in number.

Of the combined employees of 2,539 at social enterprises in 2007, 1,403 were from socially vulnerable groups. Their share increased steadily year after year and reached over half by December 2014 (15,815 out of 27,923).

17) Social Enterprise Directory 2014, Korea Institute for Social Enterprises, page 13

[Table 4. Number of workers]¹⁸⁾



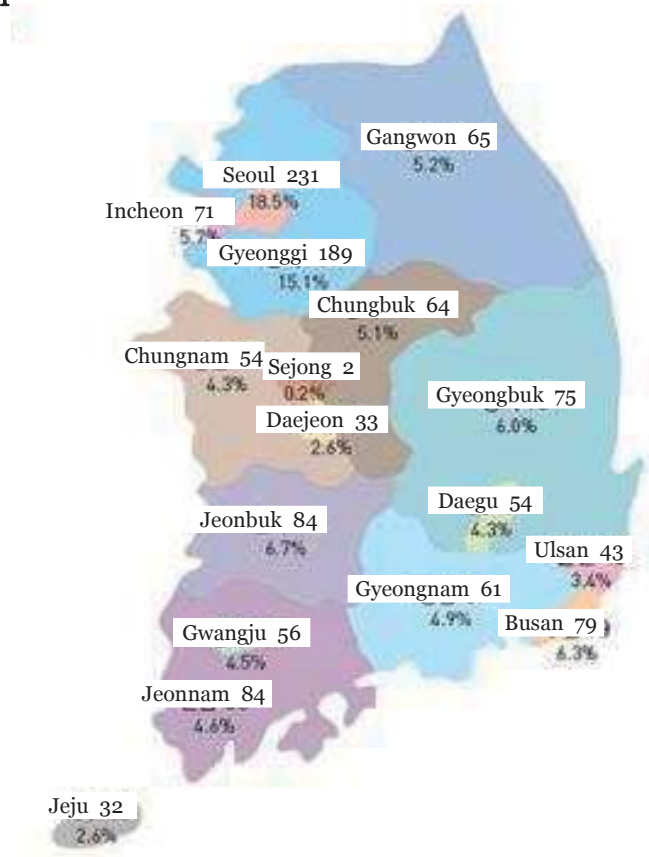
(2) Regional distribution

By region, most of the social enterprises are located in Seoul (18.5 percent) or Gyeonggi Province (15.1 percent), with the rest distributed in other metropolitan cities or provinces (occupying around 5 percent in each of them).

18) Social Enterprise Directory 2014, Korea Institute for Social Enterprises, page 13

[Table 5. Regional distribution of social enterprises]¹⁹⁾

Regional distribution



(3) Data by type

Social enterprises can be categorized based on their path of establishment, organizational forms, social objectives and services.

Regarding their path of establishment, the majority of the social enterprises belong to “Others” (45.6 percent), which means that it is not clear what they were before becoming social enterprises. There were neither would-be social enterprises (34.5 percent), self-sufficient enterprises (8.8 percent),

¹⁹⁾ Social Enterprise Directory 2014, Korea Institute for Social Enterprises, page 13

workplaces for the disabled (6.5 percent), social cooperatives (2.5 percent), community enterprises (1.2 percent) nor rural community businesses previously and appear to have intended to be social enterprises from the outset.

Regarding their organizational form, more than half of the enterprises are in the form of companies under the Commercial Act (54.1 percent), followed by legal entities (19.3 percent), not-for-profit voluntary associations (9.0 percent), social welfare corporations (8.0 percent), agricultural cooperatives (4.0 percent), agricultural corporations (2.3 percent), other entities or associations (1.2 percent), social cooperatives (1.2 percent) and general cooperatives (0.9 percent).

[Table 6. Social Enterprises by Organizational Form]²⁰⁾

<Social Enterprises by Organizational Form>

Category	Not-for-profit						For-profit			Total
	Legal entities under Civil Act	Not-for-profit voluntary associations	Social welfare Corporation	Agricultural cooperatives	Social cooperatives	Other entities and associations	Corporations under Commercial Act	Agricultural corporations	Cooperatives	
Amount	249	111	93	58	23	13	751	35	17	1350
Proportion (%)	18.4	8.2	6.9	4.3	1.7	1.0	55.6	2.6	1.3	100

20) data concocted from the website of the Korea Institute for Promotion of Social Enterprise, available at <http://www.socialenterprise.or.kr> (last visited Sep. 30, 2015)

Regarding their legal form, corporations under the Commercial Act are the most common type, occupying 56 percent of the total. This contrasts with what is happening in Europe where social enterprises first emerged. Although some view strict provisions on social enterprises as a means to address possible conflicts with desire for profitability, pursuit of profitability cannot be fully controlled by regulations alone. It is especially necessary to find the reason why cooperatives occupy such a small proportion in Korea. This contrasts sharply with what is happening not only in Europe where social enterprises are highly advanced but also in the U.S.²¹⁾ As a result, Korea needs policies that encourage the establishment of social enterprises in more diverse forms.²²⁾

Regarding their social objectives, job creation is the predominant mission (69.7 percent), and followed by offering of social services (4.9 percent), contribution to community (1.8 percent), hybrid (12.4 percent) and others (11.7 percent).

Since the initial driver of policies on social enterprises was job creation, it accounts for 70 percent of their objectives as of June 2015. This is a good indicator of the lack of diversity among social cooperatives in Korea. Healthy proliferation of social enterprises can only be achieved when those aimed at offering social services or making contributions to the community emerge in much greater numbers, and a legal framework should also be improved accordingly.

21) For comparison of the types of social enterprises in other countries, see Kwon Han-yong and Bae Gwang-hyo, How to Improve Legal Framework and Policies to Help Develop Social Cooperatives in Korea, *Hanyang Jurisprudence*, Volume 25, Issue 4 (Nov. 2014), pages 26 - 27; Lee Gwang-taek, Improvement of Legal Framework for Support for Social Enterprises, *Studies of Law, Kookmin University*, Volume 24, Issue 3, page 248.

22) For advantages of social enterprises of cooperative type, see *ibid*, page 263

[Table 7. Social Enterprises by Social Mission]²³⁾

<Social Enterprises by Social Mission>

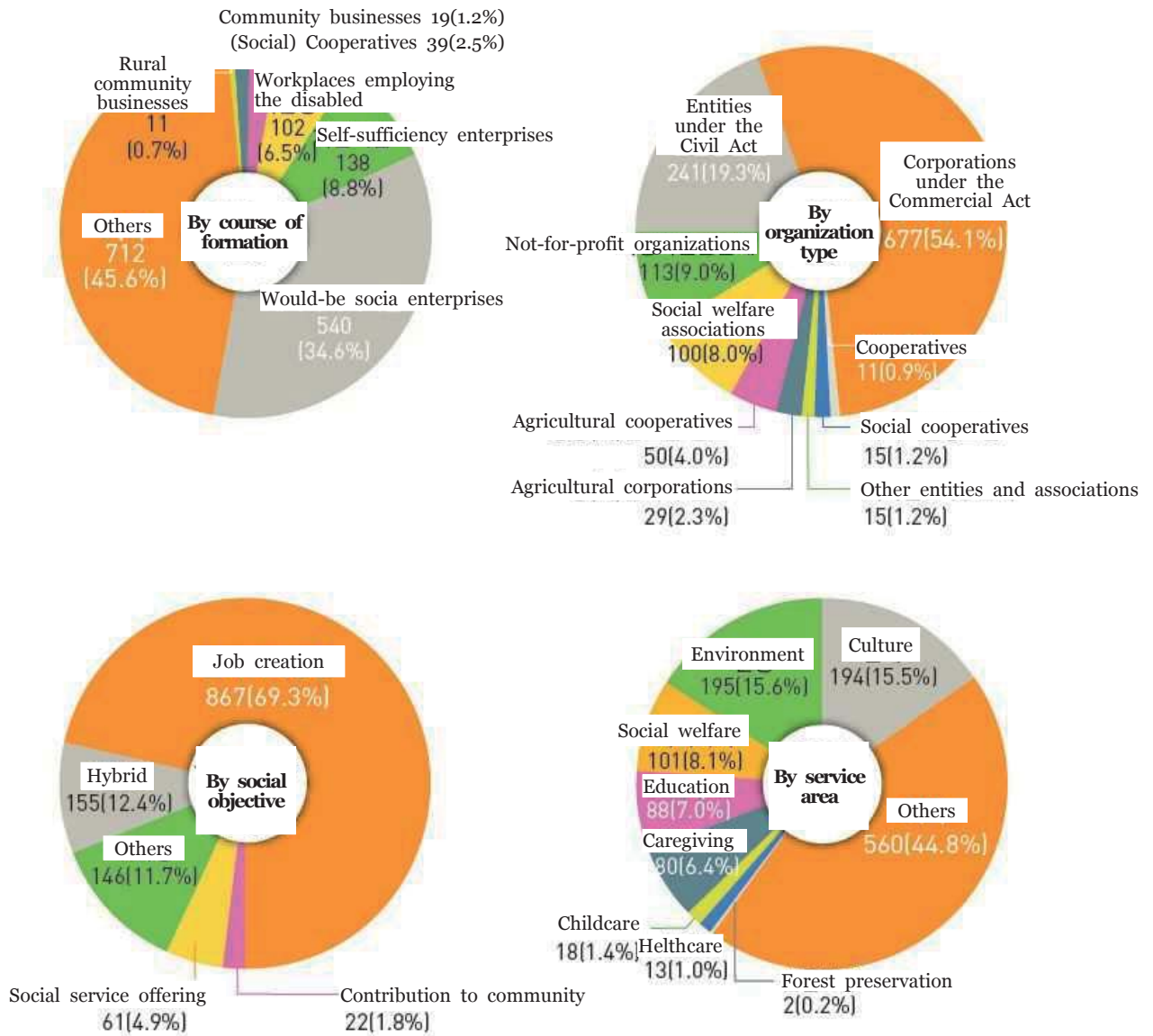
Category	Job creation	Offering of social services	Contribution to community	Hybrid	Others	Total
Amount	951	66	25	158	150	1350
Proportion (%)	70.4	4.9	1.9	11.7	11.1	100

Lastly, regarding their service area, environment (15.6 percent) and culture (15.5 percent) are the predominant services offered by social enterprises in Korea, followed by social welfare (8.1 percent), education (7.0 percent) and caregiving & housekeeping (6.4 percent). Most of them (44.8 percent), however, cannot be categorized into any one particular service area (Others, 44.8 percent).

23) data concocted from the website of the Korea Institute for Promotion of Social Enterprise, available at <http://www.socialenterprise.or.kr> (last visited Sep. 30, 2015)

[Table 8. Social Enterprises by Type]²⁴⁾

Social enterprises by type



24) Social Enterprise Directory 2014, Korea Institute for Social Enterprises, page 13

2. Performance of Social Enterprises

(1) Expanded job opportunities and services

By offering more opportunities for sustainable jobs, social enterprises have contributed to inviting more socially vulnerable individuals into the labor market and the increase of more rewarding jobs for them. In addition, they have met emerging needs by diversifying social services and helped innovate how public services are provided.

(2) Community vitalization

In addition to providing job opportunities and more services, social enterprises have played a leadership role in bringing cohesion to the community where they are based and provided momentum for the economic growth of regional economies.

(3) Expansion of ethical markets

Unlike profit-driven regular corporations, social enterprises have contributed to the expansion of ethical markets by putting social responsibilities and ethical business practices first. Their pursuit of community values based on their non-profitability has provided a lot of inspiration for regular corporations when they set directions for their operation and helped form good consumption practices among consumers.

Chapter 3. Legislation for Social Enterprises

Section 1. Development of the Social Enterprise Promotion Act

1. Initial Enactment and Subsequent Amendments

(1) Enactment in 2007

The Social Enterprise Promotion Act (the “Act”) was enacted on January 3, 2007 and went into effect on July 1 in the same year. According to the justification for the Act, the purpose of the Act is to help nurture and support social enterprises that pursue social missions such as social services for low-income earners using proceeds from their business activities by providing legal framework for them to be a truly meaningful alternative in our society. Its highlights are summarized below.

- Definition of social enterprises (Article 2.1 of the Act)

A social enterprise is an entity certified by the Minister of Employment and Labor to be one that pursues social objectives such as enhancing the quality of life for the community by providing social services or job opportunities for the socially vulnerable while conducting business activities, such as manufacture or sale of goods and services.

- Organization of Social Enterprise Support Committee (Article 4 of the Act)

The Social Enterprise Support Committee (“Support Committee”) must be chaired by the Vice Minister of Labor and consist of no more than 15 members appointed by the Minister of Labor among public officials

from concerned central government agencies and those with deep knowledge of and experiences concerning social enterprises.

- Setup of a framework plan for the promotion of social enterprises (Article 5)

The Minister of Labor must ensure that a framework plan for the promotion of social enterprises (“Plan”) is established every five years after deliberation by the Support Committee and that an annual implementation plan for the Plan is duly established and implemented in order to help social enterprises grow in a more systematic manner.

- Certification of social enterprises (Articles 7 and 8)

- ① Anyone who intends to operate a social enterprise must be certified by the Minister of Labor in consultation with the Support Committee to meet required criteria.
- ② Anyone who intends to be certified as a social enterprise must i) be a legal entity or a cooperative under the Civil Act, a corporation or a not-for-profit voluntary organization under the Commercial Act, ii) engage in commercial activities including production and sales of goods or services, iii) pursue social missions such as provision of services for socially vulnerable individuals, and iv) have a decision-making mechanism where its stakeholders participate.

- Support for social enterprises (Articles 10, 11, 13 and 14 of the Act)

- ① The Minister of Labor may provide support for the operation of social enterprises including professional consultation and information in such areas as management, technology, taxation, labor, and

accounting and decide to entrust whole or part of such support to a government-invested agency or a private organization as defined in the Presidential Decree.

- ② The state or a local government may grant subsidies, arrange financing, or lend state-owned or public land, for the operation of social enterprises such as facilities and land
- ③ The state and a local government may reduce national or local taxes imposed on social enterprises in accordance with the Corporate Tax Act, the Restriction of Special Taxation Act, or the Local Tax Act, and the state may cover part of social insurance premium payable by them.
- ④ The Minister of Labor may provide financial support for social enterprises providing social services selected through an open application and review process to assist their operation including labor, administration and advice.

- Affiliated enterprises (Articles 15 and 16)

A social enterprise's affiliated company does not take any responsibility for the employees of the social enterprise. The state or a local government may offer tax relief for the affiliate.

(2) Highlights of amendments in 2010

The justification presented in the proposal for amendment made on December 9, 2010 notes:

The proposed amendments are intended to address some of the shortcomings found during the implementation of the current act by, among other things:

- i) expanding the scope of social enterprises to include organizations

making contributions to local communities; ii) providing for the setup and implementation of plans for supporting social enterprises by local governments; iii) driving proliferation of social enterprises by helping nurture professionals within them and adopting the social enterprise day and week; and iv) forming the Korea Social Enterprise Promotion Agency for more holistic, professional and systematic support for them.

- Expansion of the concept of social enterprises (Article 2.1 of the Act)

Organizations making contributions to local communities, in addition to those providing social services or job opportunities, may now become social enterprises.

- Setup of support plans by cities/provinces (Article 5.2 of the Act)

In order to help support social enterprises in the manners that best suit local situations, each city and province shall establish a plan for supporting social enterprises in its jurisdiction and deliver it to the Minister of Labor for a chance to win extra support.

- The Minister of Employment and Labor shall have the discretion to offer training courses for employees of social enterprises to help them become more skilled and competent (Article 10.2 newly created).

- July 1st shall be considered Social Enterprise Day, and the week that includes that day, the Social Enterprise Week, in an effort to raise awareness of social enterprises and, ultimately, encourage more of them to be formed (Article 16.2 newly created)

- The Korea Institution for Promotion of Social Enterprises (the “Institution”) shall be established to carry out tasks associated with nurturing of, and

support for, social enterprises in a holistic, professional and systematic fashion. The Minister of Labor may entrust such tasks as a census of social enterprises, certification and education/training with the Institution (Article 20 and Article 21.2 newly created).

(3) Highlights of amendments in 2012

The small scale of amendments to the Act that went into effect in February 1, 2012 focused on enlarging support offered for social enterprises and improving their certification process. In order to help social enterprise grow, heads of public organization shall now report their plans to increase their purchase of products from them and actual purchases made to the Minister of Employment and Labor, who then shall disclose such plans and actual purchases. Social enterprises shall now submit their business plans at the end of every April and October instead of every April alone. Receipt of financial support on false grounds shall now result in the revocation of issued certification as a social enterprise and the ineligibility for the enterprise to obtain certification again for 3 years for greater transparency and accountability among social enterprises.

Section 2. Legal Framework for Social Enterprises

1. Overview

The current Social Enterprise Promotion Act, after a series of amendments, is structured as below.

[Table 9. The Structure of the Social Enterprise Promotion Act]

Category	Articles	Description
Purpose and definitions	Article 1 to 3	Legal philosophy for social enterprises and their concept
Administrative structure	Article 4 to 6	Roles and responsibilities of parties involved
Certification	Articles 7 to 8	Certification of social enterprises
Governance and organization	Article 9	Governance through articles of incorporation
Support system	Article 10 to 16.2	Support for social enterprises regarding operation, finance, taxation and affiliates
Duties of social enterprises	Articles 17 to 19	Disclosure for visibility into their responsibilities and operation
Supportive organizations and entrust	Articles 20 to 21	Korea Institute for Promotion of Social Enterprises Entrust with local governments and cooperation
Penalty	Articles 22 to 23	Penalties due to faults
Addenda		

2. Sociality of Profit Distribution

Distribution of profits, distribution of residual property and governance are very important for corporations under the Commercial Act. Different provisions should be applied for different corporations when it comes to distribution of profits realized, distribution of residual properties upon liquidation and ownership structure, depending on what their legal forms under the Commercial Act are.

There are the devices that can defend the Act from criticism that, unlike its counterpart in Europe, allows all forms of corporations under the Commercial Act to be social enterprises and, as a result, may impair the original purpose of their existence. In short, they can distinguish regular for-profit businesses from social enterprises. In this regard, the Act stipulates detailed provisions regarding social enterprises.

(1) Legal grounds

Article 8 (Requirements and Procedures for Certification of Social Enterprises) (1)

Any entity that intends to obtain certification as a social enterprise shall meet all of the following requirements:

...

5. The revenue generated from its business activities shall be no less than the amount prescribed in the Presidential Decree;

...

7. It shall use no less than 2/3 of its annual profits available for distribution for social objectives (which is applicable only to companies or limited partnerships under the Commercial Act);

...

Article 9 (Articles of Incorporation, etc.) (1) Any entity that intends to obtain certification as a social enterprise shall have articles of incorporation, bylaws, or similar (hereinafter referred to as "Articles of Incorporation, etc.") containing:

- ...
6. Provisions regarding distribution of revenues and re-investment;
- ...
9. Provisions concerning dissolution and liquidation (including those stipulating that at least 2/3 of any residual property available for distribution is to be donated to another social enterprise, public fund or otherwise, if the enterprise is a company or limited partnership under the Commercial Act)

(2) Means of differentiation from for-profit enterprises

The Act requires a certain level of revenue generated from business activities for certification as a social enterprise (Article 8.1.5) and at least 2/3 of profits available for distribution after closing of accounts being used for social missions. The requirement for distribution of profits, however, applies to corporations and cooperatives under the Commercial Act only (Article 8.1.7). Specifics regarding distribution of profits shall be as defined in the social enterprise's articles of incorporation or bylaws (Article 9.1.6) and be examined during the certification process.

In addition, upon resolution or liquidation of a social enterprise, its residual property, if any, must be distributed in a different manner from what is defined in the Commercial Act, under which any residual property must be distributed to its contributors (i.e. employees, shareholders) based on their size of equity. Any social enterprise that is also a corporation or a cooperative under the Commercial Act must have provisions in its articles of incorporation stipulating that upon resolution or liquidation at least 2/3 of its residual property be donated to another social enterprise or a public fund (Article 9.1.9)

The requirements regarding distribution of profits and residual properties have been part of the certification criteria included in the initial

legislation in 2007. They can be viewed as a means to distinguish social enterprises from for-profit corporations, as the Act, unlike its counterparts in Europe,²⁵⁾ allows all types of corporations under the Commercial Act to be social enterprises.

This is to ensure that social enterprises, which are similar to regular for-profit businesses in that they both seek to be profitable, are distinguished²⁶⁾ from them as well by placing limitations on the extent of profits to be sought and distributed.

In short, the Act use these two devices - strict provisions on distribution of profits and residual property - to deter any organization seeking only profit maximization or government subsidies from attempting to be certified.

3. Governance of Social Enterprises

(1) Legal grounds

Article 8 (Requirements and Procedures for Certification of Social Enterprises) (1)

Any entity that intends to obtain certification as a social enterprise shall meet all of the following requirements:

1. It shall be in a legal form as defined in the Presidential Decree, including a legal entity or cooperative under the Civil Act, a corporation or

25) Jacques Defourny/Marthe Nyssens(eds), "Social Enterprise in Europe: Recent Trends and Developments", EMS Working Paper No.08/01, p.1~38; Lee Gwang-taek, "Improvement of Legal Framework for Support for Social Enterprises," Studies of Law, Kookmin University, Volume 24, Issue 3 (2012), page 255 for detailed information on CICs in the UK; Kwak Gwan-hun, "How to Improve Legislation on Nurturing of Social Development and other Business Startup," Studies of Securities Act, Volume 13, Issue 3 (2012), pages 6-7 for Italy's and UK's cases: In the former, no more than 80 percent of the total profit may be made available for distribution, and the profitability per contributor may exceed 2 percent, while in the latter distribution of profits is limited through asset freezing.

26) Kim Jong-ho, Legal Discourse of Categorization of the Concept of Social Enterprises, Legal Studies Issue 47, Kyungpook National University (August 2014), page 155

joint-cooperative under the Commercial Act or any other entity or not-for-profit formed under a special act.

...

4. It shall have a decision-making structure where stakeholders including service beneficiaries and employees participate.

Article 9 (Articles of Incorporation, etc.) (1) Any entity that intends to obtain certification as a social enterprise shall have articles of incorporation, bylaws, or similar (hereinafter referred to as “Articles of Incorporation, etc.”) containing:

...

5. Its governance and operation and how important decisions should be made.

...

8. Composition of its employees and their appointment and removal

(2) Decision-making structure where stakeholders can participate

The Act stipulates that the articles of incorporation of any social enterprise seeking certification must have provisions regarding its governance and operation as well as decision-making structure (Article 9.1.5). The Act also requires a decision-making structure where stakeholders including service beneficiaries and employees can participate for any social enterprise to be certified (Article 8.1.4). In order to meet these requirements, an organization seeking to be certified as a social enterprise must have provisions in its articles of incorporation stipulating how stakeholders including service beneficiaries and workers can participate in its decision-making process. See below for further discussion about them.

1) Decision-making structure

The decision-making apparatus or structure defined in the Act will depend on the legal form of the organization seeking certification. For a cooperative, the general assembly of its members will suffice. For a commercial or non-commercial personal company, the general assembly of

its employees will suffice. For a corporation, the shareholder's meeting will suffice. Decisions made by the apparatus or structure must be implemented by the board of directors or a steering committee.

The Act stipulates that not only the members listed in the Act but also stakeholders affected must take part in the decision-making structure or process.

2) Meaning of stakeholders

It is very unusual that the Act mentions the participation of stakeholders in the decision-making process. A company's stakeholders usually refers to those relevant, but who are neither part of the core ownership of the company nor its key members (i.e. shareholders, company organizations) under the Act on associations. The reference to a decision-making structure where stakeholders participate does not necessarily mean that anyone who is outside the organization and has interest in the association (i.e. a creditor) can be one of them. In other words, stakeholders for the purpose of this Act can be anyone who participates in the activities of the social enterprise instead of those specifically defined in the company act. Specifically, stakeholders should be understood to include not only shareholders (if the social enterprise is a corporation) or all types of limited and unlimited employees (if it is another commercial company) but also its workers or employees, service beneficiaries, volunteers, affiliates and investees.

3) Relationship with equity holders

A commercial company may be certified as a social enterprise even if its majority shareholder controls over 50 percent of the total equity as long as its stakeholders can participate in the decision-making process. Previously, no company under the Commercial Act was allowed to be a

social enterprise if its majority shareholder is to control over 50 percent of the enterprise's equity capital.²⁷⁾

4) Minimum or essential criteria for participation

Those listed in the Act as stakeholders are for example only, and many more can be included stakeholders of a social enterprise depending on its legal form. While the Act does not provide an exhaustive list of stakeholders, the Guidelines on Certification provides detailed requirements regarding stakeholders to be met in order to be social enterprises.

First, in order for an organization to be certified as a social enterprise, not only those legally representing the organization but also representatives from its employees, affiliates, local government, industry experts, sponsors and the parties affected in the community must be included as stakeholders.

With respect to the consultative body, it shall consist of no fewer than 3 people, and at least half of the total members shall be from the outside.

As another minimum criteria, ones representing service beneficiaries must be included in the consultative body if the social enterprise is of a service-offering type, ones representing workers if it is of a job-creation type, or ones representing the local community if it is of community contribution type. For hybrid types or others, the stakeholders may be selected at its discretion.²⁸⁾

27) Criteria for Certification of Social Enterprises (Work Manual) for 2014, Ministry of Employment and Labor, Jan. 2014, page 37

28) Ibid, page 37

(3) Prospect and policy implications

The criteria for stakeholders to participate in the decision-making process as a means to ensure desirable governance in social enterprises seem to have some flaws, if we take a look at the applicable legal framework of other countries. Requiring a decision-making structure where diverse stakeholders participate as criteria for certification as a social enterprise originated in Europe.²⁹⁾ In Europe, such requirement for participation is unquestionable. Since for-profit companies are excluded from the category of social enterprises, there is no possibility that equity holders such as shareholders are able to become involved in the governance. Participation by those who are members of social enterprises in their decision-making process is essential for them to achieve their social missions.

In this respect, the intention of the Act is fully understandable. Yet given the wide diversity of social enterprises in terms of legal forms, unilateral stipulation of their governance with abstract wording may conflict with the varying needs of social enterprises regarding governance. In addition, lack of clarity in some of the requirements may cause the certification system to be used with a lack of consistency.

For example, a social enterprise that is also a for-profit company under the Commercial Act would have to meet the requirements for participation by stakeholders under the Act and, at the same time, comply with the Commercial Act that only allows its members to have voting rights. Such inconsistency will likely make it difficult for the Act to achieve its objectives and keep conflicting with what occurs in reality.³⁰⁾

29) Jeong Seok-in, "International Comparison of Social Enterprises: With Focus on Three Countries in Europe (France, Germany and UK) and the U.S." Management Consulting Review Volume 3, Issue 2 (August, 2012), page 82

30) Ibid, page 19

It is therefore necessary to provide criteria for the governance of social enterprises that includes the lowest and minimum requirements discussed above, just as there are discussions of criteria regarding governance for public and listed corporations. Such criteria may also include provisions regarding the equality of voting rights and restrictions on excess control by a specific interest group.

4. Certifications of Social Enterprises

(1) Legal grounds

Article 7 (Certification of Social Enterprises) (1) Anyone who intends to operate a social enterprise shall be certified by the Minister of Employment and Labor in order to meet the requirements under Article 8 hereof.

(2) The Minister of Employment and Labor shall subject any certification under paragraph 1 to deliberation by the Review Committee for Employment Policy.

[Full text revised on June 8, 2010]

Article 8 (Requirements and Procedures for Certification of Social Enterprises) (1) Any entity that intends to be certified as a social enterprise shall meet all of the following requirements: <Amended on Feb. 1, 2012>

1. It shall be in a legal form as defined in the Presidential Decree, including a legal entity or cooperative under the Civil Act, a corporation or joint-cooperative under the Commercial Act or any other entity or not-for-profit formed under a special act;
2. It shall employ paid workers and engage in commercial activities including production and sales of goods or services;
3. It shall perform social missions including improving the quality of life for the community as its primary objective by providing social services or job opportunities or making contributions to the community as defined in the Presidential Decree.
4. It shall have a decision-making structure where stakeholders including service beneficiaries and employees participate;

5. It shall have revenue from its business activities that meet or exceed the standards prescribed by the Presidential Decree;
 6. It shall have articles of incorporation or bylaws under Article 9 hereof;
 7. It shall allocate no less than 2/3 of its annual profits available for distribution for social objectives (applicable only to companies or limited partnerships under the Commercial Act); and
 8. It shall meet all other provisions regarding its operation under the Presidential Decree.
- (2) Upon certification of a social enterprise, the Minister of Employment and Labor shall disclose it through an official gazette.
- (3) Specifics regarding the method of, and procedures for, the certification of social enterprises shall be as defined in the Ministerial Order. The criteria for the evaluation of applicants for the certification shall be as issued by the Minister.

(2) Significance of certification system

Social enterprises in Korea exist in diverse legal forms ranging from companies under the Commercial Act to cooperatives and engage in various services including job creation, offering of social services, contribution to the communities or combination there. Knowing that they were formed to help achieve social objectives, they do not hesitate to use the term “social enterprise” in their names. However, social enterprise, as defined under the Social Enterprise Promotion Act, solely refers to a business entity certified by the Minister of Employment and Labor to meet the requirements under the Act after deliberation by the Review Committee for Employment Policy (Article 7.1). No organization can be a true social enterprise and may use the term ‘social enterprise’ in its name unless it is certified as such under the Act.

There have been diverging views on this certification system which is unique to the Act. One such view is that the certification system can work as a deterrent to the proliferation of social enterprises. According to

this view, the certification system often deters many who intend to use social enterprises as a means to provide more diverse social services for more people in more diverse fashions. Those who possess such a view suggest registration instead of certification.³¹⁾ Yet registration may also give rise to the same problems as certification depending on how it is operated. The point here is that the purpose of the certification system is support and nurturing including financial aid from the state. Whether the tool is registration or certification, it is necessary to define who should be eligible if support is provided from the government as part of its policy. In other words, the scope of beneficiaries under the Act must be defined. Even so, banning organizations with clear objectives of performing social missions from using the term “social enterprise” in their names does not coincide with the reason for their existence. If the current certification system is intended to identify who should be eligible for support under the Act and the scope of beneficiaries, it is wiser to refer to those certified as “certified social enterprises” instead of banning use of the term. The Social Enterprise Promotion Act should also be amended accordingly.³²⁾

(3) Certification requirements

1) Who can be certified and what are the criteria?

Under Article 8.1.1 of the Act and Article 8 of the Enforcement Decree, any entity that intends to be certified as a social enterprise must be:

- A legal entity or cooperative under the Civil Act;
- A corporation or joint-cooperative under the Commercial Act;

31) Kwak Gwan-hun, “How to Improve Legislation on Nurturing of Social Development and other Business Startup,” *Studies of Securities Act*, Volume 13, Issue 3 (2013), page 14

32) *Ibid*, page 15

- An entity formed under a special act;
- A public organization under the ACT ON THE ESTABLISHMENT AND OPERATION OF PUBLIC-SERVICE CORPORATIONS;
- A not-for-profit voluntary association under the Act on Assistance for Not-for-profit, Non-governmental Organizations;
- A social welfare corporation under the Social Welfare Business Act;
- A consumer cooperative under the Consumer Cooperatives Act;
- A cooperative, a federation of cooperative, a social cooperative or a federation of social cooperatives under the Framework Act on Cooperatives; or
- A legal entity or a not-for-profit organization under other laws.

No certification may be granted to:³³⁾

- Businesses owned by natural persons;
- Government or public agencies or local government invested organizations³⁴⁾
- A state-invested or public organization invested research institute
- A public corporation with a stake from a local government
- A conglomerate or its affiliate; or³⁵⁾

33) For specific criteria for exclusion from certification, see the Criteria for Certification of Social Enterprises 2014, page 6 and the Criteria for Certification of Social Enterprises 2015, page 35.

34) An organization where only a local government has a stake may be certified because it is not a public organization, provided that the local government has over 50 percent of the equity or over 30 percent of the equity and has substantial control over the organization through a right to appoint directors or similar. (See Article 4.3.1 of the Act on the Management of Public Institutions for details)

35) An entity where a large corporation or anyone with any of the following relationships therewith has individually or collectively has over 50 percent of the total shares outstanding or the total equity (Article 9.2.1.4 of the Enforcement Rules of the Act on the Promotion of Collaborative Cooperation Between Large Enterprises and Small-Medium Enterprises)

- One who holds over 30 percent of the total shares outstanding or the equity capital of a large corporation who is also the largest shareholder of the corporation or the holder of the largest interest in the same

Requirements for certification under the Act include:

- Legal form: The applicant must be a legal entity or cooperative under the Civil Act, a corporation or joint-cooperative under the Commercial Act or any other entity or not-for-profit formed under a special act.
- Employment and commercial activities: The applicant must employ paid workers and engage in commercial activities including production and sales of goods or services.
- Realization of social objectives: The applicant must perform social missions including improving the quality of life for the community as its primary objective by providing social services or job opportunities or making contributions to the community.
- Decision-making structure: The applicant must have a decision-making structure where stakeholders including service beneficiaries and employees participate.
- Financial criteria: The applicant must have revenue from its business activities that meet or exceed a certain level.
- Requirements regarding articles of incorporation or bylaws: The applicant must have articles of incorporation or bylaws containing provisions that can meet the requirements for certification of social enterprises.
- Sociality of profit distribution: The applicant must use no less than 2/3 of its annual profits available for distribution for social objectives (applicable only to companies or limited partnerships under the Commercial Act).

- Decision-making structure (governance): The applicant must have a decision making structure where stakeholders participate.

2) Business activities using paid workers

The requirements listed above are based on essential, conceptual factors that must be included in defining social enterprises.

First, the requirement of performing business activities such as production or sales of goods and services using paid workers (Article 8.1.2 of the Act) is the substantiation of profitability, one of the three pillars of a social enterprise. True to its nature, a social enterprise must fulfill social objectives through business activities. The key here is the employment of human resources and paid workers for the purpose of profitability, by definition, is an act performed continuously and repeatedly for profit gain using a certain amount of human resources and physical facilities.

The next issue is the concept and scope of a worker. A worker under the Labor Standards Act is a person, regardless of being engaged in any particular occupation, who offers work at a business or workplace for the purpose of earning a wage.³⁶⁾ A paid worker as defined in the Certification Manual for Social Enterprises means anyone employed for a business whether he/she works full-time or part-time.³⁷⁾

36) Article 2.1.1 of the Labor Standards Act

37) Criteria for Certification of Social Enterprises for 2015, Ministry of Employment and Labor, page 8 Those representing social enterprises, non-paid volunteers and workers not related to the activities of social enterprises are not considered paid workers. For business units within a legal entity, only those enrolled in those units are included and not those enrolled in the legal entity. Those of a subsidiary performing business activities as a social enterprise just as its parent are considered paid workers.

3) Realization of social objectives

Social enterprises must pursue social objectives such as enhancing the quality of life for the community by providing social services or job opportunities for the socially vulnerable (Article 8.1.3). They can be classified into a social service offering type, job-creation type, community contribution type, hybrids and others, depending on the nature of their social services.

① Concept and scope of socially vulnerable groups

In this regard, the concept and scope of socially vulnerable groups can be an issue. The socially vulnerable generally refers to a group of people who do not have as many opportunities for participation in society as others due to their economic, physical or other conditions and are apt to be excluded from benefits to which members of society are entitled if it were not for intervention by the government.³⁸⁾ The delimitation of the socially vulnerable is nothing but an attempt to delivering assistance to those defined under the laws related to them. The Act defines a socially vulnerable person means one who suffers hardships in purchasing needed social services at market prices or are confronted with particular difficulties in getting a job under normal conditions of the labor market (Article 2.2 of the Act). The Enforcement Decree of the Act stipulates that one shall be deemed as a socially vulnerable person if he/she is:

- From a household that earns 60 percent or less of the national average monthly household income;

38) Yi Junseob and Lee Jin-gook, “Study on How to Improve Legal Framework for Better Protection of, and Support for, the Socially Disadvantaged,” July 2012, Center for Academia-Industry Alliance, Ajou University, page vi.

- A senior citizen as defined in Act on Prohibition of Age Discrimination in Employment and Aged Employment Promotion;
- A disabled person under the Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons;
- A victim of sex trafficking under the Act on the Punishment of Acts of Arranging Sexual Traffic;
- A youth under the Special Act on the Promotion of Youth Employment or a woman having faced career interruption who is eligible for financial assistance for job searching under the Act on Promotion of Economic Activities of Career-Interrupted Women;
- A North Korean refugee under the North Korean Refugees Protection and Settlement Support Act;
- A victim under the Act on the Prevention of Domestic Violence and Protection of Victims;
- One who needs to be protected under the Single-Parent Family Support Act
- A married immigrant under the Framework Act on the Treatment of Foreigners Residing in the Republic of Korea
- One who requires rehabilitation under the Act on Probation;
- A victim under the Crime Victim Protection Act. If the victim is injured, he/she and his/her spouse, direct ancestors and brothers/sisters living with him/her are deemed as socially vulnerable individuals. If he/she dies, his/her spouse, direct ancestors and brothers/sisters are deemed as socially vulnerable individuals;
- A person declared socially vulnerable by the Minister of Employment and Labor based on labor market conditions, including one left unemployed for over a year.

② Realization of social objectives

○ Social services

Social services that can be a tool for the realization of social objectives are so diverse and extensive that it is hard to define what they are. It is nonetheless necessary to delimit them. The Social Enterprise Promotion Act does not provide the definition of social services, but just lists areas of such services. According to the Act, social services are services offered in education, healthcare, social welfare, environment or culture or other services equivalent thereto (Articles 2 and 3 of the Act, Article 3 of the Decree). ‘Services equivalent thereto’ include child-care, arts/tourism/sports, forest preservation and maintenance, caregiving and housekeeping, preservation or usage of cultural heritage, facility maintenance including cleaning, employment service under the Employment Security Act and any other services declared as such by the Minister of Employment and Labor after review by the Policy Review Committee.

○ Criteria for determining the realization of social objectives

Criteria for judging the realization of social objectives are required in order to avoid emergence of false or pseudo social enterprises because certification entails financial support from that stage. A set of qualitative criteria for the judgment is required to ensure stability of the certification of legislation because very abstract and qualitative judgment is necessary even if an organization called a social enterprise expresses its intention and will regarding the realization of its social objectives. Accordingly, the Act provides different sets of criteria depending on the type of social enterprises.

- Service-offering type: The proportion of socially vulnerable individuals to all beneficiaries of services from the organization must be no less than 50 percent (or 30 percent by December 31, 2016) (Article 9.1.1 of the Enforcement Decree)

Job creation type: The proportion of socially vulnerable individuals to all employees of the organization must be no less than 50 percent (or 30 percent by December 31, 2016) (Article 9.1.2 of the Enforcement Decree)

- Community contribution type: The primary purpose of the organization must be to contribute to the community in any of the manners defined below (Article 9.1.3 of the Enforcement Decree).
 - If the contribution is to help increase the income and jobs for people in the area (declared by the Minister of Employment and Labor in need of contributions by social enterprises) using human and physical resources in it: The proportion of socially vulnerable individuals from the area (the “Local Disadvantaged”) to the entire employees of the organization or the proportion of the Local Disadvantaged to the entire beneficiaries of social services from the organization must be no less than 20 percent.
 - If the contribution is to help address social problems in the community such as poverty, alienation and crime: The proportion of revenues or spending associated with the organization’s primary purpose to all revenue or spending must be no less than 40 percent.
 - If the contribution is to provide consultation, marketing, funding or otherwise for organizations that pursue social objectives such as social services, job creation or better quality of life for the community: The proportion of revenue or spending associated with the organization’s

primary purpose to the entire revenue or spending must be no less than 40 percent.

- Hybrid type: If the organization's primary purpose is to provide social services and job opportunities for the socially vulnerable: The proportion of socially vulnerable individuals to all employees of the organization and the proportion of the socially vulnerable to all beneficiaries of social services from the organization must be no less than 30 percent (or 20 percent by December 31, 2016), respectively (Article 9.1.4 of the Enforcement Decree).
- Others: If it is not possible to determine whether social objectives have been achieved based on objective, quantitative indicators, the Minister of Employment and Labor shall make the judgment after review by the Policy Review Committee.

4) Decision-making structure

Any entity who intends to be certified as a social enterprise must have a decision-making structure where its stakeholders such as its service beneficiaries and employees participate (Article 8.1.4). The definition of such a decision-making structure inevitably depends on the legal forms of the entity.³⁹⁾ To address this shortcoming, specific review criteria have been defined,⁴⁰⁾ and such decision-making structure must be defined in

39) For legal entities and cooperatives under the Civil Act, corporations and joint-cooperatives under the Commercial Act and other legal entities formed under a special act, the decision-making body shall be their board of directors with the right to resolution under the relevant act. For not-for-profit voluntary associations formed under special acts, the body under their articles of incorporation or bylaws shall be the decision-making body. As an exception, not-for-profit entities or cooperatives may have other type of decision-making bodies such as a steering committee subject to prior consent from the Committee on Promotion of Social Cooperation.

the enterprise's articles of incorporation or bylaws. Meanwhile, the structure of the decision-making body is clearly defined in the Act: it must consist of at least 3 including one representing workers and one outsider regardless of the nature of social objectives. The decision-making body must have no few than 2 meetings within 6 months from the application for certification.

5) Revenue from business activities

One requirement for certification as a social enterprise is profitability of the applicant. Its purpose is to screen any pseudo or false applicants that only seek assistance from the government and help ensure its continuity after certification. Specifically, the quantitative profit-generation requirement defined below must be met for the applicant to be certified as a social enterprise.

- The applicant must have engaged in business activities for no less than 6 months, and revenue from the activities must be no lower than 50 percent of the total labor cost.
- The total revenue generated from the applicant's business activities for the 6 months prior to the month when the application is made must be no lower than 50 percent of the total labor cost (associated with its services or production) (Article 8.1.5 of the Act and Article 10 of the Enforcement Decree). See below for specific criteria for judgment of compliance.

These requirements for business activities and revenue from them are imperative because they are used for the calculation of financial assistance from the government.

40) Criteria for Certification of Social Enterprises for 2015, Ministry of Employment and Labor, page 8

6) Requirements for articles of incorporation or b-laws

Articles of incorporation or bylaws are required for each applicant to understand its objectives and governance. Different social enterprises have different legal forms and, therefore, are subject to different legal provisions. Yet the Act (Article 8.1.6 and Article 9) stipulates that the articles of incorporation or bylaws of the applicant include provisions regarding:

- Its objectives
- Its businesses
- Its name
- Domicile of its principal office
- Its governance and decision-making structure
- Profit distribution and re-investment
- Capital contribution and borrowings
- Employees and their appointment and removal of employees
- Resolution and liquidation (including those stipulating that at least 2/3 of any residual property available for distribution is to be donated to another social enterprise, public fund or otherwise, if the enterprise is a company or limited partnership under the Commercial Act)
- Branches
- Its source of funds
- Accounting

7) Reinvestment of profits (applicable to corporations and joint-cooperatives under the Commercial Act)

① What is 'profit re-investment'?

Re-investment of profits is one of the important elements that distinguish social enterprises from regular not-for-profit businesses. In other words,

social enterprises may engage in business activities that generate profits, but are subjected to restrictions on the distribution of profits. Profits generated by a social enterprise must be not distributed to its equity holders including shareholders, but be used for social missions.

② What is ‘profits available for distribution’?

The Act (Article 8.1.7) stipulates that social enterprises that are also corporations or joint-cooperatives under the Commercial Act use no less than 2/3 of its annual profits available for distribution for social objective. For the purpose of the Act, profits available for distribution means dividends available for distribution as defined in the Commercial Act (Article 462 and Article 19 of its Enforcement Decree). Dividends available for distribution under the Commercial Act shall not exceed the net assets in the balance sheet less: i) capital stock, ii) capital reserve and earned surplus reserve accumulated up to the current period, iii) earned surplus reserve to be accumulated for the current period, and iv) unrealized profits as defined in the applicable presidential decree.

③ Usage of reinvestment

Areas where profits available for distribution should be used include:

- Working environment for workers (pay raises, welfare benefits, bonuses and incentives)
- Community donations and social contribution activities
- Investment in facilities pursuant to expanded job creation⁴¹⁾

41) Criteria for Certification of Social Enterprises for 2015, Ministry of Employment and Labor, page 72 For example, bonuses for the person representing the organization, its executives or the representing person’s ascendants or descendants, or donation to religious organizations or for missionary work are not regarded as spending for social missions.

5. Legislation for Management Support

(1) Legal grounds

Article 10 (Management Support, etc) (1) The Minister of Labor may provide support for the operation of social enterprises including professional consultation and information in such areas as management, technology, taxation, labor, and accounting.

(2) The Minister of Employment and Labor may entrust whole or part of the support listed in paragraph 1 to a government-invested agency or a private organization as defined in the Presidential Decree.

[Full text revised on June 8, 2010]

Article 10.2 (Support for Education & Training) The Minister of Employment and Labor shall have the discretion to offer training courses for employees of social enterprises to help them become more skilled and competent.

[Newly added on June 8, 2010]

Article 11 (Support for Facility Cost, etc) The state or a local government may grant subsidies, arrange financing, or lend state-owned or public land, for the operation of social enterprises such as facilities and land. <Amended on Feb. 1, 2012>

(2) Description of support under the Act

There are three types of management support available to social enterprises. The first is the support provided by the Ministry of Employment and Labor for the operation of social enterprises including professional consultation and information in such areas as management, technology, taxation, labor, and accounting (Article 10.1 of the Act). These support services are called “Management Consulting“, and this may be entrusted in whole or in part to a government-invested agency or a private organization (Article 10.2 of the Act).

The second is support for education and training. The Act stipulates that training courses for employees of social enterprises should be offered to help them become more skilled and competent. The provisions for education and training for the employees of social enterprises are intended for their sustainable growth. Given the fact that social enterprises do not have as much human resources or expertise as regular for-profit companies, ongoing education and training are essential for them, and these are offered by the state. Finally, the state or a local government may grant subsidies, arrange financing, or lend state-owned or public land, for the operation of social enterprises such as facilities and land.

(3) Execution of management, support, and consultation

Management consulting is intended to help social enterprises achieve sustainable growth. Not all regular corporations enjoy comprehensive consulting services offered under a law. Of course, there are some management and technical consulting services available to small and medium enterprises under the relevant laws. Management and/or technical consulting services may produce greater effects than direct support such as financial assistance or tax benefits. Social enterprises require guidance and training concerning every aspect of their operation in order to overcome the inherited shortcoming of limited profitability and be sustainable enough to fulfill their objectives.

Fully aware of the importance of support offered in such manners, the government has changed its focus from providing direct financial assistance to making resources timely available to social enterprises.⁴²⁾ By expanding the scope of management consulting, the government will also provide

42) 3000 social enterprises to be nurtured by 2017 - The Framework Plan for the Promotion of Social Enterprises: Phase 2, Press Release of December 24, 2012 (<http://www.moel.go.kr>)

services tailored to each stage of development (i.e. incubating, entry, growth and restructuring) and ensure that the services are available to more diverse social enterprises including those operating in finance, distribution, marketing or design.

The support for education and training offered under the Act also includes consulting by peers who possess in-depth experience, expanded pro bono (talent sharing) and education and consulting for helping cooperatives grow into social enterprises. Other initiatives under the Act include a youth internship program where young people can accumulate experience in social enterprises and is designed to help raise social entrepreneurs and core professionals, programs tailored to the needs of the baby boomer generation or older, social enterprise leadership courses in alliance with graduate schools and social enterprise fellowship programs where innovative business models can be cultivated. Finally, due diligence will be conducted on, and management consulting will be provided for, each social enterprise for which subsidies for labor cost are about to expire.

6. Legislation for Purchase Support

(1) Legal grounds

Article 12 (Preferential Purchase by Public Organizations) (1) Heads of public organizations shall encourage their organizations to purchase goods or services produced by social enterprises with priority under Article 2.2 of the Act on Facilitation of Purchase of Small and Medium Enterprise-Manufactured Products and Support for Development of their Markets. <Amended on Feb. 1, 2012>

(2) Heads of public organization shall now report to the Minister of Employment and Labor with regards to their plans to increase their purchase of products from social enterprises and actual purchases made in the previous year. <Amended on Feb. 1, 2012>

(2) The Minister of Employment and Labor shall disclose such plans and actual purchases under paragraph 2. <Newly added on Feb. 1, 2012>

(4) Particulars of the reporting and disclosure of purchase plan and actual purchases under paragraph 2 and 3 shall be as defined in the applicable presidential decree. <Newly added on Feb. 1, 2012>

[The full text revised on June 8, 2010]

[The full text revised on June 8, 2010]

(2) Purchase support system

1) Significance of preferential purchase system

The preferential purchase system is a system where public organizations purchase goods or services produced or supplied by social enterprises with priority to help their businesses. It originates in a system for small and medium-sized enterprises where products supplied by them are purchased with priority by public organizations under the Act on Facilitation of Purchase of Small and Medium Enterprise-Manufactured Products and Support for Development of their Markets. Such a preferential purchase system has been adopted by many policies as a means to facilitate purchase of products produced by disadvantaged people,⁴³⁾ and the Social Enterprise Promotion Act adopted it for the same purpose.

Heads of public organizations have obligations to ensure that products or services from social enterprises are purchased with priority (Article 12 of the Act). Heads of public organizations shall report to the Minister of Employment and Labor with regards to actual purchases made from social enterprises in the previous year, the proportion of such products to total purchase and the purchase plan for the current year, no later than the

43) The same system is adopted by the Act on Support for Female-owned Businesses (Articles 3 and 9) and the Promotion of Disabled Persons' Enterprise Activities Act.

end of February of each year (Article 12.2.1 of the Enforcement Decree). The Minister of Employment and Labor shall merge data on the purchase plans and actual purchase from individual organizations and disclose them on its website, no later than April 30th of the same year (Article 2 of the Decree).

2) Preferential purchase system

Public organizations subject to the requirements for preferential purchase from social enterprises shall comply with Article 2.2 of the Act on Facilitation of Purchase of Small and Medium Enterprise-Manufactured Products and Support for Development of their Markets. For the purpose of this Act, public organizations include state agencies, local government agencies, education offices, legal entities formed under special acts and other organizations under Article 5 of the Act on the Management of Public Institutions. As of December 2013, there are 175 public organizations subject to the requirements for preferential purchase.

[Table 10. Public organizations required to establish purchase plans for products from social enterprises 2014]

< Public organizations required to establish purchase plans for products from social enterprises 2014 >⁴⁴⁾

State agencies	Local government agencies		Education office	Public corporations	Quasi-government agencies	Other public organizations	Local public organizations	Other special entities	Total
	Higher level	Lower-level							
52	17	227	17	30	87	178	137	6	751

44) Guidance on Preferential Purchase of Social Enterprise Products, Ministry of Employment and Labor, December 2013

As the supervisor of the preferential purchase, the Ministry of Employment and Labor shall disseminate instructions on the purchase to applicable public organizations, which then shall submit their plans and results from the implementation of the plans to the Korea Social Enterprise Promotion Agency (hereinafter, the “Institute”). The Institute shall provide support for public organizations, including sharing of information on goods and services provided by social enterprises. The Institute shall also make policy suggestions regarding the preferential purchase, and the Ministry of Employment and Labor shall make policies, allocate budget and supervise activities regarding the same.

3) Enforcement of the Act

The statistical data for 2012 and 2013 reveals that the volume of preferential purchase actually made in 2012 is 191.6 billion KRW, occupying 0.5 percent of the total purchase volume by public organizations. The purchase plan for 2013 is 313.3 billion KRW to account for 0.9 percent of the total.

[Table 11. Purchase of good and services from social enterprises made in 2012 and purchase plan for 2013]

<Purchase of good and services from social enterprises made in 2012 and purchase plan for 2013>⁴⁵⁾

(In million KRW or percentage)

	Total purchase volume made [A]	Amount purchased from social enterprises	Ratio (B/A)
Actual for 2012	35,991,782	191,633	0.5
Plan for 2013	34,506,932	313,307	0.9

45) Purchase of goods and services from social enterprises made by public organizations in 2012 and their purchase plan for 2013, Ministry of Employment and Labor Announcement No. 2013-115

[Table 12. Actual purchase and purchase plan by organization type]

<Actual purchase and purchase plan by organization type>⁴⁶⁾

(In million KRW or percentage)

		Actual for 2012			Plan for 2013		
		Total Purchase volume made (A)	Amount purchased from social enterprises (B)	Ratio (B/A)	Total Purchase volume made (A)	Amount purchased from social enterprises (B)	Ratio (B/A)
Administrative agencies	State agencies	6,704,775	15,889	0.2	6,053,879	16,422	0.3
	Local government agencies	4,786,438	56,849	1.2	5,449,862	104,798	1.9
	Education office	4,973,589	17,936	0.4	4,975,152	39,768	0.8
Public organizations	Public corporations	10,681,706	43,069	0.4	9,278,368	70,926	0.8
	Quasi-government organizations	3,521,179	37,117	1.0	3,752,323	50,612	1.4
	Other public organizations	3,603,129	10,321	0.3	3,369,591	16,681	0.5
	Local public corporations	1,340,704	10,392	0.8	1,435,402	13,534	0.9
	Special entities	380,262	60	0.02	192,355	566	0.3
Total		35,991,782	191,633	0.5	34,506,932	313,307	0.9

46) Purchase of Social Enterprise Products made by public organizations in 2012 and their purchase plan for 2013, Ministry of Employment and Labor Announcement No. 2013-115

4) Improvements needed

A look into the actual purchase of Social Enterprise Products made by individual public organizations and their plans reveals that the average ratio of the purchase to the total is maintained at 0.5 percent or so, while the ratio for state agencies remains relatively low at 0.3 percent. This is a significantly low level compared to purchase ratios from other domains where preferential purchase by public organizations have been adopted. For example, the purchase ratio for Social Enterprise Products is lower than one-tenths of the ratio for technology development products or female-owned businesses' products. The figure is still relatively low compared to that of disabled-owned businesses. Considering the fact that the share of Social Enterprise Products is no smaller than that of the disabled-owned business products, the effect from the enforcement of the Act needs to be revisited.

[Table 13. Preferential purchase by public organizations in different domains in 2011-2012]

<Preferential purchase by public organizations in different domains in 2011-2012>⁴⁷⁾

	Actual purchase in 2011		Target for 2012		Target required by law
	Amount	Percentage	Amount	Percentage	
Technology development products	1.68	8.4	2.05	10.3	10% of total purchase from SMEs
Female-owned business products	2.60	3.2 (2.1)	3.23	4.0 (2.6)	5% for products and services (3% for construction)
Disabled-owned business products	0.27	0.27	0.41	0.41	-

47) data concocted from the website of small and medium business administration, available at <http://www.smba.go.kr> (last visited on August 14, 2015)

To help social enterprises achieve sustainable growth, the effectiveness of the preferential purchase by public organizations should be ensured. To this end, approaches adopted in other domains to improve the effectiveness of the preferential purchase system can a good example. There are two alternatives worth considering.

The first is to adopt a mandated purchase ratio. There are two such ratios already in effect: the preferential purchase of products made by the severely disabled⁴⁸⁾ and the preferential purchase of products made in standard workplaces consisting of the disabled under the Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons.⁴⁹⁾ Under these two acts, public organizations are required to purchase at least 1 percent of their total from the disabled.

Second, the Special Act on the Preferential Purchase of Products Manufactured by the Severely Disabled allows public organizations to make contracts privately with the companies employing the severely disabled to buy from them, instead of using an open bidding, in order to ensure the effectiveness of the preferential purchase.⁵⁰⁾ This is to provide them with a greater access to public procurement.

48) Article 7 of the Special Act on the Preferential Purchase of Products Manufactured by the Severely Disabled stipulates that heads of public organizations shall submit plans on the purchase of products produced by severely disabled people and actual purchases made in the previous year to the Minister of Health and Welfare in accordance with the applicable presidential decree. The plans must state targets for which the organizations will purchase these products as defined in the presidential decree. Article 10 of the Enforcement Decree stipulates 1 percent of the total purchase.

49) Article 22.3 of the Employment Promotion and Vocational Rehabilitation of Disabled Persons Act stipulates priority purchase of products from standard workplaces consisting of the disabled. Under the article, public organizations are required to purchase goods or services supplied or offered by such workplaces (Article 22.3.1) and state a target priority purchase ratio in their plans for the following year, which shall not exceed 1 percent of their respective total purchases.

50) Articles 7.2 to 7.4 of the Special Act on the Preferential Purchase of Products Manufactured by the Severely Disabled

The last approach is to impose penalties on public organizations that fail to comply with the purchase ratios assigned to them. The Special Act on the Preferential Purchase of Products Manufactured by the Severely Disabled stipulates that public organizations meet the ratio of the disabled to their total employees and imposes penalties on those that fail to do so. Specifically, the state and the head of a local government shall maintain the ratio of the disabled to the total public officials employed in the state or the government to at least 3 percent (“mandated employment ratio”)⁵¹⁾, and any employer who fails to meet the mandated employment ratio shall pay an monetary employment contribution to the Minister of Employment and Labor.⁵²⁾

Therefore, considerations can be made to the adoption of the approaches used in the two acts with respect to the preferential purchase of goods or services from social enterprises offering social services for the disabled or employing them in order to ensure the effectiveness of the system. No one can say that the value of going concern of social enterprises is lower than that of enterprises employing the disabled.

51) Article 27.1 of the Special Act on the Preferential Purchase of Products Manufactured by the Severely Disabled

52) Act on the Preferential Purchase of Products Manufactured by the Severely Disabled Article 33 (Financial Contribution to Employment of the Disabled) (1) Employers that fail to meet the mandated employment ratio shall pay contribution (“Contribution”) to the Minister of Employment and Labor. This is not applicable to employers with 50 to 100 regular workers. <Amended on June 4, 2010> (2) The contribution is calculated by multiplying the difference between the number of disabled persons to be employed under the mandated employment ratio and the number of those actually employed each month by the baseline under paragraph 3. (3) Text not presented here

7. Legislation for Financial Support

(1) Legal grounds

Article 13 (Tax Reduction and Coverage of Social Insurance Premiums) (1) The state and local governments may reduce national or local tax imposed on social enterprises in accordance with the Corporate Tax Act, the Restriction of Special Taxation Act, or the Local Tax Act. <Amended on Mar. 31, 2010>

(2) The state may cover part of social insurance premium payable by social enterprises under the Act on the Collection of Premiums for Employment Insurance and Industrial Accident Compensation Insurance, the National Health Insurance Act, or the National Pension Act.

Article 14 (Financial Support for Social Enterprises Providing Social Services) (1) The Minister of Labor may provide financial support for some of the social enterprises providing social services selected through an open application and review process to assist their operation including labor, administration and advice.

(2) The Minister of Employment and Labor shall have the discretion to provide additional assistance, in addition to that listed in paragraph 1, for any social enterprise that receives support from its affiliate or any related local government based on the financial conditions of the affiliate or the local government.

(3) Particulars regarding the eligibility for the financial support and the screening process shall be as set out in the ministerial order.

[The full text revised on June 8, 2010]

(2) Highlights of legal provisions on financial support and tax benefits

Support for social enterprises through state budget in Korea is so proactive and generous that similar cases can hardly be found elsewhere in the world. For example, in the U.S., private donations or market-allocated private resources are the major sources of funding for social enterprises. In many countries in Europe, support for social enterprises is part of the

social policy, accompanied by financial support for them.⁵³⁾ The financial support system for social enterprises is much stronger and more comprehensive. Financial support from the government under the Social Enterprise Promotion Act is provided in three manners: (i) The state and local governments may reduce national or local tax imposed on social enterprises in accordance with the Corporate Tax Act, the Restriction of Special Taxation Act, or the Local Tax Act (Article 13.1 of the Act) (ii) The so called four major social insurances are covered. The state may cover a part of the premiums for employment insurance, workers' compensation, health insurance and national pension (Article 13.2 of the Act). (iii) The Minister of Labor may provide financial support for some social enterprises selected through an open application and screening process to assist their operation including labor, administration and advice (Article 14 of the Act).

The coverage of premiums for the four major social insurances shall only be available to entities certified as social enterprises that purchase and maintain all four insurances, pay at least the minimum wage and do not receive any other assistance for the premiums. The coverage will be applicable to part of the contribution to be made by the employer for the four insurances. The extent of the coverage will be based on the minimum rate regardless of the size or business domain of the employer.⁵⁴⁾

53) Janelle A. Kerlin, "Social Enterprise in the United States and Europe: Understanding and Learning from the Differences" *Voluntas*, 17(3), pp.256~258; Jang Seok-in, "International Comparison of Social Enterprises: With Focus on Three Countries in Europe (France, Germany and UK) and the U.S." *Management Consulting Review* Volume 3, Issue 2 (August, 2012), page 91-92; Hong Seong-woo, "Characteristics of Social Enterprises in Korea from Comparative Perspectives," *Social Enterprises and Policy Study*, Volume 1, Issue 1 (2011), page 77

54) The Practical Manual for the Financial Support Program for (Would-be) Social Enterprises for 2014 stipulates 0.25 percent for employment insurance and 0.6 percent for workers' compensation.

In contrast, direct financial support for labor, business development and other activities is distributed unilaterally regardless of the type of social enterprises.

(3) Current situation and improvements needed

Much concern and criticism have been raised over the direct financial assistance by the state. The reasoning is that such method of support will weaken the ability of social enterprises to sustain themselves and increase their reliance on the government. Direct financial assistance for those that are small and financially weak with poor business performance will eventually make them more and more reliant on it for their survival.

The government's direct coverage of social enterprises' labor costs, operating costs, consulting costs or others through an open application and screening process also raise two problems. One is doubt over whether applicants for the assistance can be effectively assessed during the application and screening process and whether they can be fully followed up after receiving assistance. The other is the unilateral allocation of assistance without consideration of the characteristics of social enterprises, which can significantly reduce its effect.

Since applicants for certification as social enterprises must have their revenue from business activities exceeding 50 percent of their total labor costs, social enterprises applying for labor cost coverage after certification need to be closely examined whether they still meet the 50 percent requirement.⁵⁵⁾ Additionally, measures need to be taken to address problems including loss of self-sufficiency after the expiry of government assistance, intensifying reliance on it and fraudulent receipt of it.

55) Criteria for Certification of Social Enterprises (Work Manual) for 2014, Ministry of Employment and Labor, Jan. 2014, page 38

First, assistance should be differentiated on the scale and method according to the type and the business area of social enterprises. This means that a proactive screening and sophisticated assessment manual is required during the application and screening process.

Second, to deter social enterprises from fraudulent receiving of labor cost coverage, assistance for an enterprise should be based less on the absolute number of people employed by it and more on other parameters such as the characteristics of the enterprise, its employment of the disadvantaged and the number of people contributing to its innovation and self-sufficiency. One possible solution is to base assistance on the level of ongoing employment to ensure higher quality of employment.

Third, follow-up is one of the elements that determine the effectiveness of assistance, and more attention needs to be paid to the activities of the recipients after assistance is provided. To this end, a system where information can be freely exchanged should be established and be publicly accessible. In addition, inspectors responsible should be available at the site for inspection whenever necessary.

Finally, sanctions against fraudulent receiving of direct financial assistance need to be adopted. Currently, fraudulent receiving of assistance is only provided for as part of becoming certified as a social enterprise. Specifically, any applicant for certification that has ever been found fraudulent in receiving assistance might be rejected depending on the fraudulently received amount.⁵⁶⁾ There is, however, legal grounds for

56) Criteria for Certification of Social Enterprises (Work Manual) for 2014, Ministry of Employment and Labor, Jan. 2014, page 46: Fraudulent receiving of assistance of less than 500,000 KRW without intention shall result in disqualification for certification for 6 months. The disqualification period shall be 2 years if the fraudulently received amount is 500,000 to 2 million KRW and 3 years if it is 2 million KRW or more.

strong sanctions against fraudulent receiving found after certification, including withdrawal or revocation of certification. Under the Social Enterprise Promotion Act, any social enterprise that receives, or attempts to receive, financial assistance under the Act or any other act after certification using any fraudulent method shall have its certification revoked.⁵⁷⁾ Such a provision, if fully implemented, can serve as a strong deterrent against fraudulent reception of financial assistance and contribute to the sound growth of social enterprises.

8. Follow-up and Supervision

(1) Legal grounds

Article 17 (Reporting) (1) Each social cooperative shall prepare a business report containing information as defined in the relevant ministerial order, including business performance and participation by stakeholders in decision-making, and deliver it to the Minister of Employment and Labor, no later than April and October of each fiscal year. Upon receipt of such a report, the Minister of Employment and Labor may disclose it using the method stipulated in the applicable ministerial order. <Amended on Feb. 1, 2012>

(2) Minister of Employment and Labor shall guide and supervise social enterprises and, if it deems necessary, may request that a social enterprise or its member make a report or submit documents in connection with its activities.

(3) The Minister of Employment and Labor may assess the operation of the social enterprise based on the business report submitted under paragraph 1 above.

(4) Upon completion of the review of report, guidance, supervision and/or assessment under paragraphs 1 to 3, the Minister of Employment and Labor may order remedial action that he/she determines is necessary.

[The full text revised on June 8, 2010]

⁵⁷⁾ Article 18.1.3

Article 18 (Revocation of certification) (1) The Minister of Employment and Labor may revoke a certification granted to a social enterprise if it: Notwithstanding the foregoing, the certification shall be revoked if the event under paragraph 1 occurs. <Amended on Feb. 1, 2012>

1. Is found to have used a false or fraudulent method to obtain certification;
2. Becomes unable to meet the requirements for certification under Article 8 hereof;
3. Is found to have used, or attempted to use, a false or fraudulent method to receive financial assistance under this Act or any other act; or
4. Decides to return the certification without any justifiable cause such as worsening business performance.

(2) The Minister of Employment and Labor shall not grant a certification for any entity that has its certification revoked under paragraph 1 above, before three years pass after the revocation, and this shall apply for any entity that is deemed substantially equivalent to the certification-revoked entity. The definition of a “substantial equivalence” entity shall be as set out in the applicable presidential order. <Newly added on Feb. 1, 2012>

(3) The Minister of Employment and Labor shall hold a hearing before effecting revocation under paragraph 1. <Amended on Feb. 1, 2012>

(4) Specific criteria and detailed procedures regarding revocation of certification shall be as set out in applicable ministerial order. <Amended on Feb. 1, 2012>
[The full text revised on June 8, 2010]

Article 19 (Banning of Using Similar Names) No entity that is not a social enterprise may use the term ‘social enterprise’ or anything similar.

(2) Disclosure for business transparency

1) Justification

Social enterprises receive managerial and financial support from the state because they have unique social objectives. It is needless to say that social enterprises receiving such support should be required to take due

responsibilities in connection with the realization of their social objectives. One of such responsibilities is to disclose whether they fulfill their social missions as much as the financial assistance they receive and whether the level of the managerial and/or financial assistance is appropriate.

Social enterprises, therefore, shall have the obligation of disclosure to ensure their transparent operation. This is the same as when companies publicly disclose information on their operations to their new shareholders and potential investors. Currently, social enterprises are required to submit a business report under applicable law on a regular basis.

2) Reporting of business

① Content of business report

Each social cooperative shall prepare a business report containing information as defined in the relevant ministerial order, including business performance and participation by stakeholders in decision-making, and deliver it to the Minister of Employment and Labor no later than April and October of each fiscal year (Article 17.1 of the Act).

The report due at the end of April is considered to be a semi-annual report and the one due at the end of October, the annual report. The business report under the Act seems to be named after its counterpart under the Capital Markets Act, and its intention also seems similar. The business report of a company under the Capital Markets Act is an important means of disclosure as it provides significant information on the company's operation for its stakeholders including shareholders and prospective investors. The business report for social enterprises is also an important means of disclosure because they must ensure participation by stakeholders in their decision-making process and receive managerial

and/or financial support from the state.

The business report of the social enterprise should contain: i) activities performed in the previous year and the plan for the following year, including social services or jobs for disadvantaged people and contributions to the community; ii) accounting including revenues and expenses; and iii) participation by stakeholders in decision-making. All social enterprises shall prepare a report containing all the foregoing information in the separately designated form and deliver it to the head of the local labor administration.

② Disclosure of business reports

While semi-annual reports and annual reports of public companies must be disclosed to the public nationwide through daily newspapers or other similar means, business reports of social enterprises, once delivered to the Minister of Employment and Labor, shall be disclosed via a method as set out in the applicable ministerial order (Article 17.1.2). This is a rather wise approach considering the costs to be borne by small and financially weak organizations if disclosure would have to be made to the public nationwide.

Since the obligation of each social enterprise to submit a business report is based on not only the need for the Minister of Employment and Labor to supervise social enterprises and follow up on their activities but also the right of their stakeholders to know about their operation, disclosure is required whatever the means is. Disclosure is to let the public know, and that is an obligation.

It is not until 2010 that the obligation of disclosure had its enforcement rules (issued by the Minister of Employment and Labor) after its

legalization. To one's disappointment and not faithful to the intention of the Act, the enforcement rules only states that business reports submitted by social enterprises may be disclosed on the website of the Ministry of Employment and Labor, the Employment Center or the Institute of Promotion (Article 16.2), which makes the disclosure obligation into becoming a voluntary practice. In fact, the reports are currently available on the website of the Institute of Promotion under the title of self-regulated disclosure.

This is a major deviation from what the Act stipulates. The Act only allows the Minister of Employment and Labor to choose the method of disclosure and not him/her to decide whether to disclose or not. Giving social enterprises discretion not to disclose is not what the Act intends either.

Such discretion seems to have been given to ease the burden of small social enterprises that do not have the time and resources to prepare documents necessary for the disclosure. Still, the obligation of public disclosure for social enterprises must not be compromised because they are designed to have many stakeholders participating in their governance and receive managerial and financial support from the state. Improvements to the implementation rules are required.

(3) Guidance and supervision by Minister of Employment and Labor

The regulatory framework of Korea does not allow the state or any public organization to intervene in the activities of regular private companies. In the same context as social enterprises are obliged to report their operation on a regular basis, the government has a responsibility to guide and

supervise them. Such guidance and supervision obligation arises from the need, among other things, to determine whether the social objectives declared by each social enterprise at the time of its application for certification are fully achieved and to decide whether the managerial and/or financial assistance offered to it is appropriate and should be continued.

To this end, the Minister of Employment and Labor shall have the authority to guide and supervise social enterprises and, if he/she determines is necessary, request that a specific social enterprise or its member make a report or submit documents in connection with its activities (Article 17.2 of the Act). He/she may also assess the operation of the social enterprise based on the business report submitted (Article 17.2 of the Act). In addition, he/she may order a remedial action based on the findings made from the business report (Article 17.4 of the Act).

(4) Improvements needed for the guidance/supervision

The follow-up on, and the supervision of, social enterprises can be viewed as ex post validation of a series of the Minister of Employment and Labor's administrative acts from their certification to financial assistance to them, and the business report submitted by each social enterprise provides the tool for the validation.

Consequently, it can be said that the success of the follow-up and supervision depends on the analysis and assessment of the business reports. Besides, equally important is to identify falsified or fraudulently prepared reports. Although it would not be realistic to adopt the independent auditing of financial accounts for social enterprises just as required for public and listed corporations, at least a system that can

correctly analyze and assess business reports from social enterprises is necessary.

In addition, to avoid financial assistance being channeled to any social enterprise that has submitted a falsified or fraudulent business report, a legal provision should be established that can hold such an enterprise responsible. The current act only provides for minimal and mild sanctions, such as revocation of certification, against such an enterprise. Provisions that may hold violators of the business report obligation liable, both criminally and civilly, just as the Capital Markets Act does need to be created. Only then can more healthy and sound social enterprises be nurtured and grown.

Chapter 4. Legislation for Social Enterprises: Prospects and Challenges

Section 1. Policies under the Social Enterprise Promotion Act and their Achievements

1. Introduction of Social Enterprises

With the growth of civil society, social economy started to emerge in Korea in the late 1980s, mostly driven by NGOs. Then, the foreign exchange crisis in 1997 provided to be a turning point for the sluggish social economy in the country as the government saw it as an alternative to help people left without welfare benefits and address surging unemployment and accordingly adopted comprehensive supportive measures for it. Work-associated welfare envisioned in a social economy that was fueled by the 1997 foreign exchange crisis eventually led to the passing of the Consumer Cooperatives Act in 1999, and a variety of policies were adopted, and studies were conducted, in the 2000s to help communities to become revitalized. All these developments eventually led to a series of legislation including the Social Enterprise Promotion Act that was passed in 2007.

2. Policies regarding Social Enterprises

Policies related to social enterprises are implemented by different government agencies depending on their objectives. While social enterprises are under the jurisdiction of the Ministry of Employment and Labor, there are other forms of organizations with similar social objectives that

are governed by different government agencies: community businesses under the Ministry of Government Administration and Home Affairs, rural community enterprises under the Ministry for Food, Agriculture, Forestry and Fisheries, self-sufficiency businesses under the Ministry of Ministry of Health and Welfare and cooperatives under the Ministry of Planning and Finance.

[Table 14. Key forms of social economic organizations]

<Key forms of social economic organizations>⁵⁸⁾

Category	Social enterprises	Community businesses	Rural community enterprises	Self-sufficiency businesses	Cooperatives
Governed by	Ministry of Employment and Labor	Ministry of Government Administration and Home Affairs	Ministry for Food, Agriculture, Forestry and Fisheries	Ministry of Health Welfare	Ministry of Planning and Finance
Legal grounds	Social Enterprise Promotion Act	Special Act on Support for Urban Generation	Special Act on the Quality of Rural Areas	National Basic Living Security Act	Framework Act on Cooperatives
Introduced in	2007	2010	2011	2012	2012 (effective on Dec. 1)
Participants	Disadvantaged people	Community residents	Residents in rural areas	Mostly low income earners (Those living off gov't assistance and those from the next level up)	Mostly stakeholders

58) Choe Hyeok-jin, "A Look into Policies on Social Economy and Improvements Needed for Legislation on Social Enterprises," discussion paper for the second workshop on social economy hosted by the Korea Legislation Research Institute (2015.05.08.), page 10.

Category	Social enterprises	Community businesses	Rural community enterprises	Self-sufficiency businesses	Cooperatives
Policy goal	Job creation, social services	Vitalization of local community	Job creation and higher income in rural areas	Support for relief from poverty	Supplement market economy with new type of legal entity
Support details	Premium for social insurance, management consulting, tax and financing benefits	Subsidy for facilities, management consulting for up to 2 yrs 80 million KRW per business	50 million KRW per enterprise to cover product development, management consulting, etc	Coverage of labor costs (maximum of 2 yrs for those living off govt assistance), initial startup costs	Counsel, consulting, education/training for cooperatives
Amount	1,299 (Mar. 2015)	1,297 (Dec. 2014)	867 (Dec. 2013)	1,344 (Dec. 2013)	6,251 (Dec. 2014)
Mediator	Korea Social Enterprise Promotion Agency (Public org) Regionally located (15)	Support Center for Community Businesses (Incorporated association or foundation)	Rural Community Corporation (public org)	Central (1), provincial (10), local (247)	Korea Social Enterprise Promotion Agency (Public org) Regionally located (15)
Budget (2014)	National: 155.9 billion KRW	National: 38.8 billion KRW	National: 4.05 billion KRW Local: 2.02 billion KRW	549.4 billion KRW	3.3 billion KRW

Section 2. Policy Improvements Needed for the Social Enterprise Promotion Act

1. Problems with the Act

(1) Lack of diversity in social cooperatives

The narrow scope of social enterprises defined in the Act and the rigid criteria for certification often make it hard for some social enterprises with creativity to be certified. This is problematic because it leads to a lack of diversity in social enterprises and, as shown in the table, certification centering on job creation. Therefore, measures need to be taken to bring balance to social objectives that social enterprises pursue.

(2) Concern over self-sufficiency after expiration of government support

Under the current legal framework, the government shall discontinue providing assistance for a social enterprise after a certain period time has passed after its certification and registration. After that, the enterprise must survive on its own. For most social enterprises in Korea, the expiration of assistance from the government is a significant challenge for their survival considering their small size, weak financial conditions, low business performance and other indicators.

(3) Effective support tailored to the needs of individual enterprises needed

Under the current legal framework, financial assistance is provided for social enterprises to unilaterally cover their direct costs such as labor and

business development without consideration of their individual needs. The assistance would be even helpful for them in using their resources and eventually improving their self-sufficiency if it can be provided according to their different needs. The same voice criticizing the unilateral assistance also raises questions about the effectiveness of indirect support such as consulting and assistance with sales channels. Social enterprises are often assumed to have certain needs, and assistance is provided based on them, producing little effect for the enterprises. Another problem is the limited accessibility of social enterprises to loans, which results from a loan underwriting process that emphasizes financial performance without consideration of the characteristics of individual enterprises.

2. How to Improve Policies under the Social Enterprise Promotion Act

(1) Greater diversity of social enterprises

The current narrow definition of social enterprises needs to be expanded to invite more organizations with creativity to become social enterprises. The ecosystem of social enterprises should be further enriched by accepting more organizations of different forms with diverse social objectives. Efforts also need to be made to create synergy between social enterprises and other social economic entities such as social cooperatives, community businesses and self-sufficiency enterprises. Finally, a policy environment should be formed where inter-departmental support measures can be offered for social enterprises to help them build their capability.

(2) Substantiated policies

Under the current legal framework, social enterprises have priority in public procurement. To make the benefits of such a favor felt by social enterprises more strongly, a more proactive purchase policy considering their different aspects - for example, production capacity - needs to be adopted. In addition, financial assistance needs to be aligned with social enterprises' lifecycle: startup-survival-growth-mature. The startup stage, in particular, needs additional financial assistance so that they can advance to the next stage faster with greater financial stability.

Section 3. Prospect and Challenges

1. Paradigm shift

The diminishing activities and financial hardships that social enterprises suffer after expiration of government support often result from their over-reliance on it. This raises doubt on their sustainability and requires search for ways to build their self-sufficiency. Quantitatively they have already grown up to a high level, but they have yet to grow further qualitatively. It is time for paradigm shift.

To become sustainable through less reliance on the government and greater financial soundness, social enterprises need to collaborate, and share resources, among themselves as well as with other social economic entities including social cooperatives, community businesses, and self-sufficiency enterprises. Such collaboration and sharing will only be possible when a supra-ministry system is formed that can centralize fragmented policy implementation and thus avoid overlapping and redundant assistance and

regulations. Since social enterprises, social cooperatives, community businesses, self-sufficiency enterprises and other similar organizations have a common goal - growth of social economy and development of voluntary civil economy, consolidation of, or alliance with, similar policies, instead of fragmented implementation by different agencies, will have a much greater impact on social enterprises and the social economic ecosystem. This will eventually lead to the birth of a creative welfare model where the private sector leads and the government supports, contributing to the resuscitation of the national economy and social integration.

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Part 2 Social Cooperative⁵⁹⁾

59) Research on Part II, Social Cooperative, was conducted by two researchers and the chapters were divided by the two researchers' work as below: Chapters I, II and III were written by Cheolseon Lee of Korea Institute for Health and Social Affairs while Chapters IV was completed by Kwangdong Park of Korea Legislation Research Institute.

Chapter 1. What Is a Social Cooperative?

In Korea, the Framework Act on Cooperatives (the “Act”) was enacted in December 2011, came into effect in December 2012 and was designed to help local communities create jobs and meet the welfare demands placed on them. A cooperative as defined in the Framework Act on Cooperatives is a business association of people who cooperate in the purchase, production, sales and offering of services.

<Table 1-1> Various definitions of a cooperative

Source	Definition
Framework Act on Cooperatives (Article 2)	<ul style="list-style-type: none"> ▪ A cooperative is a business association of people who cooperate in the purchase, production, sales and offering of services
International Cooperative Alliance (ICA) International Labor Organization (ILO)	<ul style="list-style-type: none"> ▪ An autonomous association of persons united voluntarily to meet common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise
European Cooperative Law	<ul style="list-style-type: none"> ▪ An business entity jointly owned and operated by people with a common interest in self-managed and democratic manners
U.S. Department of Agriculture (USDA)	<ul style="list-style-type: none"> ▪ A user-owned, user-controlled business that distributes benefits on the basis of use
NY Code - Cooperative Cooperations	A non-profit corporation organized for the cooperative rendering of mutual help and service to its members

Source: Lee Dae-jung (2003), Happy Together Cooperatives, Office of Special Minister, p13

Before the Act was enacted, there were eight individual acts on cooperatives: the Agricultural Cooperatives Act, the first to be enacted in 1957, as well as the Fisheries Cooperatives Act, Tobacco Producers Cooperatives Act, Forestry Cooperatives Act, Small and Medium-sized Enterprise

Cooperatives Act, Credit Unions Act, Credit Cooperatives Act, and Consumer Cooperatives Act. To receive a permit to form as a cooperative, the organisation must have engaged in a specific industry sector under the applicable act and have had at least a certain number of members. The Act supersedes all these acts. It specifies general cooperatives as commercial entities under the Commercial Act, with social cooperatives as not-for-profit entities under the Civil Act and requires only a five-member minimum for a cooperative to be formed, providing a foundation for cooperatives to proliferate in various industry sectors.

<Table 1-2> Eight existing cooperatives acts and their key highlights

Industry/act	Min. No. of members	Industry
Agricultural cooperative (Agricultural Cooperatives Act)	- 1,000	- Agricultural products
Fisheries cooperative (Fisheries Cooperatives Act)	- 200	- Fishery
Forestry cooperative (Forestry Cooperatives Act)	- 1,000	- Forestry and landscaping
Tobacco Producers Cooperative (Tobacco Producers Cooperative Act)	- 20	- Tobacco
Small and Medium-sized Enterprise Cooperative (Small and Medium-sized Enterprise Cooperatives Act)	- 30	- Production, processing, repair, etc.
Credit Cooperative (Credit Cooperatives Act)	- 100	- Credit business, installment savings
Credit Union (Credit Unions Act)	- 100	- Credit business, installment savings
Consumer Cooperative (Consumer Cooperatives Act)	- 300	- Purchase and production of consumer products

Source: Ministry of Government Legislation, 8 Acts on Cooperatives, 2012

Note: The number of members is on a regional basis.

It should be noted that general cooperatives under the Act are business entities or, more specifically corporations. General cooperatives, like regular businesses including corporations, compete with others in the market economy, but differ from them in the way they distribute the profits they generate. Unlike corporations under the Commercial Act where voting rights are linked to financial contribution (one share, one vote), cooperatives are democratic organizations jointly owned by their members with equal voting rights (one member, one vote). Profits generated from their activities are not distributed among members. In short, cooperatives are organizations that are formed by their members voluntarily to meet their own needs, owned by all of them and operated based on democratic values.

<Table 1-3> Comparison between cooperatives and corporations

Aspect	Cooperative (Cooperatives Act)	Corporation (Commercial Act)
Definition	- A business organization aimed at furthering the benefit of its members and contributing to the community	- A legal entity established for engaging in commercial activities or making profits
Purpose	- Economic benefits and mutual aid for its members, voluntarily formed, co-ownership, democratic operation	- Pursuit of profit
Voting right	- One member, one vote (regardless of the no. of shares)	- One share, one vote (one member, one vote for some partnerships)
Franchise	- Limited disclosure (for social cooperatives only)	- Full disclosure (corporations)
Statutory reserve	- Some of the surplus to be reserved under law	- No applicable provisions

Source: Planning and Finance Committee, National Assembly, 2012 , Lee Dae-jung (2003), Happy Together Cooperatives, Office of Special Minister, 2012, p71

Five types of cooperatives may currently be formed under the Act. The first two are producer cooperatives and consumer cooperatives as classified by the nature of their members. Producer cooperatives are intended to further the benefit of their members through economies of scale as they may purchase, store and sell items required to produce products, such as fuel and machines, or the produced products together. Consumer cooperatives, in contrast, are associations of consumers who purchase goods and services of better quality at better prices. The third and fourth are employee cooperatives and multi-stakeholder cooperatives as classified by their governance structures. In an employee cooperative, the employees both own and control the business. Examples include a cleaner cooperative owned and operated by those cleaning a building or a security cooperative operated by the guards who choose not to be employed by the company they work for. In a multi-stakeholder cooperative, in contrast, diverse stakeholders such as users, workers and sponsors participate as members to help attain social goals. The fifth is social cooperatives working for the public good. Social cooperatives refer to non-profit cooperatives aimed at, for example, furthering the benefit and well-being of people in the community or providing social services or jobs for disadvantaged people. Unlike other types of cooperatives, they must be permitted by the competent authority, including the Ministry of Planning and Finance, for formation.

A social cooperative, among other requirements, must devote at least 40 percent of its activities for the public good and set aside at least 30 percent of its surplus, if any, generated from its business as statutory reserve, a rate three times as high as that applicable for a general cooperative. In addition, the remaining profit after such reserve, if any,

must not be distributed to its members, and any remaining property in case of liquidation must be transferred to the state. The intension of the Korean government's support for social cooperatives is to create more jobs and alleviate the ever-increasing financial burden being placed on welfare services by supporting the formation of a citizen-based self-help welfare system. Accordingly, the Act permits social cooperatives to engage in only projects sponsored by local governments and to offer small loans and mutual aid for the benefit of members, in addition to carrying out other activities such as community regeneration, furthering of community development, social services for disadvantaged people and job creation.

<Table 1-4> Highlights of the Framework Act on Cooperatives

Category		Content
General provisions	(Legal status)	<ul style="list-style-type: none"> ▪ Each cooperative must be a legal entity while a social cooperative must be a not-for-profit legal entity.
	(Policy)	<ul style="list-style-type: none"> ▪ The Ministry of Planning and Finance to coordinate policies on cooperatives and set up basic plans (Article 11) ▪ The Ministry to conduct a due diligence on cooperatives every 3 years and report to the National Assembly (Article 11) ▪ Cooperatives Day for the growth of cooperatives (Article 12)
	(Relationship with other laws)	<ul style="list-style-type: none"> ▪ The Act not to apply to cooperatives established under other laws ▪ Selective non-application of the Fair Trade Act (Article 13)
Cooperatives	(Voting and franchise)	<ul style="list-style-type: none"> ▪ One member, one vote regardless of his shares held (Article 23)

Part 2 Social Cooperative

Category		Content
Cooperatives	(Registration of formation)	▪ All cooperatives with 5 members or more to report their formation (Article 15)
	(Reserve)	▪ At least 10 percent of the surplus to be reserved (Article 50)
	(Dissolution)	▪ Upon resolution, the remaining property to be disposed of according to the articles of incorporation (Article 59)
Federation of cooperatives	(Registration of formation)	▪ All federation of cooperatives to report their formation to the Minister of Planning and Finance (Article 71)
	(Voting and franchise)	▪ The voting right and elective franchise to be graded by the number of members and participatory portion in the operations of the federation of cooperatives (Article 75)
Social cooperatives	(Permit of formation)	▪ Social cooperatives to be established subject to permit from the Minister of Planning and Finance (Article 85) ▪ Their procedures of formation, businesses and small loans to differ from general cooperatives' (Articles 86 to 88, Articles 93 to 95)
	(Reserve)	▪ At least 30 percent of the surplus to be reserved (Article 97)
	(Small loans)	▪ Social cooperatives allowed to lend small amount to its members and implement mutual aid within the capital stock (Article 94)
	(Dissolution)	▪ Remaining property of a dissolved social cooperative to be transferred to the state or otherwise (Article 104)
Federation of social cooperatives	(Permit of formation)	▪ Formation of a federation of social cooperative to require permit from the Minister of Planning and Finance
Others	(Penalty)	▪ Penalty to be imposed if any obligation under the Act violated (Article 117 through 119)

Source: Press release from the Ministry of Planning and Finance (Nov. 2012) regarding the Framework Act on Cooperatives taking effect in December 2012

<Table 1-5> Comparison between cooperatives and social cooperatives

	Cooperatives	Social cooperatives
Legal status	▪ Legal entity	▪ Non-profit entity
Formation	▪ To be reported to the competent governor	▪ To obtain a permit from the Minister of Planning and Finance (or the competent minister)
Activities	▪ No limit on the businesses or areas for a cooperative to engage in	▪ At least 40 percent of the activities to be for the public good including: - Community regeneration, furthering of community benefit - Social services for disadvantaged people, job creation - Projects commissioned by the central or local governments - Other activities for the public good
Statutory reserve	▪ No less than 10/100 of surplus	▪ No less than 30/100 of surplus
Dividend	▪ Allowed	▪ Not allowed
Upon liquidation	▪ Remaining property to be disposed of according to the articles of incorporation	▪ Remaining property to be transferred to a non-profit organization or the state

Source: Pressure release from the Ministry of Planning and Finance regarding highlights of the Framework Act on Cooperatives and next steps, Feb. 2012

The social cooperatives under the Framework Act on Cooperatives differ from social enterprises introduced by the Korean government for job creation and welfare in two respects. First, social enterprises in Korea get certified by the government and receive financial support directly,

while social cooperatives require approval from the competent authority, but with no direct financial support from it. That is, social enterprises may receive a subsidy for salary payable to their employees and other activities provided that they are certified by the Ministry of Employment and Labor, the competent authority, after due evaluation. By contrast, social cooperatives may only receive indirect rather than direct support for their formation and business operation, once they receive approval from the competent authority. Second, cooperatives are only one of many types of legal entities - i.e. corporations and joint ventures - that social enterprises may choose to be. Consequently, social cooperatives may be social enterprises, while social enterprises do not necessarily have to be cooperatives.

<Table 1-6> Difference between social enterprises and cooperatives

Aspect	Company (Corporation, limited liability, joint venture, etc.)	Cooperative		Incorporated association
		General	Social	
Legal ground	Commercial act	Act on Cooperatives		Civil Act
Objective	Maximum profit	Benefit for members		Public good
	<For-profit company>		<Not-for-profit>	
	<Social enterprise> (certified by the Ministry of Employment and Labor)			

Source: Office of Minister of Special Affairs and Ministry of Planning and Finance (2012), Book of Materials on Cooperatives

<Table 1-7> Government support for social enterprises

Aspect	Highlights
Support for labor cost	<ul style="list-style-type: none"> - For newly joining employees (5 to 30) - Premium for social insurances
Other financial support	<ul style="list-style-type: none"> - Premium for social insurance (if labor cost is not supported) - Business development cost - Fees for professional services such as consulting and accounting - Nurturing of social entrepreneurs - Support for management consulting - Training for social entrepreneurs and relevant employees
Non-financial support	<ul style="list-style-type: none"> - Support for facilities - Favored tax treatment - Preferred purchase from public organizations

Source: Office of Minister of Special Affairs and Ministry of Planning and Finance (2012), Book of Materials on Cooperatives, p379-380, reorganized

Chapter 2. Factsheet of Social Cooperatives

Section 1. Early Period

Data from the Ministry of Planning and Finance shows how many social cooperatives were formed when the Framework Act on Cooperatives took effect and how many were formed subsequently. First, social cooperatives directly associated with social job creation total 233, accounting for 3.7 percent of all 6,251 cooperatives registered as such. Most are of multi-stakeholder type where business owners, individuals and organizations come together for mutual benefits. There have been only three social associations dissolved or whose approval has been revoked over the three years. In addition, social cooperatives number just 32 out of the 233 cooperatives that were approved as such and then appointed by the government as charity, which is equivalent to 14.0 percent of the total.

<Table 2-1> Applications (reporting) for cooperatives and approvals (receiving)
(In counts or percentage)

Type	2012	2013	2014	Total	
				Counts	Percentage
General cooperatives	54	3,111	2,820	5,985	95.7
Social cooperatives	1	108	124	233	3.7
Federations of general cooperatives	-	14	17	31	0.5
Federations of social cooperatives	-	1	1	2	0.0
Total	55	3,234	2,962	6,251	100.0

Source: Ministry of Finance and Planning, Statistics of Social Cooperatives, 2015

Part 2 Social Cooperative

The reason why the number and percentage of social cooperatives is so much smaller when compared to general cooperatives is that general cooperatives can be easily formed by reporting to the local government with related documents while social cooperatives require approval from the central authority concerned with the applicable industry sector. Such approval process keeps the number of social cooperatives at a low level, but also contributes to the persistency of those social cooperatives which are approved.

<Table 2-2> Social cooperatives by type

(In counts or percentage)

Type	2012	2013	2014	Total	
				Count	Percentage
Business owners	-	-	-	-	-
Consumers	-	-	-	-	-
Employees	-	-	-	-	-
Multi stakeholders	1	108	124	233	100.0
Total	1	108	124	233	100.0

Source: Ministry of Finance and Planning (2015), Statistics of Social Cooperatives

<Table 2-3> Number of social cooperatives dissolved or whose approval revoked

(In counts or percentage)

Type	2012	2013	2014	Total
Dissolved	-	-	1	1
Approval revoked	-	-	1	1
Total	-	-	2	2

Source: Ministry of Finance and Planning (2015), Statistics of Social Cooperatives

<Table 2-4> Number of charity organization appointed

(In counts or percentage)

Ministry	2012	2013	2014	Total	
				Count	Percentage
Ministry of Planning and Finance	-	2	6	8	25.0
Ministry of Health Welfare	-	-	6	6	18.8
Ministry of Culture, Sports and Tourism	-	-	4	4	12.5
Ministry of Employment and Labor	-	-	3	3	9.4
Ministry of Ministry of Gender Equality and Family	-	-	3	3	9.4
Others	-	2	6	8	25.0
Total	-	4	28	32	100.0

Source: Ministry of Finance and Planning, Statistics of Social Cooperatives, 2015

Second, by ministry granting approval for social cooperatives, the Ministry of Employment and Labor has granted the most approvals for social cooperatives with 233, followed by the Ministry of Health and welfare with 44, Ministry of Education with 40 and Ministry of Finance and Planning. This means that 162 out of 233 social cooperatives, or 70.0 percent, have gained approval from just four ministries, including the Ministry of Employment and Labor. The Ministry of Employment and Labor, however, has granted a relatively constant number of approvals - 27 in 2013 and 24 in 2014 - while the Ministry of Health and Welfare has seen a surge in the number from 13 in 2013 to 31 in 2014, which is equivalent to 238 percent year on year. This suggests that the number of social cooperatives in the health and welfare sector will continue to increase.

<Table 2-5> Social cooperatives approved by each ministry

(In counts or percentage)

Ministry (19)	2012	2013	2014	Total	
					Percentage
Ministry of Employment and Labor	-	27	24	51	21.9
Ministry of Health Welfare	-	13	31	44	18.9
Ministry of Education	-	16	24	40	17.2
Ministry of Planning and Finance	1	19	7	27	11.6
Ministry of Culture, Sports and Tourism	-	6	10	16	6.9
Ministry of Ministry of Gender Equality and Family	-	4	6	10	4.3
Others	0	23	22	45	19.3
Total	1	108	124	233	100.0

Source: Ministry of Finance and Planning, Statistics of Social Cooperatives, 2015

Accordingly, social cooperatives engaging in education services and health services are the greatest in number with 67 and 64, respectively, followed by those engaging in facilities and support services related to employment with 24 and arts, sport and leisure related services with 14. Unlike regular cooperatives, social cooperatives have very challenging objectives involving community-based welfare and job creation. In that respect, the current number of social cooperatives, though very small, can be hopeful in terms of realization of policy goals.

<Table 2-6> Social cooperatives by activity

(In counts or percentage)

Activity	2012	2013	2014	Total	
					Percentage
Education services	1	29	37	67	28.8
Healthcare and social welfare	-	22	42	64	27.5
Business facility management and support services	-	12	12	24	10.3
Arts, sport and leisure services	-	6	8	14	6.0
Agriculture, fishery and forestry	-	8	4	12	5.2
Association, group, repair and other personal service	-	10	1	11	4.7
Others	-	21	20	41	17.5
Total	1	108	124	233	100.0

Source: Ministry of Finance and Planning, Statistics of Social Cooperatives, 2015

<Table 2-7> Social cooperatives by formation type

(In counts or percentage)

Type	2012	2013	2014	Total	
					Percentage
New	1	105	116	222	95.3
Split	-	-	-	-	-
Organization change	-	3	7	10	4.3
Merger	-	-	1	1	0.4
Total	1	108	124	233	100.0

Source: Ministry of Finance and Planning, Statistics of Social Cooperatives, 2015

Third, by formation type, 222 of 233 social cooperatives formed, or 95.5 percent of the total are new, and only 4.3 percent are those created through conversion from existing organizations. This is totally different from the expectation prior to the enactment of the Framework Act on Cooperatives that de facto associations or similar that have been engaging in welfare relate activities would be converted into not-for-profit entities after the enactment. One reason is presumably that the level of past performance required for de facto organizations to convert into social cooperatives is excessively high. Another possible reason is that the benefits offered by the government for social cooperatives are relatively unattractive.

Meanwhile, newly formed social cooperatives are predominantly located in Seoul and Gyeonggi Province as they are the most populated regions in the country. Seoul has the most social cooperatives with 233, representing 33.9 percent of the total, followed by Gyeonggi with 66. Of note is that Gwangju, which has the third most general cooperatives with 436, has only 5 social cooperatives, while Gangwon Province, which has only 308 general cooperatives, has as many as 15. Presumably, this is because in Gangwon, due to its large area, cooperatives supporting general cooperatives are formed as local networks before evolving into social cooperatives, while in Gwangju multi stakeholder cooperatives, most of which are social cooperatives, have been primarily formed as general cooperatives.

<Table 2-8> Social cooperatives by region

(In counts or percentage)

Region	2012	2013	2014	Total	
					Percentage
Seoul	1	38	40	79	33.9
Gyeonggi	-	36	30	66	28.3
Gwangju	-	6	9	15	6.4
Daegu	-	6	7	13	5.6
Incheon	-	1	9	10	4.3
Daejeon	-	3	7	10	4.3
Others	-	18	22	40	17.1
Total	1	108	124	233	100.0

Source: Ministry of Finance and Planning, Statistics of Social Cooperatives, 2015

Fourth, the number of members combined at the time when the total social cooperatives of 233 were formed is 24,693. This translates into an average of 106 members per cooperative and, if those with 500 or more members are excluded, represents 28.2 per cooperative. The combined capital stock of the entire 233 social cooperative is 9.375 billion won, which can be translated into 40.23 million won per cooperative. If large cooperatives with capital stock of 300 million won are excluded, the average capital stock per cooperative is reduced to 34.65 million won. This suggests that, considering the number of members and the size of capital stock, most social cooperatives have a level of competitiveness which is comparable to that of small to medium sized enterprises.

<Table 2-9> Members of social cooperatives

(In people)

Category	2012	2013	2014	Total
Total members	6	10,338	14,349	24,693
Average members (per cooperative)	6.0	95.7	115.7	106.0
Total members (when cooperatives with 500 or more members excluded)	6	3,205	2,918	6,129
Average members (per cooperative)	6.0	31.7	25.4	28.2

Source: Ministry of Finance and Planning, Statistics of Social Cooperatives, 2015

<Table 2-10> Capital stock of social cooperatives

Category	2012	2013	2014	Total
Total capital stock (in million won)	10	4,502	4,863	9,375
Average capital stock (per cooperative, in thousand won)	10,000	41,681	39,219	40,235
Total capital stock * (cooperative with 300 M excluded)	10	3,097	4,863	7,970
Average capital stock (per cooperative, in thousand won)	10,000	29,492	39,219	34,651

Source: Ministry of Finance and Planning, Statistics of Social Cooperatives, 2015

Section 2. Operation

This section describes how social cooperatives in Korea are operating based on a survey of social and economic organizations conducted by the Korea Institute for Health and Social Affairs. With respect to the presidents of social cooperatives and their participation in operation, 48.9 percent of the 73 social cooperatives surveyed have presidents who have

worked in research institute or schools (20.5%), political parties or civic groups (19.2%), or welfare related organizations (19.2%), and 53.4 percent have presidents who have concurrent positions.

<Table 2-11> Former positions and concurrent positions held by social cooperatives' presidents

(In counts or percentage)

Former positions of presidents		Concurrent positions	
Cases	73	Cases	73
Companies	13.7	Full time	46.6
Research institute / schools	20.5	Concurrent	53.4
Political party / civic groups	19.2	Not applicable	0
Welfare organizations	19.2	No response	0
Professions	6.8		
Private businesses	6.8		
Agriculture	1.4		
Housewives	11		
No response	1.4		

Source: Lee Cheol-seon et, al, Job Creation in the Social Service Sector through as a Policy for Pro-mid Income Class III: A Model Embracing Social Service Sector - Sector 3 - Job Creation, Korea Institute for Health and Social Affairs, 2013, p220 reorganized

This suggests that the objective of the Act, which is to promote citizen-based enterprise models, is being achieved to some degree as many of the cooperatives are operated by those who have worked for fourth-sector organizations, rather than government agencies or for-profit organizations. That many of the presidents have concurrent positions, however, also suggests that the operation of the social cooperatives has considerable room for improvement.

Second, with respect to business activities of the social cooperatives, the majority of them engage in the market for their own shareholders or members (52.6%) or the market for government procurement (21.3%), supplying processed agricultural products (23.6%), day care for senior citizens (21.8%), environmental services (14.5%) or education and culture services (14.5%) to their members (41.8%), non-members in the community or disadvantaged people (21.8%). They use the proceeds earned from these activities to provide welfare services for disadvantaged children or teenagers (57.6%), senior citizens or teenagers (18.2%) or disadvantaged women (12.1%). This suggests that social cooperatives operate their business for their members or disadvantaged people in limited areas, rather than targeting regional or national consumer markets, in line with the spirit of the Act, but at the same time focus on the government procurement market as well for their sustainable operation. In other words, although they operate business largely for their members, they also engage in offering government-sponsored welfare services for the disadvantaged to maintain their sustainability. It is presumed that social cooperatives, which are required to devote at least 40 percent of their primary business to welfare related activities, earn the necessary funds through government sponsored projects and local business circles.

With respect to the method of production by social cooperatives, their main products are largely produced by means of small-sized production (40.9%) or manually (29.5%). The third most common method is outsourcing (25.0%). To minimize cost, social cooperatives use co-purchase of materials (20.5%) or co-business (19.2%) and largely focus on personal selling (71.4%). The level of IT use among the cooperatives is no more than the perfunctory use of websites and emails (46.6%). In short, while social cooperatives in Kora are similar to small-sized enterprises in terms of

company life cycle, they also have some characteristics of startups that try out unique business models as shown by their tendency to engage in co-purchase and joint operation agreements.

<Table 2-12> Primary markets, customers and products of social cooperatives and recipients of welfare

(In counts or percentage)

Primary market		Primary customer		Primary products		Recipients of welfare	
No. of cases	47	No. of cases	55	No. of cases	55	No. of cases	33
Shareholders or members	52.6	Members	41.8	Day care for senior citizens	21.8	Senior citizens/ physically handicapped	18.2
Local business circle	12.8	Government	5.5	Day care for children	0	Disadvantaged children/ teenagers	57.6
Government procurement market	21.3	Disadvantaged class	21.8	Processing of agricultural products	23.6	Disadvantaged women	12.1
Nation-wide consumers	9.4	Private companies	7.3	Environment	14.5	Multi-cultural families	6.1
Global market	0	Local citizens	25.5	Education & culture	14.5	General citizens	0
Others	3.9	Nation-wide consumers	0	Manufacturing/ sales	7.3	Entire disadvantaged classes	0
		None	0	Employment support	5.5	Others	6.1
		No response	0	Construction	0	No response	0
Others/ no response	12.7						

Source: Lee Cheol-seon et, al Job Creation in the Social Service Sector through as a Policy for Pro-mid Income Class III: A Model Embracing Social Service Sector - Sector 3 - Job Creation, Korea Institute for Health and Social Affairs, 2013, p221-224, reorganized

<Table 2-13> Method of production, method of cost minimization, method of sales and level of IT use for social cooperatives

(In counts or percentage)

Production method		Method of cost minimization		Sales method		Level of IT use	
No. of cases	44	No. of cases	73	No. of cases	42	No. of cases	73
Handcraft	29.5	Co-purchase	20.5	Personal selling	71.4	Café/blog	32.9
Small-sized production	40.9	Co-production	12.3	Sales by cooperatives in small quantity	11.9	Website/email	46.6
Mass production	4.5	Co-sales	13.7	Sales by cooperatives in large quantity	4.8	Intranet	17.8
Outsourcing	25.0	Co-training	5.5	Contact sales in large quantity	11.9	Strategy analysis system	6.8
Not applicable	0	Co-development	8.2	Not applicable	0	Not applicable	35.6
No response	4.3	Co-operation	19.2	No response	2.3		
		Co-childcare	15.1				
		Use of volunteers	2.7				
		Donation	16.4				
		Others/no response	39.7				

Source: Lee Cheol-seon et, al, Job Creation in the Social Service Sector through as a Policy for Pro-mid Income Class III: A Model Embracing Social Service Sector - Sector 3 - Job Creation, Korea Institute for Health and Social Affairs, 2013, 246-249, reorganized

Third, with respect to alliances among social cooperatives, while there are regular meetings at the national level (27.4%), it is more common to

find meetings at the regional level including those among cooperatives in the same community (27.4%). Topics regarding the operation of their organizations are discussed more commonly at the meetings (56.4%) than those regarding commercial business (5.5%), welfare (16.4%) or government policy (14.5%). Presumably, the reason is that most social cooperatives surveyed are young and, therefore, still have to focus on businesses involving their members rather than the public. The proportion of the social cooperatives that are members of any national federation of social cooperatives is 56.2 percent, which can be deemed fairly high considering that most social cooperatives are in the early stages of growth.

<Table 2-14> Alliances among social cooperatives

(In counts or percentage)

Alliance activities		Topics discussed at alliance activities		Member of a federation?	
No. of cases	73	No. of cases	55	No. of cases	73
None	13.7	Commercial business	5.5	Yes	56.2
Inter-organizational meetings in the same region	27.4	Welfare	16.4	No	43.8
Regular meetings within the region	20.5	Operation	56.4	No response	0
Regular meetings at the national level	27.4	Government policy	14.5		
No response	11.0	Others	7.3		
		All of the above	0		
		No response	0		

Source: Lee Cheol-seon et, al, Job Creation in the Social Service Sector through as a Policy for Pro-mid Income Class III: A Model Embracing Social Service Sector - Sector 3 - Job Creation, Korea Institute for Health and Social Affairs, 2013, p228-231, reorganized

Fourth, social cooperatives are more reliant on funds flowing in from outside such as member contributions (84.9%), government subsidies (26.0%) or donations (20.5%) than revenue generated by their own business. With respect to donations, central government and local governments are among the largest donors, with the same 63.2 percent. It is notable that the proportion of loans in their operating capital is low, which is presumably because they rely on monthly membership fees to finance their operations in addition to member contributions and donations. This suggests that any failure of social cooperatives to establish a sustainable business model will result in their continued reliance on donations and membership fees and, as a consequence, that future policies on social cooperatives should focus on helping them create self-sustained sources of revenue. Meanwhile, more than half (52.1%) of the social cooperatives surveyed maintain separate financial statements, which suggests that their lack of transparency in operation as demonstrated in their single-entry bookkeeping practices has now been improved to some degree. Accordingly, the proportion of cooperatives where their employees prepare accounting reports for themselves is as high as 51.4 percent.

<Table 2-14> Financial management practices among social cooperatives
(In counts or percentage)

Source of operating capital		Donor		Accounting level		Method of preparing accounting reports	
No. of cases	73	No. of cases	19	No. of cases	73	No. of cases	72
Contributions	84.9	Central government	63.2	No record keeping	1.4	Employee	51.4
Membership fee	11.0	Provincial government	63.2	Single-entry bookkeeping	23.3	Tax accountant	44.4

Source of operating capital		Donor		Accounting level		Method of preparing accounting reports	
Financial loan	11.0	Local government	36.8	Separate financial statement	52.1	Support organization	4.2
Donation	20.5	Others	0	Consolidated financial statement	11	Others/no response	0
Sales revenues	28.8	No response	15.8	Management accounting	11		
Balance carried forward	12.3			Others/no response	1.4		
Government subsidy	26.0						
Others	17.8						

Source: Lee Cheol-seon et, al, Job Creation in the Social Service Sector through as a Policy for Pro-mid Income Class III: A Model Embracing Social Service Sector - Sector 3 - Job Creation, Korea Institute for Health and Social Affairs, 2013, p233-241, reorganized

Fifth, with respect to their human resources, the largest source is by open recruitment (64.9%), followed by industry-academia cooperation/referrals (27.2%) and recruitment of their members (22.9%). The average number of employees per cooperative is 13.33, and the number of regular workers and non-regular workers per cooperative are 5.74 and 5.88, respectively. What is notable is that there are approximately 4 times as many female employees as male employees (10.70 vs. 2.53), and those in their 40s or older take up 66.5 percent. This is presumably because the primary activities of the social cooperatives are about welfare or education, areas where traditionally women have had a stronger presence and, furthermore, that middle aged or older women choose these organizations after taking a career break. This suggests that social cooperatives can play

a pivotal role in offering jobs for such women and those in their 40s or older, a social group which is rapidly posing a national policy challenge.

<Table 2-15> Human resources of social cooperatives

(In units, people or percent)

Method	Method of recruitment	Category	Np. of employees	Male	Female	Age group	Proportion
No. of cases	70	Total (people)	13.33	2.53	10.79	No. of cases	73
Recruiting members as employees	22.9	Executives	1.79	0.7	1.1	29 or younger	8.8
Recruiting volunteers as employees	5.7	Employees	11.41	1.73	9.68	30-39	24.7
Industry-academia cooperation/ referrals	27.2	Volunteers	0.12	0.11	0.01	40-54	41.3
Open recruitment	64.3	Regular employees	5.74	1.29	4.82	55 or older	25.2
Through headhunters	1.4	Non-regular employees	5.88	0.44	4.86		
No regular employees	14.3						

Source: Lee Cheol-seon et, al, Job Creation in the Social Service Sector through as a Policy for Pro-mid Income Class III: del Embracing Social Service Sector - Sector 3 - Job Creation, Korea Institute for Health and Social Affairs, 2013, p256-259, reorganized

With respect to the quality of employment, the average monthly salary paid to an executive of a social cooperative is 1.57 million won while that paid to a non-executive employee is about 1.49 million won. The difference between salaries for regular and non-regular employees is 340 thousand won, with the former paid more than the latter. With respect to the four statutory social insurances for the employees, 91 percent of the

total are beneficiaries, with 95 percent of non-executive members being beneficiaries while only 61 percent of executives being beneficiaries. With respect to benefits payable besides salary, 60.2 percent of the entire social cooperatives surveyed pay them. The most commonly paid benefits is overtime allowance, which is required by the law, followed by meal (52.3%), transportation (34.1%), and license (22.7%) allowance. The proportion of those offering training for their employees for capacity building is fairly high at 74 percent, with 94.5 percent of such training being about occupational development.

<Table 2-16> Salary, ratio of beneficiaries of 4 social insurance, allowance types and training offered in social cooperatives

(In units, people or percent)

Average salary (in million won)		Ratio of beneficiaries of 4 social insurances	Allowance types		Trainings offered	
No. of cases	73	73	No. of cases	44	No. of cases	54
Total	152	91.0	Transportation	34.1	License	1.9
Executives (excluding non-standing)	157	61.0	Meal	52.3	Language	1.9
Non-executive employees	149	95.0	Overtime	70.5	Job	94.5
Volunteers	0	0	License	22.7	Liberal arts	0
Regular workers	155	94.0	Years of service	50	No response	1.9
Non-regular workers	121	95.0	Better treatment	6.8		
			Bonus	9.1		
			Others	0		

Source: Lee Cheol-seon et, al, Job Creation in the Social Service Sector through as a Policy for Pro-mid Income Class III: A Model Embracing Social Service Sector - Sector 3 - Job Creation, Korea Institute for Health and Social Affairs, p262-267, reorganized

Section 3. Notable Cases of Social Cooperatives

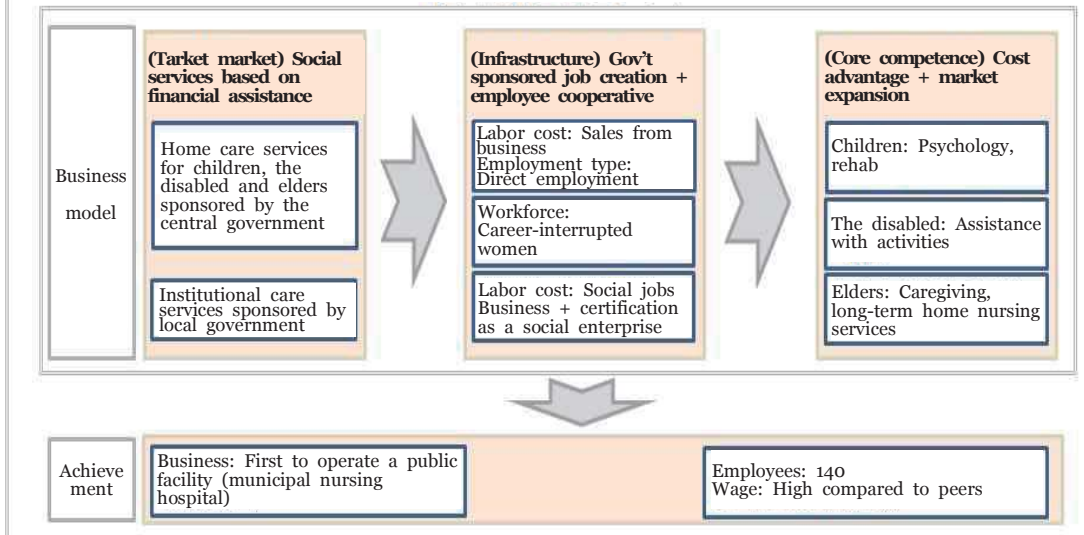
Previous sections showed what the social cooperatives look like when they are first formed under the Framework Act on Cooperatives and how they operate over time using relevant statistical data. To assess the growth potential of social cooperatives in Korea, it is necessary to review a few cases of how they are formed and grow over time. The first case is where cooperatives are formed with the support of the government and subsequently become fully independent. In Korea, most organizations engaging in government sponsored projects are not-for-profit, but there also are quite a few commercial organizations. This often leads to lower service quality offered by the organizations or poor working conditions for those working for them. In Korea, social services financially supported by the government are not freely available at prices determined by supply and demand at the market, but directly delivered to intended beneficiaries at the prices fixed by the government. For this reason, commercial entities participating in government sponsored social services are predisposed to pay less attention to the working environment for their employees, leading many of them, especially skilled ones, to fail to receive the treatment they deserve. The Korean government has implemented a series of policies to help organizations providing state-funded social services to achieve a certain level of economies of scale so as to reduce their operating cost and make them less financially reliant on the government, only to have seen little notable effect so far. In this regard, there is an organization that started out as a participant in a government-sponsored job creation initiative and then became a social cooperative to grow in the scale of its activity: Dounuri.

Dounuri was originally formed as a self-sufficient enterprise operating on government subsidies to provide jobs for caregivers, the majority of whom are women who have taken a career break and are now employed under public assistance. Initially, Dounuri focused on providing social services for children in the community, such as counseling and rehab for the physically handicapped. Over time it expanded its service areas to be a professional caregiver serving senior citizens, the handicapped, and newborn babies and their mothers and a service provider under the long term care insurance for senior citizens as it is now. Dounuri was certified by the government as a social enterprise before the Framework Act on Cooperatives, but continued to operate as a de facto organization because its resources including capital stock were not enough to be approved as a not-for-profit entity. With the enactment of the Framework Act on cooperatives, it was approved as a social cooperative, a kind of not-for-profit entity, and became the first cooperative to run a municipal day care center for senior citizens in Seoul, which had only been permitted for social welfare foundations or medical corporations. In short, by entering the institutional care market using its expertise in home care and building on that success to convert into a not-for-profit entity thanks to the Framework Act on Cooperatives, Dounuri has been able to innovate and transform itself into a general care provider operating in both the home care and institutional care market.

Part 2 Social Cooperative

- Dounuri that combines home care and institutional care to provide comprehensive service**
- (Background) Formed as a self-sufficient enterprise under the support of the government and evolved into a social enterprise and then a social cooperative
 - (Source of capability) Good management-labor relationship and high quality of employment established while it is a cooperative
 - (Core competence) Securing of stable market and minimum labor cost before expansion

<Social cooperative Dounuri>

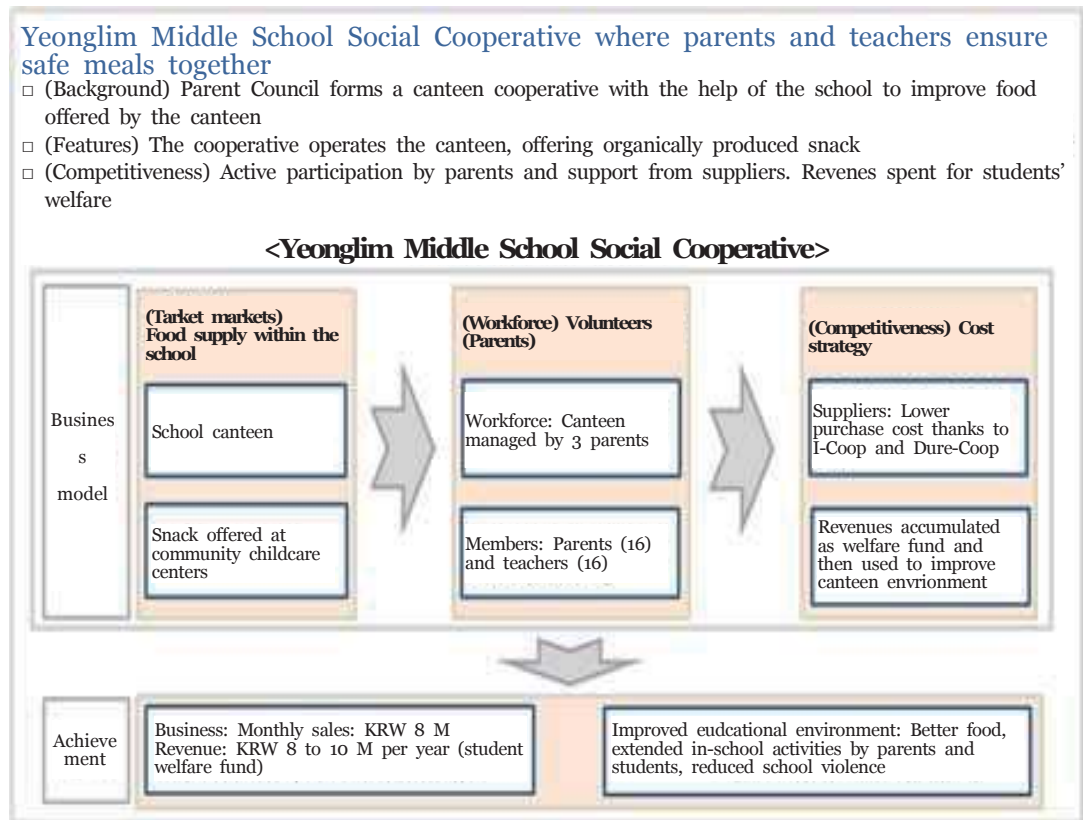


Source: Lee Cheol-seon et, al, Potential for Cooperatives to Participate in Social Services and Strategy, Korea Institute for Health and Social Affairs, 2014, p93

[Figure 2-1] Business model of Dounuri and its performance

In addition, the advent of Dounuri has made a meaningful contribution to raising the quality of employment for social cooperatives pursued by the Korean government. Since social cooperatives may not distribute their profits generated from business operation, Dounuri sets aside part of its profits as legal reserve and earned proceeds for new businesses and spends the rest to provide better working conditions for its employees who are also its members. Consequently, the employees of Dounuri get paid an hourly salary that is around ten percent higher than their counterparts in other organizations.

The second case is where social cooperatives provide community welfare services voluntarily based on their own social capital with no financial support from the government. Among them is Yeonglim Middle School Social Cooperative that consists of parents and teachers and runs a canteen within the school. The motive behind the formation of the cooperative is that they found the snack purchased from the then canteen for their meeting too expensive for their low quality. At that time, the selection of the school canteen was on a maximum bidding basis, which gave the winner and motive to supply low quality food such as pre-cooked products to gain fast return on its initial investment. Determined to ensure that good food is supplied to their children at school, parents took over the operation of the school canteen on the condition that all revenues from it will be spent for the welfare of the students. The consumer cooperative formed by the parents procures good food products at low prices, with the canteen itself being staffed by volunteers. Revenues generated from the operation of the canteen are used to improve the environment of the school dining room and provide food for children at day care centers in the community. These efforts have also brought about a positive side effect: a reduction in school violence which frequently occurs around the canteen. In short, Yeonglim Middle School Social Cooperative is a good example of how a voluntary self-sufficient social cooperative can be formed and operated sustainably: it raised capital and combined it with social capital - volunteers - to run the school canteen and now uses revenues from the operation of the canteen to provide good food for not only the school students but also disadvantaged children in the community.



Source: Lee Cheol-seon et al., “Can Cooperatives Participate in Social Service Sector?” Korea Institute for Health and Social Affairs, 2014, p98

[Figure 2-2] Business model of Yeonglim Middle School Social Cooperative and its performance

Section 4. Competitiveness of Social Cooperatives

To determine how competitive social cooperatives in Korea formed under the Framework Act on Cooperatives, it is necessary to compare them with social enterprises with similar objectives, but formed and operating under the supervision of the Ministry of Employment and Labor. Social enterprises are business entities that pursue social goals such as, for example, achieving a higher quality of life for the community by providing social services or jobs for disadvantaged people

or making social contributions to the community while at the same time engaging in business activities such as the production and sales of goods and services. In that respect, they are similar to social cooperatives that seek self-sufficient welfare and job creation in the community, but different in that, as mentioned earlier, they require approval from the government to be formed and, once they receive approval, they may receive a wide range of direct financial support from the government in connection with their operation, including cost coverage for facilities, social insurance premium, labor and consulting, tax reduction, and preferred purchase from them by public organizations. Comparison between social cooperatives receiving indirect financial support and social enterprises receiving direct financial support can shed light on how sustainable social cooperatives in Korea can be in the future. The first parameter is alliance activities. Social cooperatives are 21.5 percent less likely to be members of federations of their kind than social enterprises. Sales revenue as a proportion of operating funds is 28.8 percent for social cooperatives, whereas it is 77.6% for social enterprises. The average capital stock per social enterprise is 93.51 million won, which is almost twice as much as that for a social cooperative. In addition, with an average of 29.8 per organization, social enterprises have more employees than social cooperatives. This is partly because social enterprises first emerged in Korea in 2007 and have enjoyed minor, but persistent support from the government in connection with the sales such as preferred treatment in public procurement while social cooperatives have existed for less than 2 years. Still, given that social cooperatives have 43.5 percent of their revenues coming from welfare related business and do not show a significant gap with social enterprises in terms of salaries for

employees and the usage of the four social insurance programs, it can be argued that social cooperatives will be able to achieve the competitiveness necessary for their survival to some degree. Again, social enterprises operate with state support to cover labor cost, facility cost, sales channels and management consulting, while social cooperatives receive no assistance from external sources except for designated charity organizations.

<Table 2-7> Competitiveness of social cooperatives against social enterprises

Parameters		Social cooperatives	Social enterprises
Alliance	Proportion of federation members	56.2%	77.7%
Operating fund	Relative to sales revenues	28.8%	77.6%
Financial conditions	Average capital stock	40.24 million won	93.51 million won
Sales	Share of welfare activities to total sales	42.5%	28.6%
Members	Average no. of employees	13.3	29.8
	Female employees	10.8	19.2
	Average monthly salary per employee	1.49 million won	1.75 million won
	Usage of 4 major social insurance by employees	95.0%	94.0%
	Proportion of organizations offering training for members	74.0%	90.4%

Source: Lee Cheol-seon et, al, Job Creation in the Social Service Sector through as a Policy for Pro-mid Income Class III: A Model Embracing Social Service Sector - Sector 3 - Job Creation, Korea Institute for Health and Social Affairs, 2013, p213-274, reorganized

Chapter 3. Prospects for Social Cooperatives

Section 1. Policy implications from the introduction of social cooperatives

The previous sections discussed the concept of social cooperatives as introduced by the Korean government in order to help meet growing demands placed on social welfare provision, while also creating jobs. The above sections have also examined how they are organized and how they operate. The following implications can be drawn in light of the policies on social cooperatives implemented by the Korean government compared to its other policies regarding self-sufficient enterprises, social enterprises and other not-for-profit entities as supplementary providers of employment and welfare.

First, policies on social cooperatives pre-emptively meet the challenge of addressing the growing employment and public welfare needs in the sustainable way to merit a viable long-term solution for Korea. Rising levels of demands placed on welfare resulting from the loss of jobs following weakened competitiveness of Korean products in the global market coupled with low-birth rate and aging population are likely to contribute to the Korean economy becoming stuck in a vicious spiral of low income and high expenditure. This spiral, though it might be temporarily mitigated through income redistribution by means of direct financial aid such as public assistance, will eventually lead to a point where the government can no longer sustain the economy. Policies for social cooperatives, therefore, can contribute to creating and maintaining a virtuous circle where regional voluntary welfare systems are created and

result in a reduction in government spending on welfare and creation of more jobs.

Second, social cooperative policies are differentiated from others in that they focus on changing the link between employment and welfare using a new business model involving social cooperatives rather than directly spending public money based on public welfare and employment needs. In its welfare and employment policies, the Korean government has focused on functioning as a supplier to meet public needs. Despite the notable effects it has achieved from direct financial aid, there remains the perception that the government's welfare and employment policies have yet to be fully appreciated by the public. For example, in terms of employment, when the government offered jobs in public utilities and paid salary directly to those employed, the response was to choose to stay with the jobs rather than trying to get on their feet and find jobs in private companies. Cooperative policies, in contrast, use a business model designed for the public good involving social cooperatives that can serve as media between supply and demand in order to provide the necessary foundation for disadvantaged people to work with social cooperatives in the local community and get on their own feet.

Third, social cooperative policies in Korea concentrate on indirect support without direct financial aid. This means that the policies encourage cooperatives to freely operate their own business instead of leading them to do what the government wants them to. Accordingly, appropriate policy measures include preferred treatment in the public procurement market, loan arrangements for their operations, and education and training to help them develop human resources. These policy directions are designed to prevent negative side effects such as the

bankruptcy of would-be social cooperatives when financial support by the government ends and lack of efforts by the cooperatives to improve service quality when existing not-for-profit entities are assigned government-sponsored projects.

Fourth, the Korean government has taken a top-down approach in which cooperatives are promoted through legislation sought by the central government. This approach is different from the approach taken by European countries such as Italy and France, where voluntary civil social cooperatives have been legalized after they had the ability to provide welfare and jobs for the community. This policy stance, of course, is based on the perception that social cooperatives in Korea, unlike their counterparts in Europe, lack the ability to survive on their own without relying on the government. In fact, it can be said that the welfare and employment policy of Korea is closer to that of the U.S. and Europe. That is, Korea has focused on helping to nurture enterprises seeking business opportunities to create jobs while limiting its welfare services to the lowest level possible, only aiding disadvantaged groups such as the physically handicapped. It has also chosen an approach of entrusting qualified, private non-for-profit entities with the delivery of welfare services instead of doing the job for itself. Now that the market economy is not as strong as it used to be in creating jobs and the welfare services offered by not-for-profit organizations are insufficient to meet demand, the government's policies for social cooperative are designed to help organizations achieve economies of scale and stimulate competition with for-profit organizations to assist them in becoming self-sufficient.

Section 2. Limitations and prospect

Despite all encouraging aspects, social cooperatives in Korea still have a long way to go before they become fully capable of creating jobs and meeting welfare needs. One reason is that social cooperatives are small in number, numbering 230 or just 4 percent of all cooperatives. Another reason is that though 56 of the social cooperatives are members of a federation, co-work with other social cooperatives, much less general cooperatives, is highly insufficient. Consequently, for the promotion of social cooperatives, there is a movement to adopt the policies described below. The first is the conversion of multi stakeholder cooperatives into social cooperatives. It is estimated that as of the end of 2014, about 13.6 percent of the 5,985 general cooperatives registered in Korea are multi stakeholder cooperatives. Multi stakeholder cooperatives typically have the realization of social objectives as one of their primary business activities as they draw membership from two or more constituents, be they producers, consumers, workers or simply community supporters. In fact, the 233 social cooperatives approved as such are all multi stakeholder cooperatives. To help boost the number of social cooperatives, policies are needed to encourage general multi-stakeholder cooperatives to convert them into social cooperatives based on their services and business performance. This implies that the assessment process for the approval of conversion into social cooperatives conducted by competent authorities need to be more flexible.

The second movement is to widen the scope of social services eligible for the government's financial support so that social cooperatives can make investment in not-for-profit activities through for-profit ones. Unlike

social enterprises in Korea that largely engage in manufacturing, social cooperatives approved under the Framework Act on Cooperatives mostly focus on services such as social welfare, education and business support. For many of the social services eligible for financial support from the government such as school canteen, however, the operators are selected on a maximum-bidding basis. This puts social cooperatives engaging in for-profit activities at a disadvantage relative to for-profit organizations in the selection process. To address this disadvantage, Seoul has amended the ordinance applicable for its metropolitan office of education to allow organizations pursuing social objectives to be contractors of school-ordered projects without competition, inviting social cooperatives to enter the school canteen market.

The third movement is to adopt a framework act on the social economy, which can provide a wider range of support for a higher level of alliance among social cooperatives. Organizations operating in the social economy refer to organizations with both social elements and economic elements, and there are many such organizations in Korea, including cooperatives under the Framework Act on Cooperatives and social enterprises, community businesses and self-sufficiency businesses nurtured under government leadership. To help boost alliance among these social economy organizations, both the ruling party and the opposition party are now preparing to put forward acts designed to bolster support for the social economy. Key supportive measures expected to be contained in the bills include fund-raising and establishment of a devoted body by the government, public-private partnership in policy implementation, and if alliances are formed among social economy organizations, preferred purchase from them by public organizations, subsidy for building facilities and tax reduction.

Chapter 4. Legal Framework for Social Cooperatives

Section 1. Framework Act on Cooperatives

1. Highlights

Structure of the Framework Act on Cooperatives	
<u>Chapter 1 GENERAL PROVISIONS</u>	Section 3 Organization
Article 1 (Purpose)	Article 1 (General Assembly)
Article 2 (Definitions)	Article 78 (Executives)
Article 3 (Naming)	Article 79 (Provisions Applicable <i>Mutatis Mutandis</i>)
Article 4 (Legal Status and Domicile)	
Article 5 (Purpose of Formation)	SECTION 4 Businesses
Article 6 (Basic Principles)	Article 80 (Business Activities)
Article 7 (Responsibilities of Cooperatives and Federations of Cooperatives)	Article 80.2 (Mutual Aid)
Article 8 (Cooperation with other Cooperatives or Federations)	Article 81 (Use of Businesses)
Article 9 (Prohibition of Involvement in Election of Public Officials)	SECTION 5 Accounting
Article 10 (Cooperation by Central Government and Public Organizations)	Article 82 (Provisions Applicable <i>Mutatis Mutandis</i>)
Article 10.2 (Management Support)	SECTION 6 Merger, Split, Dissolution, and Liquidation
Article 10.3 (Support for Education and Training)	Article 83 (Provisions Applicable <i>Mutatis Mutandis</i>)
Article 11 (Policies on Cooperatives)	
Article 11.2 (Policy Review Committee for Cooperatives)	Section 7 Registration
Article 12 (Cooperatives Day)	Article 84 (Provisions Applicable <i>Mutatis Mutandis</i>)
Article 13 (Relationship to other Acts)	
Article 14 (Application <i>Mutatis Mutandis</i> of other Acts)	<u>Chapter 4 Social Cooperatives</u>
	SECTION 1 Formation
<u>CHAPTER 2 COOPERATIVES</u>	Article 85 (Authorization for Formation, etc.)
SECTION 1 Formation	Article 86 (Articles of Incorporation)
Article 15 (Reporting of Formation, etc.)	Article 87 (Handover of Formation-related

Structure of the Framework Act on Cooperatives

Article 15.2 (Issuance of Certificate of Reporting)	Duties and Payment of Contributions)
Article 16 (Articles of Association)	Article 88 (Provisions Applicable <i>Mutatis Mutandis</i>)
Article 17 (Bylaws or Regulations)	
Article 18 (Handover of Formation-related Duties and Payment of Contributions)	SECTION 2 Members
Article 19 (Formation of Cooperatives)	Article 89 (Right to Claim Refund of Contributions and Suspension of Refund)
SECTION 2 Members	Article 90 (Coverage of Deficits by Ex-members)
Article 20 (Qualification for Membership)	Article 91 (Provisions Applicable <i>Mutatis Mutandis</i>)
Article 21 (Admission)	
Article 22 (Contribution and Responsibilities)	SECTION 3 Organization
Article 23 (Voting Right and Right of Franchise)	Article 92 (Provisions Applicable <i>Mutatis Mutandis</i>)
Article 24 (Withdrawals)	
Article 25 (Expulsion)	SECTION 4 Businesses
Article 26 (Right to Claim Refund of Share and Suspension of Refund)	Article 93 (Business Activities)
Article 27 (Coverage of Deficits by Ex-members)	Article 94 (Small Loans for Members and Mutual Aid Programs)
SECTION 3 Organization	Article 95 (Use of Businesses)
Article 28 (General Assembly)	Article 95.2 (Preferred Purchase by Public Organizations)
Article 29 (Matters subject to Resolutions by General Assembly)	SECTION 5 Accounting
Article 30 (Minutes of General Assembly)	Article 96 (Transparency of Operation)
Article 31 (General Assembly of Representatives)	Article 96.2 (Disclosure of Operation)
Article 32 (Board of Directors)	Article 97 (Legal Reserves and Voluntary Reserves)
Article 33 (Matters subject to Resolution by Board of Directors)	Article 98 (Compensation for Losses and Distribution of Surplus)
Article 34 (Executives)	Article 99 (Exemption from Charges)
Article 35 (Term of Office of Executives, etc.)	Article 100 (Provisions Applicable <i>Mutatis Mutandis</i>)
Article 36 (Disqualification of Executives)	
Article 37 (Restrictions on Election Campaign)	SECTION 6 Merger, Split, Dissolution, and Liquidation
Article 38 (Organization and Operation of Election Committee)	

Structure of the Framework Act on Cooperatives

Article 39 (Duties and Responsibilities of Executives)	Article 101 (Merger and Split)
Article 40 (Dismissal of Executives)	Article 102 (Dissolution)
Article 41 (Duties of President and Directors)	Article 103 (Liquidators)
Article 42 (Duties of Auditors)	Article 104 (Disposal of Residual Property)
Article 43 (Auditors' Authority to Represent)	Article 105 (Application <i>Mutatis Mutandis</i> of the Civil Act, etc.)
Article 44 (No Holding of Concurrent Positions by Executives or Employees)	
	SECTION 6.2 Organizational Change
	Article 105.2 (Organizational Change into Cooperatives, Non-profit Corporations Aggregate, Legal Entities, etc.)
	Article 105.3 (Provisions Applicable <i>Mutatis Mutandis</i>)
SECTION 4 Businesses	
Article 45 (Business Activities)	
Article 46 (Use of Businesses)	
	SECTION 7 Registration
SECTION 5 Accounting	
Article 47 (Fiscal Year, etc.)	Article 106 (Registration of Formation)
Article 48 (Business Plans and Budget)	Article 107 (Registration of Merger)
Article 49 (Transparency in Operation)	Article 108 (Registration of Dissolution)
Article 49.2 (Disclosure of Operation)	Article 108.2 (Registration of Organizational Change)
Article 50 (Legal Reserves and Voluntary Reserves)	Article 109 (Start Date of Period for Registration)
Article 51 (Compensation for Losses and Distribution of Surplus)	Article 110 (Provisions Applicable <i>Mutatis Mutandis</i>)
Article 52 (Approval of Book closing Report)	
Article 53 Article 53 (Resolutions on Reduction of Contributions)	SECTION 8 Supervision
Article 54 (Creditors' Objection to Reduction in Contributions)	Article 111 (Supervision)
Article 55 (No Acquiring Equity)	Article 112 (Revocation of Authorization for Formation)
	Article 113 (Hearing)
SECTION 6 Merger, Split, Dissolution, and Liquidation	<u>CHAPTER 5 FEDERATION OF SOCIAL COOPERATIVES</u>
Article 56 (Merger and Split)	
Article 57 (Dissolution)	Article 114 (Permit for Formation, etc.)
Article 58 (Liquidators)	Article 115 (Provisions Applicable <i>Mutatis Mutandis</i>)
Article 59 (Disposal of Remaining Property)	
Article 60 (Application <i>Mutatis Mutandis</i> of the Civil Act, etc.)	

Structure of the Framework Act on Cooperatives

SECTION 6.2 Organizational Change
Article 60.2 (Organizational Change for
Legal Entities, etc.)

SECTION 7 Registration
Article 61 (Registration of Formation)
Article 62 (Registration of Opening of Offices)
Article 63 (Registration of Relocation)
Article 64 (Registration of Change)
Article 65 (Registration of Merger)
Article 66 (Registration of Dissolution)
Article 67 (Registration of Liquidator)
Article 68 (Registration of Closing of
Liquidation)
Article 68.2 (Registration of Organizational
Change)
Article 69 (Registers)
Article 70 (Application *Mutatis Mutandis*
of the Non-Contentious Case
Litigation Procedure Act, etc.)

**CHAPTER 3 FEDERATION OF
COOPERATIVES**

SECTION 1 Formation
Article 71 (Reporting of Formation, etc.)
Article 71.2 (Issuance of Certificate of
Reporting, etc.)
Article 72 (Provisions Applicable *Mutatis
Mutandis*)

SECTION 2 Member Cooperatives
Article 73 (Member Qualification)
Article 74 (Withdrawals)
Article 75 (Voting Right and Right of
Franchise)
Article 76 (Provisions Applicable *Mutatis
Mutandis*)

**CHAPTER 6 SUPPLEMENTARY
PROVISIONS**

Article 116 (Delegation of Authority)

CHAPTER 7 PENAL PROVISIONS

Article 117 (Penal Provisions)
Article 118 (Joint Penal Provisions)
Article 119 (Fines for Negligence)

ADDENDA

Article 1 (Effective Dates)
Article 2 (Applicability - Issuance of
Certificates of Reporting)
Article 3 (Applicability - Amount per share)
Article 4 (Applicability - Organization and
Operation of General Assembly
of Representatives)
Article 5 (Applicability - Restrictions on
Participation in Election
Campaigns)
Article 6 (Applicability - Revocation of
Permit for Formation Resulting
from Failure to Remedy)
Article 7 (Transitional Measures on the
Amount per Share)
Article 8 (Transitional Measures on the
Organization and Operation of
Representatives General Assembly)
Article 9 (Transitional Measures on
Incompetent Persons, etc.)
Article 10 (Transitional Measures on Banning
of Holding Concurrent Positions)
Article 11 (Revocation of Permit for
Formation Resulting from
Failure to Start Business, etc.)

(1) General Provisions

1) Purpose

The Framework Act on Cooperatives (the “Act”) was enacted on January 26, 2012 and came into effect on December 1, 2012. The purpose of this Act is to facilitate independent, self-supportive, and autonomous activities of cooperatives in order to contribute to social integration and balanced development of the national economy by setting out provisions regarding the formation and operation of cooperatives (Article 1).

2) Definitions

A social cooperative under the Act refers to a not-for-profit cooperative with the objective of, among other things, engaging in activities to enhance the benefit and welfare for the community, providing social services for disadvantaged people and creating jobs in addition to jointly purchasing, producing, selling and/or providing goods or services (Articles 2.1, 3 and 4.2 of the Act). A federation of social cooperatives means an association of social cooperatives formed to promote common interest of the member social cooperatives (Article 2.4).

3) Naming

Each social cooperative must include the words “social cooperative” in its name and each federation of social cooperative must include the words “federation of social cooperatives,” respectively (Article 3.1 of the Act).

Social cooperatives and the federation of social cooperatives (collectively “Social Cooperatives”) shall not use any other name for themselves that may identical with other cooperatives’ or social cooperatives’ or cause

any confusion (Article 3.2 of the Act, Article 2.1 of the Act's Enforcement Decree [the "Decree"]).

No organization other than a Social Cooperative established under the Act shall use the words "social cooperative" or "federation of social cooperatives" or any other similar words in its name (Article 3.3 of the Act). Any social cooperative banned from using the foregoing words may appeal to the Minister of Planning and Finance within 30 days from the notice of such denial (Article 2.4 of the Decree).

No federation of social cooperatives shall have any name incorporating the name of the nation, a special city, a metropolitan city, a special self-governing city, a province or a special self-governing province (collectively, the "City or Province") or cause the public to believe or have an impression that the federation somehow represents the nation, City or Province (Article 3.4 of the Act). Any Social Cooperative banned from using the foregoing name may appeal to the Minister of Planning and Finance, who shall notify the Social Cooperative of its decision with 30 days from the receipt of the appeal (Article 3.5 of the Act) Notwithstanding the foregoing, any federation of cooperatives or federation of social cooperatives that has made such appeal may file for an administrative appeal under the Administrative Appeals Act or administrative litigation under the Administrative Litigation Act(Article 3.6 of the Act).

4) Basic principles

Social Cooperatives shall make their best efforts to serve their members in carrying out their business activities and be voluntarily formed, jointly owned and democratically operated (Article 6 of the Act)

Social Cooperatives shall actively perform activities for the benefit of their members, including education, training and information sharing (Article 7 of the Act) and make best efforts for cooperation with other cooperatives (Article 8). In addition, they shall not engage in election campaigns for public officials (Article 9 of the Act). The Act, in turn, urges the nation and public organizations to cooperate with Social Cooperatives (Article 10). The Minister of Planning and Finance, in particular, may provide assistance for their operation (Article 11) and education and training (Article 12).

5) Policy related to cooperatives

The Minister of Planning and Finance shall coordinate policies on cooperatives and set up a master plan for promoting self-regulated activities of cooperatives (“Master Plan) every 3 years (Article 11.1 of the Act). The Master Plan shall contain: i) directions for promoting Social Cooperatives, ii) how to improve regulatory framework for promoting Social Cooperatives, iii) strategy and foundation for the growth of Social Cooperatives, iv) coordination among authorities concerned regarding cooperation among Social Cooperatives and policies on cooperatives; v) results from survey of cooperatives and possible improvements; and vi) other necessary measures for promoting cooperatives (Article 11.2 of the Act).

The Minister of Planning and Finance shall also conduct a survey of cooperatives to gain knowledge of, among other things, their activities, finance, members, and operation, make the findings from it publicly available and report to the competent standing committee of the National Assembly (Article 11.6 of the Act).

6) Relationship with other laws and mutatis mutandis application

The Act shall not apply to cooperatives established or to be established under other acts (Article 13.1 of the Act). Any law to be enacted or amended in connection with the formation or promotion of cooperatives shall fully conform to the purpose and principles of the Act (Article 13.2). The Monopoly Regulation and Fair Trade Act shall not apply to the activities of Social Cooperatives unless any of them unreasonably restricts fair competition in certain areas (Article 13.3 of the Act).

The Insurance Business Act shall not apply to mutual aids offered by a federation of social cooperatives (Article 13.4 of the Act).

Anything regarding Social Cooperatives not covered by the Act shall be governed by the provisions the Civil Act concerning legal entities mutatis mutandis, where incorporated associations in the Civil Act shall be replaced with Social Cooperatives, employees with members, and permit with approval (Article 13.5)

(2) Social cooperatives

1) Formation

① Approval for formation

Formation of a social cooperative requires at least 5 qualified members as promoters who should draw up the articles of incorporation and make a resolution at the inauguration meeting before gaining approval from the Minister of Planning and Finance (Article 85.1 of the Act). The resolution at the inauguration meeting may only be made when the majority of those who have submitted a consent to formation to the promoters are

present prior to the opening of the meeting and two thirds of those present vote affirmatively (Article 85.2).

Upon receipt of application for approval in connection with a social cooperative, the Minister of Planning and Finance shall grant approval within 60 days from the date of application unless i) any of the documents required is missing, ii) the procedure of formation, the articles of incorporation or anything in the business plan is in violation of the relevant law, or iii) any other requirements for the formation is not met (Article 85.3). Notwithstanding the foregoing, the Minister may extend the period within which the approval should be granted if required by anything unavoidable (Article 85.3 of the Act).

Structure of the Enforcement Decree
of the Framework Act on Cooperatives

<u>CHAPTER I. GENERAL PROVISIONS</u>	
Article 1 (Purpose)	Article 20 (Holding of Concurrent Positions by Social Cooperatives' Executives or Employees)
Article 2 (Naming)	Article 21 (Criteria for and Method of Determining Primary Businesses)
Article 3 (Review Committee for Cooperatives Policies)	Article 22 (Small Loans to Members)
Article 4 (City or Province Coordination Committee on Cooperatives)	Article 23 (Mutual Aids for Members)
Article 5 (Relationship to other Acts)	Article 24 (Use of Business by Non-Members of a Social Cooperative)
	Article 25 (Use of Business by Non-Members of a Social Cooperative Engaging in Healthcare or Medical Activities)
	Article 26 (Notice of Purchase Plan and Actual Purchase)
	Article 27 (Disclosure of Social Cooperatives' Operation)
	Article 28 (Merger of Social Cooperatives)
	Article 29 (Retained Earnings)
	Article 30 (Approval of Organizational Change)
<u>CHAPTER II. COOPERATIVES</u>	
Article 6 (Procedures for Formation of Cooperatives)	
Article 7 (Reporting of Formation and Change of Cooperatives)	
Article 8 (Issuance of Certificates of Reporting)	
Article 9 (General Assembly of Representatives)	

Structure of the Enforcement Decree
of the Framework Act on Cooperatives

Article 10 (Holding of Concurrent Positions by Cooperative Executives or Employees)	Article 31 (Public Notification of Revocation of Approval)
Article 11 (Use of Business by Non-Members of a Cooperative)	<u>CHAPTER IV. SUPPLEMENTARY PROVISIONS</u>
Article 12 (Disclosure of Cooperatives' Operation)	Article 32 (Delegation of Authority)
Article 13 (Merger of Cooperatives)	Article 33 (Processing of Unique Identification)
Article 14 (Retained Earnings)	Article 34 (Review of Regulations)
Article 15 (Reporting of Organizational Change)	Article 35 (Criteria for Penalty Imposition)
Article 16 (Mutual Aids by Federations of Cooperatives)	<u>ADDENDA</u>
<u>CHAPTER III. SOCIAL COOPERATIVES</u>	Article 1 (Effective Date)
Article 17 (Procedures for Formation of Social Cooperatives)	Article 2 (Term for the Review Committee for Cooperative Policies)
Article 18 (Application for Formation of Social Cooperatives)	Article 3 (Transitional Measures Concerning Formation Procedures for Cooperatives or Social Cooperatives)
Article 19 (Requirements for Formation of Social Cooperatives)	Article 4 (Relationship to other Acts)

Anyone who intends to apply for approval of a formation of a social cooperative shall hold an inauguration meeting after making a notice of i) the time and venue for the inauguration meeting, ii) member qualification, and iii) the agenda to be discussed at the meeting including articles of incorporation, business plan, budget, election of executives, and cost of formation (Article 17.2 of the Decree) publicly available for at least 7 days(Article 17.1 of the Decree).

Along with the application, the applicant shall also deliver to the Ministry of Planning and Finance i) the articles of incorporation, ii)

notice of inauguration meeting, iii) minutes of the inauguration meeting, iv) a list of executives in the form given in Appendix 3 (including their bio data and photos) (v) business plan for the current year in the form given in Appendix 19, (vi) expected revenues and expenses for the current year in the form given in Appendix 29, (vii) a document showing the amount per share or the number of shares to be subscribed to by each member, viii) a list of the promoters and those who submitted a consent to the formation to any of the promoters prior to the opening of the inauguration meeting under Articles 85.2 and 114.2 of the Act in the form given in Appendix 6, ix) minutes of the meeting where the resolution on the merger or the split that creates the social cooperative is made (provided that the merger or the split is under Article 101.1 or 115.3 of the Act and that the minutes contains the rights and obligations to be transferred to the cooperative to be formed as a result of the merger or the split), and x) documents demonstrating that the primary business of the cooperative meets the requirements for its formation (Article 18.1 of the Decree and Article 14.2 of the Enforcement Rule).

Approval for the formation of a social cooperative shall only be made when i) five or more people (for the purpose of this article, the “Formation Participants”) have submitted consent to the formation to the promoter and ii) the Formation Participants include at least two stakeholders representing producers, consumers, employees, volunteers, sponsors or otherwise (Article 19,1 of the Decree). Notwithstanding the foregoing, if a social cooperative opens medical institutes, i) each of the institutes shall have 500 or more Formation Participants, ii) the minimum equity investment per Formation Participant shall be 50,000 won unless the Formation Participant is subject to Article 25.1.1, 25.1.2, 25.1.3,

25.1.4, 25.1.5, 25.1.6 or 25.1.8, iii) the maximum equity investment per Formation Participant shall not exceed 10 percent of the total paid-in capital provided that, if two or more of the Formation Participants are affiliates of each other, their combined equity investment does not exceed 10 percent of the total paid-in capital, iv) the total paid-in capital shall be at least 100 million won and no less than 50 percent (or a lower level as approved by the Minister of Planning and Finance) of the total assets, and v) other standards on formation of social cooperatives issued by the Minister of the Planning and Finance in consultation with the heads of central government agencies concerned shall be met (Article 19.2 of the Decree).

② Articles of incorporation

The articles of incorporation of a social cooperative shall contain i) the purpose, ii) the name and the domicile of the principal office, iii) qualification of its members and proxies, iv) provisions on acceptance, withdrawal or expulsion of its members, v) provisions on the amount of each share and method of its payment and the limit on the number of shares per member (provided that the amount per share shall be constant [Article 86.2]), vi) provisions on the rights and obligations of its members, vii) provisions on handling of surplus and deficit, x) provisions on the organization and executives, xi) provisions on the method of public notice, xii) provisions on dissolution, xiii) provisions on assignment of paid-in capital, and xiv) provisions such the operation of the general assembly and the board of directors (Article 86.1) Anyone who intends to apply for approval of an amendment to the articles of a Social Cooperative shall submit to the Minister of Planning and Finance or the

head of the competent central government agency i) a document containing the provisions to be amended, ii) minutes of the general assembly where resolution on such amendment is made, iii) business plan and estimated revenues and spending after the amendment (applicable only when the amendment results from a change in the business plan), iv) documents showing that capital reduction is actually made including the balance sheet, the resolution on capital reduction, the notice to creditors and handling of any appeal (applicable if the amendment results from a change in the amount in amount per share) (Article 16 of the Enforcement Rule).

Structure of the Enforcement Rule
of the Framework Act on Cooperatives

Article 1 (Purpose)	Article 17 (Standards for Determining a Social Cooperative's Primary Business)
Article 2 (Appeal)	Article 18 (Method of Determining a Social Cooperative's Primary Business)
Article 3 (Composition of Review Committee on Cooperative Policy)	Article 19 (Disclosure of a Social Cooperative's Operation)
Article 4 (Operation of Review Committee on Cooperative Policy)	Article 20 (Merger or Split of Social Cooperatives)
Article 5 (Reporting of Formation of a Cooperative)	Article 21 (Approval for Merger by Social Cooperatives)
Article 5 (Reporting of Amendment to a Cooperative)	Article 22 (Reporting of Dissolution of a Social Cooperative)
Article 7 (Certificate of Reporting of a Cooperative)	Article 23 (Approval of Organizational Change into a Social Cooperative)
Article 8 (Disclosure of a Cooperative's Operation)	
Article 9 (Reporting of Merger by Cooperatives)	
Article 10 (Approval of Merger by a Cooperative)	
Article 11 (Reporting of Dissolution of a Cooperative)	
Article 12 (Reporting of Organizational Change to a Cooperative)	
	<u>ADDENDA</u>
	Article 1 (Effective Date)
	Article 2 (Applicability – Reporting of Amendments to a Cooperative)

Structure of the Enforcement Rule
of the Framework Act on Cooperatives

Article 13 (Application for Approval of Mutual Aids)	Article 3 (Applicability – Reporting of Merger by a Cooperative)
Article 14 (Application for Approval of a Social Cooperative)	Article 4 (Applicability – Approval of Merger or Split of a Social Cooperative)
Article 15 (Affiliates regarding Approval of a Social Cooperative)	Article 5 (Amendments to Other Acts)
Article 16 (Amendments to Articles of Incorporation of a Social Cooperative)	Article 6 (Relationship to Other Acts)

③ Handover of formation-related duties and payment of contributions

Upon approval being granted for the formation of a social cooperative, the promoter shall hand over his duties and responsibilities immediately (Article 87.1 of the Act) to the president, who then shall ensure that those who wish to be members of the cooperative will pay their contributions by a specific date. The sum of contributions paid by the entire members shall be the capital stock of the cooperative (Article 87.2 of the Act).

2) Members

① Right to refund of contributions and withholding

Any member who has withdrawn from (or been expelled from) a cooperative (“Ex-Member”) shall have the right to refund his/her contribution paid under the articles of information, starting from the next fiscal year from year of withdrawal (or expulsion) (Article 89.1 of the Act). The right to refund shall be valid for two years (Article 89.2 of the Act). A social cooperative may withhold the refund of contribution until its ex-member pays out his debt owed to it (Article 89.3 of the Act).

② Coverage of loss by ex-members

If a social cooperative is incapable of paying out all of its debts with its assets, it may hold its ex-members liable for part of the shortfall in accordance with the articles of the incorporation when calculating the refund of their contributions (Article 90 of the Act). The right to hold liable shall be valid for two years (Article 89.2 of the Act).

3) Activities

① Activities

Social Cooperatives, as their primary businesses, shall engage in i) activities for community (which means the area governed by the applicable City or Province. If the community extends over two or more Cities or Provinces, the entire area affected shall be the community) regeneration, boosting of local economy, furthering of interest or economic welfare of community people or contribution to addressing challenges facing the community, ii) offering of social services including welfare, healthcare and environment for disadvantaged people, iii) projects commissioned by the central or local governments, or v) other activities for the public good (Article 93.1). The primary business of a social cooperative shall be no less than 40 percent of its entire business (Article 93.2 of the Act).

[Note] Criteria for determining primary business

Article 93.1 of the Act (Business activity)	Article 18 of the Enforcement Rule (Method for determining primary business of a social cooperative)
<p>1. Activities for community (which means the area governed by the applicable City or Province; if the community extends over two or more Cities or Provinces, the entire area affected shall be the community) regeneration, boosting of local economy, furthering of interest or economic welfare of community people or contribution to addressing challenges facing the community</p>	<p>1. If the target activity is one as defined in Article 93.1.1 or 93.1.5 of the Act, it shall:</p> <p>A. Take up no less than 40 percent of the total budget as in the estimation of revenues and spending, or</p> <p>B. Take up no less than 40 percent of the total services offered by the organization in terms of labor, time, counts or otherwise.</p>
<p>2. Offering of social services including welfare, healthcare and environment for disadvantaged people as separately defined in the relevant presidential decree</p>	<p>2. If the target activity is one that offers social services for disadvantaged people under Article 93.1.2 of the Act, the proportion of such social services shall be no less than 40 percent of the entire social services in terms of labor, time, counts or otherwise.</p>
<p>3. Creating jobs for disadvantaged people as separately defined in the relevant presidential decree</p>	<p>3. If the target activity is one that offers jobs for disadvantaged people under Article 93.1.3 of the Act, it shall:</p> <p>A. Have no less than 40 percent of the total wage as in the estimation of revenues and spending paid to its employees from the disadvantaged group, or</p> <p>B. Have no less than 40 percent of its total employees as in its business plan come from the disadvantaged group.</p>

Article 93.1 of the Act (Business activity)	Article 18 of the Enforcement Rule (Method for determining primary business of a social cooperative)
4. Projects commissioned by central or local governments	4. If the target activity is one as defined in Article 93.1.4 of the Act, no less than 40 percent of its total budget as in the estimation of revenues and spending shall be ear-marked for projects commissioned by central or local governments.
5. Other activities for furthering of public good	5. If two or more of Articles 93.1.1 to 93.1.5 apply to the target activity, the sum of the proportions subject to the applicable articles shall be no less than 40 percent.

② Small loans and mutual aid for members

As secondary business, social cooperatives may make small loans and/or provide mutual aid programs for their members in accordance with their articles of incorporation, provided that the total amount of small loans made does not exceed two-thirds of their respective total equity paid (Article 94.1 of the Act).

The limit of small loans to their members shall be as defined in their articles of incorporation in consideration of the number of their members, their capital stock and the types of small loans available (Article 94.2 of the Act and 22.1 of the Enforcement Decree). The interest rate for a small loan shall be as stipulated in the articles of incorporation, and its cap shall be determined based on the weighted average of interests applied to new loans for households by commercial banks as published by the Bank of Korea (Article 94.2 of the Act and 22.2 of Enforcement Decree). The default interest rate for a small loan shall be as stipulated in the articles of incorporation, and its cap shall be determined based on

the weighted average of interest applied to new loans for households by commercial banks as published by the Bank of Korea (Article 94.2 of the Act and 22.2 of Enforcement Decree).

Mutual aid for members shall use a pool of money each of them has contributed for mutual help (Article 23.1 of the Enforcement Decree). Under this system a certain amount of money is given to a member who has a family affair as defined in the articles of incorporation such as wedding, demise, and disease (Article 23.1 of the Enforcement Decree). The list of events for which such aid is provided, the cap on aid per event type and other provisions for members' contribution and operation of the aid system shall be as defined in their respective articles of incorporation (Articles 23.2 and 23.3 of the Enforcement Decree).

③ Use of business services

Social cooperatives may allow those who are not their members to use the services offered by them in accordance with their respective articles of incorporation except for small loans, mutual aid, healthcare (if applicable) and other services as defined by the Minister of Planning and Finance based on the nature and type of activities conducted by the social cooperative. Notwithstanding the foregoing, any social cooperative offering health care services may make available no more than 50 percent of the services to non-members (Article 95 of the Act, Article 24.1 of the Enforcement Decree).

4) Accounting

① Open operation and disclosure of performance

Social cooperatives shall disclose their articles of incorporation or by-laws, minutes of general assemblies and board of directors meetings, list of their members, financial accounts and any other information as

stipulated in their articles of incorporation (Article 96.1 of the Act). They shall make documents containing foregoing information accessible at their respective principal places of business (Article 96.2 of the Act) and make them available to their creditors or their members for review or copying (Article 96.3).

Each social cooperative shall publish i) its articles of incorporation or by-law, ii) book closing report, iii) activities of its general assembly, representatives' meetings and board of directors, and iv) its activities including consultation with its members or employees, education and training, information sharing, cooperation with other cooperatives, public relations, and contributions to the community on the website of the Ministry of Finance and Planning or the relevant federation of social cooperatives (Article 96.1.1 of the Act).

② Legal reserve and voluntary reserve

All social cooperatives shall set aside no less than 30 percent of their profits, if any, calculated at the end of their respective fiscal years as Legal Reserve until the fund set aside becomes 3 times as much as their capital stock (Article 97.1 of the Act). Social cooperatives may set aside a business reserve and other reserves as stipulated by their articles of association (Article 97.1 of the Act). Except where a legal reserve is appropriated for the set off of losses or where a social cooperative is dissolved, no social cooperative shall use the legal reserve (Article 97.3 of the Act).

③ Compensation for deficit and distribution of surplus

If a social cooperative has a loss after book closing for a fiscal year (“current deficit”), it shall use its unappropriated carry-over, voluntary

reserve and then legal reserve to compensate for the deficit and, if there is still a shortfall after using the accounts, carry over the deficit to the following fiscal year (Article 98.1 of the Act). Any surplus of after compensation for its deficit, if any, and legal reserve shall be added to its voluntary reserve and shall not be distributed to its members (Article 98.2 of the Act).

④ Waiver of dues

No dues other than tax imposed by the state and the competent local government shall be imposed on the business and property of social cooperatives (Article 99 of the Act).

5) Merger, split, dissolution and liquidation

① Merger and split

Subject to approval from the Minister of Planning and Finance, a social cooperative may merge or split upon resolution at the general assembly after preparing a merger agreement or a split agreement (Article 101.1 and 101.2 of the Act). The social cooperative that survives or is created after a merger or split shall take over the rights and obligations of the social cooperative that ceases to exist after the same (Article 101.3 of the Act). No social cooperative may merge with, or split into, any other entity, association or cooperative than those formed under this Act (Article 101.6 of the Act). Subject to approval from the Minister of Planning and Finance, a social cooperative may merge with a corporation, a limited company or a limited liability company under the Commercial Act, or a incorporated association formed under the Civil Act (Article 101.7 of the Act).

② Dissolution

A social cooperative may decide to dissolve if: i) anything defined as grounds for dissolution under its articles of incorporation occurs; ii) the general assembly resolves to do so; iii) the cooperative is merged, splits or goes bankrupt; or iv) anything defined as grounds for cancellation of its permit to be formed occurs (Article 102.1 of the Act).

Upon dissolution of a social cooperative, the liquidator must notify the Minister of Planning and Finance of such dissolution within 14 days after it takes office unless the dissolution is due to bankruptcy (Article 102.2 of the Act). The notification of dissolution may be made to the Minister of Planning and Finance or the head of the competent authority and must be accompanied by a report of dissolution, the list of property at the time of dissolution, a plan on how to dispose of remaining property, the articles of information as of the dissolution, and the minutes from the general assembly where the dissolution is resolved (Article 22.1 of the Enforcement Rule).

③ Disposal of remaining property

Upon resolution of a social cooperative, its remaining property, if any, after payment for its debt and refund of contributions shall be transferred to a higher-level social cooperative, a social cooperative with similar objectives, a not-for-profit or public-good entity or the state (Article 104.1 of the Act).

6) Organizational conversion

① Organizational conversion by cooperatives, not-for-profit incorporated associations and legal entities

Any cooperative formed under the Framework Act on Cooperatives or any not-for-profit incorporated association or entity formed under the Civil Act may convert into a social cooperative under this Act with a unanimous resolution at its general assembly (Article 105.2.1 of the Act). In this case, existing cooperatives, not-for-profit legal entities and legal entities formed under the Civil Act and social entities whose organizations have changed shall be deemed to be identical legal entities in terms of their rights and obligations (Article 105.2.1 of the Act). The organization converting into a social cooperative shall obtain permit or approval from the head of the competent authority prior to the resolution at its general assembly if such permit or approval is required (Article 105.2.5 of the Act). Upon resolution at the general assembly, the cooperative, not-for-profit entity or legal entity formed under the Civil Act shall gain approval for its organizational conversion into a social cooperative from the Minister of Planning and Financing as set out in the relevant presidential decree (Article 105.2.6).

No cooperative, not-for-profit entity or legal entity formed under the Civil Act converting into a cooperative may convert any amount larger than the value of its current net property as the capital stock of the social cooperative to be created (Article 105.2.3 of the Act).

Earned proceeds held by a cooperative, not-for-profit entity (incorporated associations only) or legal entity formed under the Civil Act that have not been paid out may be converted into reserve upon resolution at the general assembly (Article 105.2.3 of the Act, Article 29 of the Enforcement Decree).

7) Registration

① Start of registration period

For any matter requiring approval from the Minister of Planning and Finance for its registration, the period for registration shall start on the day when the approval documents are delivered (Article 109 of the Act).

② Registration of formation

Any social cooperative that has gained approval for formation shall have 21 days before it registers its formation with the register that has jurisdiction over the place where its principal office is, otherwise such approval shall be invalidated (Article 106 of the Act). In this case, the applicant shall be the president of the cooperative (Article 106.2 of the Act), and the application for registration shall be accompanied by the approval document, minutes of the inauguration meeting and the articles of incorporation (Article 106.4 of the Act).

③ Registration of merger

If social cooperatives are merged, the cooperative surviving the merger shall register its organizational conversion, the cooperative dissolving as a result of the merger shall register its dissolution, and the cooperative newly established as a result of the merger shall register its formation, with the registry office having jurisdiction over the place of business of each cooperative, respectively, within 14 days from the date on which the merger is authorized (Article 107.1.2 of the Act). The Ministry of Planning and Finance shall commission the registration of dissolution resulting from revocation of approval for formation (Article 107.4).

④ Registration of organizational conversion

Any cooperative, not-for-profit entity formed or legal entity under the Civil Act that has converted into a social cooperative shall have 14 days for its principal office and 21 days for its branch to report its dissolution. The social cooperative created shall register its formation(Article 108.2 of the Act) .

8) Supervision

① Supervision

The Ministry of Finance and Planning shall honor the autonomy of social cooperatives, but supervise their activities and may issue an order if he/she deems necessary for the purpose of such supervision (Article 111.1 of the Act). He may also cause a social cooperative to report about its activities or property, or a public official under his/her command to audit that cooperative's activities, books, documents or anything to i) determine its compliance with the procedures for formation approval, ii) determine its compliance with the Framework Act on Cooperatives, any order issued thereunder or its articles of incorporation, or iii) check for any of its businesses' violation of applicable regulations (Article 111.2). Upon identification of any non-compliance with this Act, any order thereunder or the articles of incorporation during such supervision, the Minister of Planning and Finance may issue an order to the social cooperative for remedial action (Article 111.4). The Minister of Finance and Planning may also cause the head of the competent authority to conduct an investigation, inspection or check on social cooperatives or request submission of relevant documents from them or order an remedial action

if he/she deems it necessary for the efficient implementation of the Act or policy making for social cooperatives (Article 111.5 of the Act).

② Revocation of approval for formation

The Minister of Planning and Finance may revoke the approval for formation granted to a social cooperative if that social cooperative fails to commence its primary business within one year from the approval, fails to perform its business for one consecutive year, fails to remedy its non-compliance after notice thereof on two or more occasions, or has anything that does not meet the requirements for the approval (Article 112.1). Any formation approval obtained using a fraudulent or any foul means shall be revoked immediately (Article 112.1 of the Act). The Minister of Planning and Finance shall hold a hearing before effecting the revocation of any formation approval granted (Article 113 of the Act).

Upon revocation of any formation approval, the Minister of Planning and Finance shall announce the fact on a daily newspaper circulated nation-wide, an official gazette or a website (Article 112.2 of the Act, Article 31 of the Enforcement Decree).

(3) Federations of Social Cooperatives

Formation of a federation of social cooperative requires at least 3 qualified member social cooperatives as promoters who should draw up the articles of incorporation and make a resolution at the inauguration meeting before gaining approval from the Minister of Planning and Finance (Article 114.1 of the Act). The resolution at the inauguration meeting may only be made when the majority of those who have submitted consent to formation to the promoters are present prior to the opening of the meeting and two thirds of those present vote affirmatively (Article 114.2).

2. Amendments

(1) First Amendments on Jan. 21, 2014 (Act no. 12272)

1) Justification

This amendment is intended to address some operational drawbacks by i) preventing any federation of cooperatives from using the name of the nation or a local government in its name to avoid possibly misleading or confusing the public about its representativeness, ii) solving the problem of a small number of representatives having monopolistic power over decision making by specifying the quorum for the representatives' meetings of cooperatives, iii) facilitate conversion of non-cooperatives or non-social cooperatives into cooperatives or social cooperatives by setting out standards and procedures for such conversion and iv) allowing federations of cooperatives to offer mutual aid for mutual benefit of their members.⁶⁰⁾

2) Highlights

- ① No name that may be misleading or confusing about representativeness may not be used(Articles 3.4 and 3.5 created, Article 119.1)⁶¹⁾
- ② The amount of each share shall be constant.(Articles 16.2 and 86.2 created)⁶²⁾
- ③ The number of representatives consisting of the representatives' general meeting shall be no less than 10 percent of the total number of

60) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

61) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

62) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

members at the time when the representatives are elected, but no more than 100(Article 31.3 created)⁶³⁾

- ④ Capital stock of any cooperative or social cooperative shall be the sum of all contributions paid by its members, and any refund of contribution to an ex-member shall be agreed upon at the general assembly(Articles 18.4, 29.1.8.2 and 87.4 created)⁶⁴⁾
- ⑤ No board of directors shall be required for small cooperative with fewer than 10 members(Article 32.5 created)⁶⁵⁾
- ⑥ Cooperatives as defined in the relevant presidential decree may choose not to have an auditor depending on the nature of their business.⁶⁶⁾ For such cooperatives, the general assembly shall perform the role of an auditor. In the event of any legal proceedings being brought between a cooperative and any of its directors, the court shall decide who will represent the cooperative(Articles 34.5, 42.5 and 43.2 created)⁶⁷⁾
- ⑦ No executive or employee of a cooperative may hold a member of the National Assembly or a local take the concurrent position as local council concurrently(Article 44.5 created)⁶⁸⁾

63) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

64) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

65) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

66) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

67) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

68) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

- ⑧ Cooperatives shall set aside no less than 10 percent of their surplus as legal reserve, while social cooperatives, no less than 30 percent of their surplus, until the legal reserve becomes three times as great as the total equity capital paid for the applicable fiscal year (Articles 50.1 and 97.1 of the amended Act).⁶⁹⁾
- ⑨ Cooperatives and social cooperatives will be allowed to merge with other legal entities (Articles 56.6 and Article 101.7 created).⁷⁰⁾
- ⑩ Upon resolution at the general assembly, the legal entity converting into a cooperative or a social cooperative will be allowed to convert its earned proceeds into reserve, and if the cooperative is dissolved, such earned proceeds of the cooperative will be donated to the federation of cooperatives concerned or other cooperative (Articles 59.2, 60.2.4 and 105.2.4 of the amended Act).⁷¹⁾
- ⑪ New provisions regarding the conversion into cooperatives or social cooperatives shall be created (Article 60.2, Article 68.2, Article 105.2, Article 105.3 and Article 108.2 created).⁷²⁾
- ⑫ Federations of cooperatives may offer mutual aid services for their members in accordance with the code approved by the Minister of Planning and Finance (Article 80.2 created).⁷³⁾

69) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

70) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

71) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

72) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

73) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

- ⑬ A provision specifying the preferred purchase of products from social cooperatives by public organizations will be created(Article 95.2 created)⁷⁴⁾

(2) Second Amendments on Dec. 30, 2014 (Act no. 12866)

1) Justification

In order to reinforce coordination among competent authorities concerned with support for cooperatives, the Policy Review Committee on Cooperatives that exists under a presidential decree will now exist under an act.⁷⁵⁾ To help cooperatives and social cooperatives operate their businesses more flexibly, the current provisions banning the use of their services by non-members will be amended so that non-members may use their services. The transitional measures applicable for organizational conversion will only be extended for another year for business owners to give existing business entities further opportunities for conversion.⁷⁶⁾

2) Highlights

- ① In order to reinforce coordination among competent authorities concerned with support for cooperatives, the Policy Review Committee on Cooperatives that exists under a presidential decree will now exist under an act (Article 11.2 created).⁷⁷⁾

74) <http://www.law.go.kr/lsInfoP.do?lsiSeq=150389&ancYd=20140121&ancNo=12272&efYd=20140121&nwJoYnInfo=N&efGubun=Y&chrClsCd=010202#0000>.

75) <http://www.law.go.kr/lsInfoP.do?lsiSeq=165469&ancYd=20141230&ancNo=12866&efYd=20150701&nwJoYnInfo=Y&efGubun=Y&chrClsCd=010202#0000>

76) <http://www.law.go.kr/lsInfoP.do?lsiSeq=165469&ancYd=20141230&ancNo=12866&efYd=20150701&nwJoYnInfo=Y&efGubun=Y&chrClsCd=010202#0000>

77) <http://www.law.go.kr/lsInfoP.do?lsiSeq=165469&ancYd=20141230&ancNo=12866&efYd=20150701&nwJoYnInfo=Y&efGubun=Y&chrClsCd=010202#0000>

- ② The current provisions banning the use of services offered by cooperatives or federations of cooperatives by non-members will be amended so that non-members may use the services (Articles 46 and 81.1).⁷⁸⁾
- ③ The transitional measures regarding the organizational conversion under Article 2 of the Addenda to the Amendment to the Framework Act on Cooperatives (No. 11211) shall be amended to extend the due date for organizational conversion for another year for business entities formed before December 1, 2012 (Article 2 of the Addenda).⁷⁹⁾

Section 2. Proposed Amendments to the Framework Act on Cooperatives

1. [Proposal 16091] Amendment to Framework Act on Cooperatives⁸⁰⁾

(1) Justification

According to this proposal for amendment, the information to be provided in the application form for the registration of formation of a cooperative or a social cooperative will be reduced, the period for the registration of formation will be extended, and not-for-profit incorporated associations formed under an act other than the Civil Act may be converted into social cooperatives in order to promote the formation of cooperatives and social cooperatives.⁸¹⁾

78) <http://www.law.go.kr/lsInfoP.do?lsiSeq=165469&ancYd=20141230&ancNo=12866&efYd=20150701&nwJoYnInfo=Y&efGubun=Y&chrClsCd=010202#0000>

79) <http://www.law.go.kr/lsInfoP.do?lsiSeq=165469&ancYd=20141230&ancNo=12866&efYd=20150701&nwJoYnInfo=Y&efGubun=Y&chrClsCd=010202#0000>

80) [Proposal 16091] Amendment to Framework Act on Cooperatives (government), Jul. 16, 2015

81) [Proposal 16091] Amendment to Framework Act on Cooperatives (government), Jul. 16, 2015, page 1

(2) Highlights

- ① Information to be provided in the application form for a social cooperative will be reduced (by adding provisory clauses to Article 61.2.4 and Article 106.2.4, respectively).⁸²⁾ Specifically, addresses for executives who are not the president will no longer be provided in the application form for a social cooperative.⁸³⁾
- ② Conversion into social cooperatives will now be allowed (by creating Article 105.2 and Article 108.2).⁸⁴⁾ Specifically, legal entities that can become social cooperatives will now include not-for-profit incorporated associations formed under an act other than the Civil Act, in addition to cooperatives, profit-making entities and not-for-profit incorporated associations formed under the Civil Act.⁸⁵⁾
- ③ The period within which the registration of the formation of a social cooperative is permissible will be extended (by creating Article 106.1 and Article 112.1.5).⁸⁶⁾ Specifically, the period will be extended from 21 to 60 days, and failure to register within that period will result in the Minister of Planning and Finance having the discretion to revoke the approval of the formation already granted, rather than in the automatic invalidation of the approval.⁸⁷⁾

82) [Proposal 16091] Amendment to Framework Act on Cooperatives (government), Jul. 16, 2015, page 1

83) [Proposal 16091] Amendment to Framework Act on Cooperatives (government), Jul. 16, 2015, page 1

84) [Proposal 16091] Amendment to Framework Act on Cooperatives (government), Jul. 16, 2015, page 1

85) [Proposal 16091] Amendment to Framework Act on Cooperatives (government), Jul. 16, 2015, pages 1-2

86) [Proposal 16091] Amendment to Framework Act on Cooperatives (government), Jul. 16, 2015, page 2

87) [Proposal 16091] Amendment to Framework Act on Cooperatives (government), Jul. 16, 2015, page 2

<For information> Comparison between provisions before and after the proposed amendment

Current provisions	Proposed amendment
<p>Article 61 (Registration of formation)</p> <p>① (Full text not presented)</p> <p>② The application for registration shall include the following information.</p> <p>1. ~ 3. (Full text not presented)</p> <p>4. The name, resident registration number and address of each executive (if the executive is a legal entity, then the name, corporate registration number and address of the entity) <a provisory clause to be added></p> <p>③ ~ ⑤ (Full text not presented)</p>	<p>Article 61 (Registration of formation)</p> <p>① (To remain unchanged)</p> <p>② ----- -----.</p> <p>1. ~ 3. (To remain unchanged)</p> <p>4. ----- ----- -----.</p> <p>Notwithstanding the foregoing, the addresses of executives who are not the president are not required.</p> <p>③ ~ ⑤ (To remain unchanged)</p>
<p>Article 105.2 (Organizational conversion of cooperatives, non-profit incorporated association, legal entities, etc.) ① Any cooperative formed under this Act or any not-for-profit entity (incorporated associations only, and this holds for this article and Article 108.2) or profit-making entity formed under the Civil Act may convert into a social cooperative under this Act with a unanimous resolution at its general assembly. In this case, existing cooperatives, not-for-profit legal entities and profit-making legal entities formed under the Civil Act and social entities whose organizations have changed shall be deemed to be identical legal entities in terms of their rights and obligations.</p>	<p>Article 105.2 (Organizational conversion of cooperatives, non-profit incorporated association, legal entities, etc.) ① Cooperatives or legal entities under the following paragraphs (collectively, “Conversion Hopefuls” for the purpose this Article and Article 108.2)----- ----- ----- ----- -----.</p> <p>----- Conversion Hopefuls----- ----- ----- ----- -----.</p>

Current provisions	Proposed amendment
<p><Newly created></p> <p><Newly created></p> <p><Newly created></p> <p><Newly created></p> <p>② (Full text not presented here)</p> <p>③ No cooperative, not-for-profit entity or legal entity formed under the Civil Act converting into a cooperative under paragraph 1 may convert any amount larger than the value of its current net property as the capital stock of the social cooperative to be created.</p> <p>④ Retained earnings held by a cooperative, not-for-profit entity or legal entity formed under the Civil Act under the relevant presidential decree may be converted into reserve under Article 97.</p> <p>⑤ Any cooperative, not-for-profit entity or legal entity formed under the Civil Act that intends to convert into a social cooperative under paragraph 1 above shall obtain permit or approval from the head of the competent authority prior to the resolution at its general assembly if such permit or approval is required.</p>	<p>1. Cooperatives formed under this Act</p> <p>2. Not-for-profit incorporated associations formed under the Civil Act</p> <p>3. Not-for-profit incorporated associations formed under other acts than the Civil Act, including consumer cooperatives formed under the Consumer Cooperatives Act</p> <p>4. Legal entities, etc.</p> <p>② (To remain unchanged)</p> <p>③ ----- Conversion Hopeful----- ----- ----- ----- ----- ----- -----.</p> <p>④ ----- Conversion Hopeful----- ----- ----- ----- -----.</p> <p>⑤ Any Conversion Hopeful----- ----- ----- ----- ----- ----- -----.</p>

Current provisions	Proposed amendment
<p>⑥ Upon resolution at the general assembly under paragraph 1, the cooperative, not-for-profit entity or legal entity formed under the Civil Act shall gain approval for its organizational conversion into a social cooperative from the Minister of Planning and Financing as set out in the relevant presidential decree.</p>	<p>⑥ <u> </u> Conversion Hopeful----- ----- ----- ----- ----- ----- -----.</p>
<p>Article 106 (Registration of formation)</p> <p>① Any social cooperative that has gained approval for formation shall have 21 days to register its formation with the register that has jurisdiction over the place where its principal office is located, otherwise such approval shall be invalidated.</p> <p>② The application for registration shall include the following information.</p> <p>1. ~ 3. (Not spelled out here)</p> <p>4. The name, resident registration number and address of each executive <a provisory clause added></p> <p>③ ~ ⑤ (Full text not presented)</p>	<p>Article 106 (Registration of formation)</p> <p>① --- 60 days --- office is.</p> <p>② -----.</p> <p>1. ~ 3. (To remain unchanged)</p> <p>4. ----- Notwithstanding the foregoing, the addresses of executives who are not the president are not required.</p> <p>③ ~ ⑤ (To remain unchanged)</p>
<p>Article 108.2 (Registration of Formation)</p> <p>Any cooperative, not-for-profit entity formed or legal entity under the Civil Act that has converted into a social cooperative under Article 105.2 shall have 14 days for its principal office and 21 days for its branch to report its dissolution. The social cooperative created shall register its formation under Article 106.</p>	<p>Article 108.2 (Registration of Formation)</p> <p>Any Conversion Hopeful ----- ----- ----- ----- ----- ----- -----.</p>

Current provisions	Proposed amendment
<p>Article 112 (Revocation of Approval)</p> <p>① The Minister of Planning and Finance shall have the discretion to revoke the approval for formation of a social cooperative if any of the followings happens. Notwithstanding the foregoing, the approval must be revoked if the event under paragraph 4 below occurs.</p> <p>1. ~ 4. (Full text not presented here)</p> <p><Newly created></p> <p>② (Full text not presented here)</p>	<p>Article 112 (Revocation of Authorization for Establishment)</p> <p>① ----- ----- ----- ----- -----.</p> <p>1. ~ 4. (To remain unchanged)</p> <p>5. If no registration of formation under Article 106.1 is made within the due date.</p> <p>② (To remain unchanged)</p>

(3) Discussion

① Regarding the proposed reduction in information to be provided in the application for registration of a social cooperative, Article 49.2 of the Civil Act specifies that registration of any new legal entity requires the provision of i) object, ii) name, iii) office domicile, iv) date of approval for formation, v) duration or reason for dissolution, if any, vi) total assets, vii) method of equity participation, viii) names and addresses of directors and ix) any restrictions on the right to representation of a director. While the application for registration of a new incorporated association (or foundation) must contain the names, resident registration numbers and addresses of its directors, auditor and president, the proposed amendment does not require provision of the addresses of executives who are not the president.

This will cause inconsistency in the legal framework and the issue of inequality may arise because the address of the president is required while those of other executives are not.

- ② It is not problematic to expand the scope of legal entities that may be converted into social cooperatives from ‘cooperatives and not-for-profit and for-profit entities formed under the Civil Act’ to ‘Conversion Hopefuls’ because Conversion Entities defined in the proposed amendment restricts entities include cooperatives and not-for-profit and for-profit entities formed under the Civil Act. Yet the scope of Conversion Hopefuls is not clearly defined. Consequently, the proposed amendment needs to have the definition for it or specify the scope.
- ③ The period within which a social cooperative should register its formation will be extended from 21 days to 60 days (with Article 106.1 and Article 122.1.5 to be created). The Framework Act on Cooperatives specifies that general cooperatives have two weeks after payment of all due contributions to register their formation (Article 61). For social cooperatives, the grace period is 21 days (Article 106). The proposal to extend the grace period for the registration of formation in an effort to promote social cooperatives needs to take into account possible equality issues resulting from different grace periods (21 days vs. 14 days) for registration under the Framework Act on Cooperatives and other relevant acts.

2. [Proposal 13945] Proposed Amendment to Framework Act on Cooperatives⁸⁸⁾

(1) Justification

The current Framework Act on Cooperatives stipulates that any change in the total number of shares outstanding and the total contributions paid of a cooperative requires registration of such change within one month from the end of the applicable fiscal year.⁸⁹⁾

Cooperatives by their nature, however, frequently go through changes in their capital stock as their members can freely join or withdraw from them. This results in almost all cooperatives having to make registration for such a change eventually every year and, as a result, many of them suffer a financial burden arising due to registration.⁹⁰⁾

Nevertheless, failure to register following an increase in equity capital means that the cooperative in question gives up improving its external credibility. Consequently, it seems that registration does not need to be required.⁹¹⁾

(2) Highlights

The proposed amendment is intended to improve the registration system for changes concerning cooperatives by requiring registration in case of a

88) [Proposal 13945] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Ki-june, et al), Feb. 10, 2015

89) [Proposal 13945] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Ki-june, et al), Feb. 10, 2015, page 1

90) [Proposal 13945] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Ki-june, et al), Feb. 10, 2015, page 1

91) [Proposal 13945] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Ki-june, et al), Feb. 10, 2015, page 1

reduction in the total number of shares or equity capital paid and not in case of an increase in them (by adding a provisory clause to Article 64.2).⁹²⁾ This will apply to social cooperatives mutatis mutandis (Article 110 of the Framework Act on Social Cooperatives)

<For information> Comparison between provisions before and after the proposed amendment⁹³⁾

Current provisions	Proposed amendment
<p>Article 64 (Registration of Changes)</p> <p>① (Full text not presented)</p> <p>② Notwithstanding paragraph 1, registration of a change concerning anything under Article 61.2.2 shall be made within one month after the end of the applicable fiscal year. <Provisory clause newly added></p> <p>③ ~ ⑤ (Full text not presented)</p>	<p>Article 64 (Registration of Changes)</p> <p>① (To remain unchanged)</p> <p>② ----- ----- ----- No registration shall be required if the total number of shares outstanding or contributions paid increases.</p> <p>③ ~ ⑤ (To remain unchanged)</p>

(3) Discussion

The proposed amendment is intended to ease the operational burden on cooperatives. Yet if the amendment is accepted, the purpose of the registration system, which is to facilitate safety in trade by documenting facts about cooperatives in public record, may be impaired.⁹⁴⁾ Secondly,

92) [Proposal 13945] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Ki-june, et al), Feb. 10, 2015, page 1-2

93) [Proposal 13945] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Ki-june, et al), Feb. 10, 2015, page 5

94) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Ki-jun], Planning and Finance Committee, Apr. 2015, page 3

equity capital under the current act affects the amount of legal reserve and the surplus dividend. Therefore, any increase in the total number of shares or contribution paid also needs to be registered.⁹⁵⁾

3. [Proposal 7867] Proposed Amendment to Framework Act on Cooperatives

(1) Justification

The Framework Act on Cooperatives came into effect to ensure that independent, self-sustained and self-regulated cooperatives can be formed freely and that sufficient support can be provided for them.⁹⁶⁾ The Act is regarded as an unprecedented action to promote cooperatives in Korea, but there are also voices for improvement.⁹⁷⁾ Restrictions on the conversion of other types of organizations into cooperatives, restrictions on the offering of credit and mutual aid services by federations of cooperatives, and restrictions on use by non-members of businesses offered by social cooperatives, among other things, are cited as some of the major factors impairing the autonomy of cooperatives and their operation.⁹⁸⁾

The Forum for Promotion of Cooperatives where representatives from universities, research institutes and cooperatives have researched into the shortcomings of the current act that restricts the activities of cooperatives,

95) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Ki-jun], Planning and Finance Committee, Apr. 2015, page 4

96) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 1

97) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 1

98) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 1

and this proposed amendment is intended to facilitate more effective support for cooperatives and expand the autonomy and self-regulation of cooperatives based on the findings from the forum.⁹⁹⁾

(2) Highlights

- ① Organizations not formed under the Act may use the term “cooperative” in their names (Article 3.3 of the amended Act)).¹⁰⁰⁾
- ② Provisions will be made for possible reduction in tax imposed on cooperatives (Article 10.2 to be added).¹⁰¹⁾
- ③ Capital stock of a cooperative or social cooperative shall be the sum of all contributions paid by its members, and refund of contributions to ex-members shall be resolved at the general assembly (Articles 18.4, 29.1.8.2 and 87.4 to be added).¹⁰²⁾
- ④ No board of directors shall be required for small cooperative with fewer than 10 members. (Article 32.5 to be added)¹⁰³⁾
- ⑤ Cooperatives as defined in the relevant presidential decree may choose not to have any auditor depending on the nature of their business. For such cooperatives, the general assembly shall perform

99) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 2

100) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 2

101) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 2

102) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 2

103) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 2

the role of an auditor. In the event of any legal proceedings arising between a cooperative and any of its directors, the court shall decide who will represent the cooperative (Articles 34.5, 42.5 and 43.2 to be added).¹⁰⁴⁾

- ⑥ Cooperatives shall allocate no less than 10 percent of their surplus as legal reserve, while social cooperatives, no less than 30 percent of their surplus, until the legal reserve becomes three times as great as the total contributions paid for the applicable fiscal year (Articles 50.1 and 97.1 of the amended Act).¹⁰⁵⁾
- ⑦ Cooperatives and social cooperatives will be allowed to merge with other legal entities (provisory clause to Articles 56.5 and Article 101.6 to be added).¹⁰⁶⁾
- ⑧ A limited liability company or a corporation will be allowed to convert into a cooperative if two thirds of its members vote affirmatively at the general assembly, and a cooperative formed under this Act or a not-for-profit legal entity formed under the Civil Act will be allowed to convert into a social cooperative if two thirds of its members vote affirmatively at the general assembly (Articles 60.2, 68.2, 105.2 and 108.2 to be added).¹⁰⁷⁾

104) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 2-3

105) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 3

106) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 3

107) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 3

- ⑨ Upon resolution at the general assembly, the legal entity converting into a cooperative or a social cooperative will be allowed to convert its retained earnings into reserve, and if the cooperative is dissolved, the retained earnings of the cooperative will be donated to the federation of cooperatives concerned or other cooperative (Articles 59.2, 60.2.4 and 105.2.4 to be added).¹⁰⁸⁾
- ⑩ Federations of cooperatives may offer mutual aid services for their members in accordance with the code approved by the Minister of Planning and Finance (Article 80.3 to be rescinded and Article 80.2 to be added).¹⁰⁹⁾
- ⑪ Social cooperatives will be allowed to offer small loans and mutual aid as their primary activity, and non-members will be allowed to freely use the services of a social cooperative (Articles 94.1 and 95 of the amended Act).¹¹⁰⁾

108) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 3-4

109) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 4.

110) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013 page 4.

<For information> Comparison between provisions before and after the proposed amendment¹¹¹⁾

Current provisions	Proposed amendment
<p>Article 3 (Naming) ① · ② (Full text not presented here)</p> <p>③ No organization other than Cooperatives or Social Cooperatives formed under this Act may use the term under paragraph 1 in its name.</p> <p><Newly created></p>	<p>Article 3 (Naming) ① · ② (To remain unchanged)</p> <p><To be rescinded></p> <p>Article 10.2 (Tax reduction) The state or the competent local government may reduce tax imposed on Cooperatives or Social Cooperatives in accordance with applicable tax laws including the Restriction on Special Taxation Act.</p>
<p>Article 13 (Relationship to other Acts) ① to ③ (Full text not presented here)</p> <p><Newly created></p>	<p>Article 13 (Relationship to other Acts) ① to ③ (To remain unchanged)</p> <p>④ The Insurance Business Act shall not apply to mutual aid services offered by federations of cooperatives.</p>
<p>Article 18 (Handover of Formation-related Duties and Payment of Contributions) ① to ③ (Full text not presented here)</p> <p><Newly created></p>	<p>Article 18 (Handover of Formation-related Duties and Payment of Contributions) ① to ③ (To remain unchanged)</p> <p>④ The capital stock of a cooperative shall be the sum of contributions paid by its members.</p>
<p>Article 29 (Resolutions at General Assembly, etc.) ① Resolution at the General Assembly meeting is required for the followings.</p>	<p>Article 29 (Resolutions at General Assembly, etc.)</p>

111) [Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013. pages 15-29

Part 2 Social Cooperative

Current provisions	Proposed amendment
<p>1. ~ 8. (Full text not presented here) <Newly created></p> <p>9.10. (Full text not presented here) ② Businesses regarding paragraph 1.1, 1.7 or 1,8 above shall require presence of the majority of the total members and affirmative voting of two thirds of those present. Other businesses shall require presence of the majority of the total members and affirmative voting of majority of those present.</p> <p>Article 32 (Board of Directors) ① to ④ (Full text not presented here) <Newly created></p> <p>Article 34 (Executives) ① to ③ (Full text not presented here) <Newly created></p> <p>Article 42 (Duties of Auditors) ① to ④ (Full text not presented here)</p>	<p>1. ~ 8. (To remain unchanged)</p> <p>8.2. Refund of contributions to members who left the organization (including those expelled)</p> <p>9.10. (To remain unchanged)</p> <p>② -----paragraph 8 or paragraph 8.2----- ----- ----- ----- ----- ----- -----.</p> <p>Article 32 (Board of Directors) (To remain unchanged)</p> <p>⑤ Notwithstanding paragraph 1, any cooperative with no more than 10 members may have no board of directors upon resolution at the general assembly.</p> <p>Article 3 (Executives) ① to ③ (To remain unchanged)</p> <p>④ Notwithstanding paragraph 1, any cooperative as defined in the relevant presidential decree based on the nature of its business, the composition of its members or otherwise may have no auditor upon resolution at the general assembly.</p> <p>Article 42 (Duties of Auditors) ① to ④ (To remain unchanged)</p>

Current provisions	Proposed amendment
<p>Article 59 (Disposal of Remaining Property) (Full text not presented here)</p> <p><Newly created></p> <p><Newly created></p> <p><Newly created></p>	<p>Article 59 (Disposal of Remaining Property)</p> <p>① (To remain unchanged except the heading)</p> <p>② Notwithstanding paragraph 1, retained earnings converted into reserve for the cooperative created under Article 60.2.4 shall be donated to the federation of cooperative it belongs to or another cooperative.</p> <p>Section 6.2 Organizational Change</p> <p>Article 60.2 (Organizational conversion of legal entities, etc.) ① Limited liability companies, corporations, limited companies and other for-profit entities formed other acts (collective, “Entities”) may convert into cooperatives under this Act upon resolution at their respective general assemblies called to order at the request of two thirds of their entire members (or affirmative voting by at least two thirds of the entire members if no general assembly is in place, which shall also apply to this Article and Article 105.2). In this case, existing Entities and cooperatives whose organizations have changed shall be deemed to be identical entities in terms of rights and obligations.</p> <p>② Resolutions at the general assembly held under paragraph 1 shall be concerning:</p> <ol style="list-style-type: none"> 1. Articles of Incorporation 2. Contributions 3. Other matters associated with conversion into a cooperative <p>③ No entity converting into a cooperative under paragraph 1 may convert any amount larger than the value of its current net property as the capital stock of the cooperative to be created.</p>

Current provisions	Proposed amendment
<p><Newly created></p>	<p>④ Earned proceeds owned by an Entity as defined in the relevant presidential decree may be converted into reserve under Article 50.</p> <p>⑤ Any Entity that intends to convert into a cooperative under paragraph 1 above shall obtain permit, approval, authorization or otherwise (“Permits”) from the head of the competent authority prior to the resolution at its general assembly if such permit or approval is required.</p> <p>⑥ Upon resolution at the general assembly under paragraph 1, the entity shall report its organizational conversion to the governor having jurisdiction over its principal office as set out in the applicable presidential decree.</p> <p>Article 68.2 (Registration of organizational change) Any Entity that has converted into a cooperative under Article 60.2.6 shall have 14 days for its principal office and 21 days for its branch to register its dissolution. The cooperative created shall register its formation under Article 61.</p>
<p>Article 80 (Business Activities) ① and ② (Full text not presented here)</p> <p>③ Notwithstanding paragraphs 1 and 2, no federation may engage in finance or insurance service as defined in the Korean Standard Industry Classification issued by the National Statistical Office under Article 22.1 of the Statistics Act.</p> <p><Newly created></p>	<p>Article 80 (Business Activities) ① and ② (To remain unchanged)</p> <p><Rescinded></p> <p>Article 80.2 (Mutual aid) ① Federations may offer mutual aid services for their member organizations.</p>

Current provisions	Proposed amendment
<p>Article 84 (Provisions Applicable <i>Mutatis Mutandis</i>) Article 61 to Article 70 shall be applicable <i>mutatis mutandis</i> to the registration of federations. In this case, “cooperatives” shall be replaced with “federations” and “president” with “chairman”.</p> <p>Article 87 (Handover of Formation-related Duties and Payment of Contributions, etc.) ① to ③ (Full text not presented here) <Newly created></p> <p>Article 94 (Small Loans for Members and Mutual Aid Programs) Notwithstanding Article 45.3, social cooperatives may make small loans and/or provide mutual aid programs for their members in accordance with their articles of incorporation as secondary business, provided that the total amount of small loans made does not exceed two-thirds of their respective equity capital. ② (Full text not presented here)</p>	<p>② Any federation that intends to offer mutual aid services under paragraph 1 shall set up code for such services and obtain approval from the Minister of Planning and Financing. This shall also apply to amendment thereto. ③ The code for mutual aid services under paragraph 2 shall contain the scope of the mutual aid service, provisions regarding the implementation of the service, amount of aid, aid contract and premium, and provisions about the operation of the service including contingency reserve.</p> <p>Article 84 (Provisions Applicable <i>Mutatis Mutandis</i>) -----Article 61 to Article 68, and Article 69 and Article 70 ----- ----- ----- ----- -----.</p> <p>Article 87 (Handover of Formation-related Duties and Payment of Contributions) ① to ③ (Full text not presented here) ④ The capital stock of a social cooperative shall be the sum of the contributions paid by its members.</p> <p>Article 94 (Small Loans for Members and Mutual Aid Programs) ---- Article 45.3 applicable <i>mutatis mutandis</i> in Article 93.4 ----- articles of incorporation ----- ----- ----- ----- -----.</p> <p>② (To remain unchanged)</p>

Current provisions	Proposed amendment
<p>Article 95 (Use of businesses) ① No social cooperative may allow non-members to use any of its businesses.</p> <p>② Notwithstanding paragraph 1, social cooperatives may allow non-members to use their businesses in accordance with the relevant presidential decree, provided that such use does not interrupt use by their members. This paragraph shall not apply to businesses under Article 94.</p> <p>③ Notwithstanding paragraph 1, social cooperatives engaging in healthcare may direct no more than 50 percent of their healthcare services to non-members. In this case, the criteria for determining the proportion of the services offered for non-members and the definition of non-members eligible for the services shall be as defined in the relevant presidential decree.</p>	<p>Article 95 (Use of businesses) ① Social cooperatives may allow non-members to use their services in accordance with their respective articles of incorporation.</p> <p><Rescinded></p> <p><Rescinded></p>
<p>Article 97 (Legal reserve and voluntary reserve) ① All social cooperatives shall set aside no less than 30 percent of their profits, if any, calculated at the end of their respective fiscal years as Legal Reserve until such fund set aside becomes 3 times as much as their capital stock</p> <p>② and ③ (Full text not presented here)</p>	<p>Article 97 (Legal reserve and voluntary reserve) ① ----- ----- ----- total contributions paid in during the fiscal year----- ----- -----.</p> <p>② and ③ (To remain unchanged)</p>
<p>Article 101 (Merger and split) ① to ⑤ (Full text not presented here)</p> <p>⑥ No social cooperative may merge with, or split into, any other entity, association or cooperative than those formed under this Act. <Provisory clause newly added></p>	<p>Article 101 (Merger and Spin-off) ① to ⑤ (To remain unchanged)</p> <p>⑥ ----- ----- ----- -----.</p>

Current provisions	Proposed amendment
<p><Newly created></p> <p><Newly created></p>	<p>This paragraph shall not apply to cases where social cooperatives under this Act acquire other legal entities, associations or cooperatives than those under this Act.</p> <p>Section 6.2 Organizational Change</p> <p>Article 105.2 (Organizational conversion of cooperatives, non-profit incorporated association, legal entities, etc.) ① Cooperatives formed under this Act, not-for-profit legal entities (incorporated associations only, and this holds for this article and Article 108.2) and other legal entities formed under the Civil Act may convert into social cooperatives under this Act with affirmative voting by two thirds of their total members at their respective general assemblies. In this case, existing cooperatives, not-for-profit legal entities and other legal entities formed under the Civil Act and social entities whose organizations have changed shall be deemed to be identical legal entities in terms of their rights and obligations.</p> <p>② Resolutions at the general assembly held under paragraph 1 shall be concerning:</p> <ol style="list-style-type: none"> 1. Articles of Incorporation 2. Contributions 3. Other matters associated with conversion into a social cooperative <p>③ No cooperative, not-for-profit entity formed under the Civil Act or legal entity converting into a social cooperative under paragraph 1 may convert any amount larger than the value of its current net property as the capital stock of the social cooperative to be created.</p>

Current provisions	Proposed amendment
	<p>④ Earned proceeds held by a cooperative, not-for-profit entity or legal entity formed under the Civil Act under the relevant presidential decree may be converted into reserve under Article 97.</p> <p>⑤ Any cooperative, not-for-profit entity or legal entity formed under the Civil Act that intends to convert into a social cooperative under paragraph 1 above shall obtain permit or approval from the head of the competent authority prior to the resolution at its general assembly if such permit or approval is required.</p> <p>⑥ Upon resolution at the general assembly under paragraph 1, the cooperative, not-for-profit entity or other legal entity formed under the Civil Act shall gain approval for its organizational conversion into a social cooperative from the Minister of Planning and Financing as set out in the relevant presidential decree.</p>
<p><Newly created></p>	<p>Article 105.3 (Provisions Applicable <i>Mutatis Mutandis</i>) For anything other than those covered in this Act with respect to organizational conversion into social cooperatives, the provisions regarding organizational conversion of corporations into limited liability companies under the Civil Act shall be applicable.</p>
<p><Newly created></p>	<p>Article 108.2 (Registration of Formation) Any cooperative, not-for-profit entity formed under the Civil Act or legal entity that has converted into a social cooperative under Article 105.2 shall have 14 days for its principal office and 21 days for its branch to report its dissolution. The social cooperative created shall register its formation under Article 106.</p>

Part 2 Social Cooperative

Current provisions	Proposed amendment
<p>Article 110 (Provisions Applicable <i>Mutatis Mutandis</i>) Provisions from Article 62 to Article 64 and from Article 67 to Article 70 shall apply <i>mutatis mutandis</i> regarding registration of social cooperatives. In this case, “cooperatives” shall be replaced with “social cooperatives”.</p>	<p>Article 110 (Provisions Applicable <i>Mutatis Mutandis</i>) -----Article 62 to Article 64, and Articles 67, 68, 69 and 70 ----- ----- ----- -----.</p>
<p>Article 115 (Provisions Applicable <i>Mutatis Mutandis</i>) Articles 17, 19, 21, 22, 25, 28.3 through 28.5, 29 through 44, 47, 48, 52 through 55, 62 through 64, 67 through 70 shall apply <i>mutatis mutandis</i> regarding federations of social cooperatives. In this case, “cooperatives” shall be replaced with “federations of social cooperatives”, “presidents” with “chairmen”, “cooperative members” with “members”, “registration of formation” under Article 19.1 with “registration of formation” under Article 106”, “one cooperative member” under Article 22.2 with “one member”, “30 percent” with “40 percent”, “cooperative members” under Articles 29, 30 and 40.1 with “representatives”, “one fifths” under Article 40.1 with “one thirds”, “cooperative members” under Article 37 with “cooperative members who are representatives or members”, and “anyone who has applied to be a member” with “a member of a cooperative that has applied to be a member”.</p> <p>② (Full text not presented here)</p>	<p>Article 115 (Provisions Applicable <i>Mutatis Mutandis</i>) ① ----- ----- -----Article 62 through Article 64, Articles 67, 68, 69 and 70 ----- ----- ----- ----- ----- ----- ----- ----- ----- ----- ----- ----- ----- ----- ----- ----- ----- ----- -----.</p> <p>② (To remain unchanged)</p>

Current provisions	Proposed amendment
<p>③ Articles 86, 87, 89 and 90, Article 96 through 99, Articles 101 through 109 and Articles 111 through 113 shall apply <i>mutatis mutandis</i> regarding federations of social cooperatives. In this case, “social cooperatives” shall be replaced with “federations of social cooperatives”, “cooperative members” with “members”, “cooperative members and proxies” with “members”, “Articles 85, 86 and 88” under Article 101.4 with “Articles 114 and 115”, and “cooperative members” with “representatives”.</p>	<p>③ ----- ----- ----- ---to Article 105, from Article 106 to Article 108, Article 109----- ----- ----- ----- ----- ----- ----- ----- ----- -----</p>
<p>Article 119 (Fine) ① Violation of Article 3.3 shall result in a fine of no more than 2 million won. ② to ④ (Full text not presented here)</p>	<p>Article 119 (Fine) <Rescinded> ② to ④ (To remain unchanged)</p>

(3) Discussion

- ① With respect to the use of the term “social cooperative”, both the low awareness of cooperatives and the need for stricter regulations on their naming needs to be considered.¹¹²⁾
- ② With respect to adding provisions regarding tax reduction, considerations should be made to fiscal conditions, equality with other entities, possibility of unchecked increase in cooperatives, and many other relevant elements before any decision making.¹¹³⁾

112) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi], Planning and Finance Committee, Apr. 2013.12, page 6
 113) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi], Planning and Finance Committee, Apr. 2013.12, page 8

- ③ With respect to the proposed provision regarding capital stock, considering that the current Framework Act on Cooperatives provides no clear definition of “contributions”, possibly causing confusion during accounting, the proposed amendment’s definition of contributions as capital stock seems reasonable.¹¹⁴⁾
- ④ With respect to proposed provision giving an exception regarding the board of directors, allowing small cooperatives with no more than 10 members not to have a board of directors seems reasonable because it can help them improve speed and efficiency in decision making.¹¹⁵⁾
- ⑤ With respect to the proposed provision giving an exception to audit, the current Framework Act on Cooperatives already provides a certain level of exception concerning the independence of the auditor as it allows the auditor (an executive) of a cooperative to be an employee as well depending on the cooperative’s business or membership.¹¹⁶⁾ Yet considerations should be made to the risk of fraudulent accounting or book-cooking if there is no auditor.¹¹⁷⁾
- ⑥ With respect to the proposed change in the amount of legal reserve, it seems reasonable to amend the current provision requiring that

114) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyunmi et al], Planning and Finance Committee, December 2013, page 10

115) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 2013, page 13

116) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 16

117) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 16

cooperatives set aside at least 10 percent of their surplus until the total amount so set aside equals 3 times as much as their equity capital to one requiring that they should set aside until the total amount so set aside equals 3 times as much as the total paid-in contributions, so that they can operate more soundly.¹¹⁸⁾

- ⑦ With respect to the proposed provision regarding merger, the proposed amendment allows for merger by a cooperative formed under the Framework Act on Cooperatives (the “Act”) while still banning merger between a cooperative under the Act and an entity, association or cooperative formed under other act in order to help cooperatives under the Act grow. The need for allowing cooperatives to merge other organizations with similar business objectives in order to generate possible synergies seems justified.¹¹⁹⁾

The amendment, however, seems to need a provision requiring approval by the Minister of Planning and Finance when such a merger is impending. Further discussions are needed as to whether resolution at the general assembly should be required for a merger and, if required, what the quorum should be.¹²⁰⁾

- ⑧ With respect to proposed provision regarding conversion into social cooperatives, the current Act fails to have provisions regarding

118) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 16

119) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 21

120) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 21

conversion into cooperatives or social cooperatives as substantial as, for example, the requirements for organizational conversion given in the Commercial Act.¹²¹⁾

First, the proposed amendment permits ‘corporations and limited liability companies under the Commercial Act and legal entities under other acts’ to become general cooperatives and ‘corporations and limited liability companies under the Commercial Act, legal entities under other acts, incorporated associations under the Civil Act and general cooperatives under this Act’ to become social cooperatives. This seems reasonable in that the proposed provision can help cope with an expected rise in the conversion of existing entities into cooperatives or social cooperatives.¹²²⁾ The amendment does not permit conversion of social cooperatives into cooperatives. This also seems reasonable because otherwise social cooperatives may take advantage of dividend or liquidation for private gains contrary to the purpose of their existence.¹²³⁾

Second, Article 60.2.1 (or Article 105.2.1) of the proposed amendment requires affirmative voting by two thirds of the members at the general assembly if an entity converts into a cooperative (or a social cooperative). For this proposal, considerations should be made for both its positive aspect and negative aspect - the former being the guarantee of substantive identity before and after the conversion (i.e. contract relationship, protection of

121) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 27

122) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 28-29

123) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 29

creditors) while the latter being greater difficulty in conversion, and the decision should be based on legislation policy.¹²⁴⁾

<Scope of conversion between legal entities permitted
under the proposed amendment>¹²⁵⁾

Type of conversion	Quorum	Possible	Ground
1. General cooperatives under this Act ⇒ social cooperatives	(Affirmative voting by 2/3)	○	Article 105.2
2. Social cooperatives under this Act ⇒ general social cooperatives	-	×	-
3. Corporations and limited liability companies under the Commercial Act and legal entities under other acts ⇒ general cooperatives	(Affirmative voting by 2/3)	○	Article 60.2
4. Corporations and limited liability companies under the Commercial Act, legal entities under other acts, incorporated associations under the Civil Act ⇒ social cooperatives	(Affirmative voting by 2/3)	○	Article 105.2
5. Business owners and legal entities with similar objects when the Act took effect ⇒ general cooperatives	(Affirmative voting by 2/3)	○	Article 2 of Addenda
6. Business owners and legal entities with similar objects when the Act took effect ⇒ social cooperatives	(Affirmative voting by 2/3)	○	Article 2 of Addenda

124) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 30

125) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 30

Third, Article 60.2.3 and Article 105.2.3 of the proposed amendment bans any entity wishing to convert into a cooperative from having capital stock greater than the value of its current net property when it becomes a cooperative. These articles are reasonable in that they appear to be aimed at ensuring more sound financial structure for cooperatives.¹²⁶⁾ Further provisions, however, need to be added to the two articles to the effect that if capital stock is greater than the value of net property, the directors and shareholders incumbent when the resolution on the conversion was made should be held responsible along with the cooperative just as Commercial Act specifies so.¹²⁷⁾

Fourth, ① The proposed provisions requiring that: i) any entity converting into a cooperative or a social cooperative should make a resolution at its general assembly regarding its articles of incorporation, contributions, and other matters required for the conversion; ii) any prerequisite for the conversion such as permits shall be fully met prior to actual conversion (Article 60.2.5 and Article 105.2.5 of the proposed amendment); and the entity prior to the conversion should register its dissolution while the cooperative or the social cooperative created after the conversion should register its formation (Article 68.2 and Article 108.2) appear to be reasonable.¹²⁸⁾

126) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 2013, page 31

127) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 2013, page 31

128) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 32-33

Fifth, while Article 14 of the current Act stipulates that for other matters regarding social cooperatives than those covered by the Framework Act, the provisions of the Civil Act applicable to not-for-profit entities shall apply *mutatis mutandis*, it is desirable that the provisions of the Commercial Act applicable to limited liability companies apply *mutatis mutandis* in case of organizational conversion. Consequently, Article 105.3 of the proposed amendment specifying the *mutatis mutandis* application of such provisions from the Commercial Act is deemed reasonable.¹²⁹⁾

4. [Proposal 6693] Proposed Amendments to Framework Act on Cooperatives

(1) Justification

Cooperatives are designed to improve the interest and benefits of their members and contribute to the community and thus should have nothing to do with the politics.¹³⁰⁾ Yet there are voices worrying about the recent surge in newly formed cooperatives. This is argued to result from the common interest between heads of some local governments who seek to take advantage of cooperatives for their re-election and those targeting the generous subsidies available to cooperatives granted by such heads.¹³¹⁾ The proposed amendments are, therefore, aimed at preventing cooperatives from being used for any political purposes and any non-qualified cooperatives

129) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Kim Hyun-mi et al], Planning and Finance Committee, December 12, 2013, page 33

130) [Proposal 6693] Amendment to Framework Act on Cooperatives (proposed by lawmaker Jeong Hee-su, et al), Sep. 4, 2013, page 1

131) [Proposal 6693] Amendment to Framework Act on Cooperatives (proposed by lawmaker Jeong Hee-su, et al), Sep. 4, 2013, page 1

from operating by causing the field survey of cooperatives, which is now conducted every 3 years, to be conducted every year.¹³²⁾

(2) Highlights

- ① A provision banning any cooperative or social cooperative from being involved in any political activity will be created (as Article 9.1 of the Act).¹³³⁾
- ② The field survey of cooperatives currently conducted by the Minister of Planning and Finance every 3 years will now be conducted every year (to be created as Article 11.4 of the Act).¹³⁴⁾

Current provisions	Proposed amendment
<p>Article 9 (No Involvement in Election of Public Officials) <Newly created></p> <p>① (Full text not presented here)</p> <p>② No one shall use any Cooperative or Social Cooperative to conduct anything under paragraph 1.</p> <p>Article 11 (Policies on Cooperatives) ① -</p> <p>③ (Full text not presented here)</p> <p>④ The Minister of Planning and Finance shall also conduct a survey of cooperatives every 3 years to gain knowledge of, among other things, their activities, finance, members, and operation, make</p>	<p>Article 9 (No Involvement in Politics) ① No Cooperative or Social Cooperative shall engage in anything related to the politics.</p> <p>② (Same as current paragraph 1)</p> <p>③ ----- ----- ----- paragraph 2.</p> <p>Article 11 (Policies on Cooperatives) ① -</p> <p>③ (To remain unchanged)</p> <p>④ ----- ----- every year ----- ----- -----</p>

132) [Proposal 6693] Amendment to Framework Act on Cooperatives (proposed by lawmaker Jeong Hee-su, et al), Sep. 4, 2013, pages 1-2

133) [Proposal 6693] Amendment to Framework Act on Cooperatives (proposed by lawmaker Jeong Hee-su, et al), Sep. 4, 2013, page 2

134) [Proposal 6693] Amendment to Framework Act on Cooperatives (proposed by lawmaker Jeong Hee-su, et al), Sep. 4, 2013, page 2

Current provisions	Proposed amendment
<p>the findings from it publicly available and report to the competent standing committee of the National Assembly.</p> <p>⑤ (Full text not presented here)</p>	<p>----- ----- -----.</p> <p>⑤ (To remain unchanged)</p>
<p>Article 117 (Penal Provisions) ① and ② (Full text not presented here)</p> <p>③ Anyone shall be sentenced to jail time of no longer than 2 years or a fine of no more than 10 million won if he or she:</p> <p>1. Is involved in the election of public officials in violation of Article 9.2</p> <p>2. (Full text not presented here)</p>	<p>Article 117 (Penal Provisions) ① and ② (To remain unchanged)</p> <p>③ ----- ----- -----.</p> <p>1. ----- Article 9.2.</p> <p>2. (To remain unchanged)</p>

(3) Discussion

① No involvement in politics

The proposed amendment adds a provision to Article 9 banning involvement in any political activity including election of public officials, but does not provide anything regarding penalty for any such involvement (Article 9 and Article 17).¹³⁵⁾

② Annual conduct of a field survey

To help cooperatives grow and thrive, an appropriate level of support from the state is necessary, and such support should be guided by the right policies and strategies based on actual data on how they operate.¹³⁶⁾

135) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Jeong Hee-su et al], Planning and Finance Committee, Apr. 2013.11, page 3

136) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Jeong Hee-su et al], Planning and Finance Committee, Apr. 2013.11, page 7

For this reason, the current Framework Act on Cooperatives stipulates that a survey of cooperatives be conducted every 3 years and that the Minister of Planning and Finance set up a framework plan for the facilitation of autonomous activities of cooperatives.¹³⁷⁾ Although the annual conduct of the field survey proposed in the amendment makes sense as it is aimed at preventing cooperatives from being used for any political purposes and at preventing any non-qualified cooperatives from operating, careful considerations should be made for the following: i) the Social Enterprise Promotion Act and the Act on the Promotion of Creation of Family-Friendly Social Environment, which are similar to the Framework Act on Cooperatives by nature, stipulates a field survey every 5 years, and the Act on Special Measures for Development of Small and Micro Enterprises and the Framework Act on Healthy Families, a survey every 3 years, respectively, ii) the purpose of the amendment - preventing cooperatives from being used political purposes and unqualified ones from operating - can be achieved to some extent by some of the current provisions including the application review process, the obligation for cooperatives and social cooperatives of over certain scale to disclose their operation (including their articles of incorporation, business plans, book closing reports, minutes of general assembly and board meetings and business reports), and the right to supervise social cooperatives and revoke approval of their formation, and iii) the annual processing of such survey may cause an excess workload on the administration.¹³⁸⁾

137) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Jeon Hee-su et al], Planning and Finance Committee, November 11, 2013, page 7-8

138) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Jeon Hee-su et al], Planning and Finance Committee, November 11, 2013, page 8-9

5. [Proposal 5769] Proposed Amendments to Framework Act on Cooperatives

(1) Justification

Cooperatives voluntarily formed by those with the same vision of economic and social values and operated democratically are regarded by many as a model that can help achieve both economic benefits and social contribution in the context of a global society still reeling from the after effects of the 2008 financial crisis.¹³⁹⁾ Proactive support from the government is critical in order for cooperatives in Korea, which first started to emerge with the Framework on Cooperatives in December 2012, to take root early.¹⁴⁰⁾ The proposed amendment is intended to promote the formation of cooperatives and help them operate more stably by causing the government to provide professional consulting on the operation of cooperatives, offer training for their members and employees and provide them with tax benefits.¹⁴¹⁾

(2) Highlights

- ① The Minister of Planning and Finance may provide opportunities for cooperatives and social cooperatives to receive professional consultation and information regarding management, technology, tax, labor and accounting in connection with their formation and operation (Article 115.2 to the proposed amendment).¹⁴²⁾

139) [Proposal 5769] Amendment to Framework Act on Cooperatives (proposed by lawmaker Bu Jua-hyun, et al), Jul 1, 2013, page 1

140) [Proposal 5769] Amendment to Framework Act on Cooperatives (proposed by lawmaker Bu Jua-hyun, et al), Jul 1, 2013, page 1

141) [Proposal 5769] Amendment to Framework Act on Cooperatives (proposed by lawmaker Bu Jua-hyun, et al), Jul 1, 2013, page 2

142) [Proposal 5769] Amendment to Framework Act on Cooperatives (proposed by lawmaker Bu Jua-hyun, et al), Jul 1, 2013, page 2

- ② The Minister of Planning and Finance may decide that proper training and education are offered for cooperatives and social cooperatives so that they can have competent human resources in sufficient number for their formation and operation (Article 115 of the amendment).¹⁴³⁾
- ③ The state and the competent local government shall ensure that tax benefits can be offered for cooperatives and social cooperatives in accordance with the relevant tax regulations including the Restriction of Special Taxation Act (Article 115.4 of the amendment)).¹⁴⁴⁾
- ④ The task of providing management support and training and education may be entrusted to the head of the competent authority, the competent governor or a relevant organization or association as set out in the Enforcement Decree of the Act (Article 116 of the Act).¹⁴⁵⁾

Current provisions	Proposed amendment
<Newly created>	Article 115.2 (Management Support) The Minister of Planning and Finance may provide opportunities for cooperatives and social cooperatives to receive professional consultation and information regarding management, technology, tax, labor and accounting in connection with their formation and operation.
<Newly created>	Article 115.3 (Training and Education) The Minister of Planning and Finance may

143) [Proposal 5769] Amendment to Framework Act on Cooperatives (proposed by lawmaker Bu Jua-hyun, et al), Jul 1, 2013, page 2

144) [Proposal 5769] Amendment to Framework Act on Cooperatives (proposed by lawmaker Bu Jua-hyun, et al), Jul 1, 2013, page 2

145) [Proposal 5769] Amendment to Framework Act on Cooperatives (proposed by lawmaker Bu Jua-hyun, et al), Jul 1, 2013, page 2

Current provisions	Proposed amendment
<p data-bbox="312 611 512 645"><Newly created></p> <p data-bbox="300 875 815 1144">Article 116 (Delegation) The power of the Minister of Planning and Finance under this Act, especially Articles 11, 71, 96, 102, 103, 108, 112, 114 and 119 may be delegated to the head of the competent authority or the competent governor of a city or province.</p>	<p data-bbox="871 389 1358 577">decide that proper training and education be offered for cooperatives and social cooperatives so that they can have competent human resources in sufficient number for their formation and operation</p> <p data-bbox="842 611 1358 842">Article 115.4 (Tax reduction) The state or the competent local government may reduce tax imposed on Cooperatives or Social Cooperatives in accordance with applicable tax laws including the Restriction on Special Taxation Act.</p> <p data-bbox="842 875 1358 1144">Article 116 (Delegation of Authority) ----- ----- -----114, 115.2, 115.3 ----- delegated - or entrusted to relevant organizations or associations --- -----.</p>

(3) Discussion

① Management support and support for education and training

Given that cooperatives in Korea are still in their infancy following the introduction of the Framework Act on Cooperatives, the need to provide them with management and education/training support is recognized as described in the proposed amendment in an effort to help form a sound cooperative ecosystem.¹⁴⁶⁾ There might be controversy over how the support will be provided between direct support by the central government like the Ministry of Planning and Finance and community-based indirect

146) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Bu Jua-hyun et al], Planning and Finance Committee, Nov 2013, page 4

support through, for example, federations of cooperatives. Considering that federations of cooperations have yet to mature, holding the Minister of Finance and Planning responsible for the task, as the amendment suggests, seems more reasonable.¹⁴⁷⁾

② Delegation and entrust provisions

In light of their nature, the provisions regarding delegation or entrust of responsibilities for management and education/training seems reasonable.¹⁴⁸⁾

③ Creation of provisions for tax reduction

Careful considerations should be made for this proposal as it is only declaratory and only has effect under relevant tax regulations, including the Restriction of Special Taxation Act. Otherwise it will entail tremendous side effects, which will far outweigh any likely benefits.¹⁴⁹⁾

In addition, social cooperatives and their federations have already enjoy the same level of tax benefits as that applied to not-for-profit entities. Extending the benefits to cooperatives can be highly controversial.¹⁵⁰⁾

147) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Bu Jua-hyun et al], Planning and Finance Committee, Nov 2013, page 4

148) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Bu Jua-hyun et al], Planning and Finance Committee, Nov 2013, page 6

149) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Bu Jua-hyun et al], Planning and Finance Committee, Nov 2013, page 8

150) Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Bu Jua-hyun et al], Planning and Finance Committee, Nov 2013, page 9

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Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Jeong Hee-su et al], Planning and Finance Committee, Nov. 2013

Ryu Hwan-min, Review of Proposed Amendment to the Framework Act on Cooperatives [from Lawmaker Bu Jua Hyun et al], Planning and Finance Committee, Nov. 2013

[Proposal 16091] Amendment to Framework Act on Cooperatives (government), Jul. 16, 2015

[Proposal 13945] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Ki-june, et al), Feb. 10, 2015

[Proposal 7867] Amendment to Framework Act on Cooperatives (proposed by lawmaker Kim Hyun-mi, et al), Nov. 19, 2013

[Proposal 6693] Amendment to Framework Act on Cooperatives (proposed by lawmaker Jeong Hee-su, et al), Sep. 4, 2013

[Proposal 5769] Amendment to Framework Act on Cooperatives (proposed by lawmaker Bu Jua-hyun, et al), July 1, 2013

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<http://www.law.go.kr/lsInfoP.do?lsiSeq=165469&ancYd=20141230&ancNo=12866&efYd=20150701&nwJoYnInfo=Y&efGubun=Y&chrClsCd=010202#0000>

Part 3. Social Economy¹⁵¹⁾

151) Part 3 was written by three people: Son Hyuk-sang, professor of Hongik University, wrote Chapters 1 and 2 and Doctors Lee Sang-mo and Kwon Chae-ri, Korea Legislation Research Institute, wrote Chapter 3 and 4.

Chapter 1. Implication of Social Economy

Section 1. Why Did Social Economy Emerge?

1. Socio-economic background

The assertion that pursuit of selfishness leads to public good is best demonstrated in a company, which is deemed as an organization with an ultimate goal of profit maximization.¹⁵²⁾ Any profit that is gained goes to the business's owners (shareholders). While the goal of every company is always production and distribution, those who advocate the maximization of shareholders' share justify the minimization of shares for other stakeholders. This, in turn, leads to a belief that one has to conform to a situation where diverse social values should be sacrificed for efficiency to guarantee our minimum economic life. This belief, however, has only helped justify greed, maximize companies' profit and increase economic growth, and eventually gave birth to the creed that public good can be achieved subsequently through the operation of the market.

After World War II, the mass production system based on unskilled workers that had powered the economic growth of the West gave way gradually to small quantity batch production based on skilled workers.¹⁵³⁾ Some countries without proper regulations in their labor market experienced falling wages, rising unemployment and worsened inequality resulting from decreasing demand for unskilled workers and gradually

152) Frank Easterbrook(trans. Lee Mun-ji), *The Economic Structure of Corporate Law*, Free Company Center, 1999.

153) Shin Myeong-ho, "Understanding of Social Economy", in Kim Seong-gi et al., *Understanding of Social Economy and Prospect*, Arke, 2014.

faced low growth, low birth rates and aging population. All these factors brought about a fiscal crisis with each of them and eventually a reduction in spending on social welfare. In addition, the greed of Wall Street and multi-national corporations witnessed during and after the financial crisis in 2008 has been cited by many not as the driver of growth, but the cause of insolvency.

(1) Types of capitalism

Economic systems can be divided into free market economies and communism (command economies) according to how production and distribution take place and capitalism and socialism according to how the means of production and goods are owned. Capitalism was powered by the proliferation of individualism and liberalism ignited by the bourgeois revolution throughout the 17th and 18th centuries and the enhanced productivity resulting from the Industrial Revolution. Characteristics of capitalism include free economic activities of individuals, guaranteed rights to property and determination of prices through an invisible hand: the market.¹⁵⁴⁾

Capitalism was victorious and communism became a thing of the past when the Cold War ended on November 9, 1989. As many people are concerned, this gave us an over-simplified and misleading view of capitalism. Countries we regard as capitalistic have significantly different economic organizations, government roles and other attributes. There are four types of capitalism: state-guided capitalism, in which government tries to influence the market, most often by supporting particular industries

154) Today's welfare economics and the School of Chicago's neo-liberalistic economic theory provide important economic background for this.

that it expects to become “winners”; oligarchic capitalism, in which the bulk of the power and wealth is held by a small group of individuals and families; big-firm capitalism, in which the most significant economic activities are carried out by established corporate giants; and entrepreneurial capitalism, in which a significant role is played by small, innovative firms.¹⁵⁵⁾

As the label suggests, state-guided capitalism exists where governments, not private investors, decide which industries and even which individual firms should grow. Government economic policy is then geared to carry out those decisions, using various policy instruments to help out the chosen “winners.” Under state-guided capitalism, first of all, for countries whose economies have grown rapidly under the guiding hand of the state — many Asian economies may come to in mind in particular — it can be tempting to conclude that indefinite continuation of the same approach will yield growth benefits.¹⁵⁶⁾ Second, as such countries approach the technological frontier, they no longer can just pick a sector or an industry. Third, governments in state-guided economies are not comfortable with the seemingly chaotic, unplanned, rough-and-tumble process that is

155) William J. Baumol, Robert E. Litan and Carl J. Schramm(trans. Lee Gyu-eok), *Good Capitalism, Bad Capitalism, and the Economics of Growth and Prosperity*, Sigma Press, 2008, p.85.

156) A good example of what can go wrong is what happened to South Korea in the late 1990s. Long accustomed to directing its banks to provide loans to the larger South Korean conglomerates (“chaebols”), South Korea’s government induced too many banks to invest excessively in the expansion of the semiconductor, steel, and chemicals industries. When the financial crisis that began in Southeast Asia during the summer of 1997 spread to South Korea, the country’s banks and, more importantly, the companies that had borrowed to expand were so overextended that the South Korean economy came close to collapse. It was rescued only when the United States government led an international effort to prop up the country’s financial institutions by extending the maturities of their deposits. [Paul Blustein, *The Chastening*, 2001 (New York: Public Affairs)]

the hallmark of capitalism unconstrained by bureaucracy.¹⁵⁷⁾ Fourth, in economies where a corporation's success depends on whether it receives favors from government, there is always a danger of corruption.

In these societies, economic growth is not a central objective of the government, whose main goal is instead to maintain and enhance the economic position of the oligarchic few (including government leaders themselves) who own most of the country's resources. Oligarchic capitalistic economies generally have several features in common. First, and perhaps most obviously, their incomes are distributed extremely unequally. We can use the so-called Gini coefficient, a standard measure of inequality, to illustrate this.¹⁵⁸⁾ Those with power and wealth can and do tend to distort the cost of capital across social groups, thus leading to wasteful and inefficient allocation of resources while impeding opportunities for those who are penalized. Narrow, powerful elites also tend to put in place and maintain institutions and rules that benefit only themselves, at the expense of the wider public. A second feature associated with many if not most oligarchic economies: a high share of "informal activity." Informal activity is constructive and contributes to growth, but economies where it is widespread could grow faster if informal businesses were allowed to surface from the underground and do business in the open, with access to formal credit and networks that facilitate more rapid

157) That is how Malaysia ended up building one of the world's largest high-technology parks in the 1990s, a multibillion-dollar venture that still does not seem to have paid off.

158) Comparison of the Gini coefficients in 1998, 1999, or 2000 for Latin America, a region we believe to be broadly characterized by oligarchic capitalism and the Ginis for countries belonging to the Organization for Economic Cooperation and Development (OECD) reveals that the Ginis are much higher in Latin America, roughly near 50 to 60, suggesting a high degree of income inequality. In contrast, the Gini's in the OECD fall in the 25 - 40 range. World Bank, World Development Indicators (Washington D.C.: IBRD/World Bank, 2004)

expansion. Oligarchic economies typically are plagued by corruption, even more than in state-guided capitalism, though corruption certainly is not unknown in any economic system. Governments that make it difficult for citizens to obtain licenses or approvals - the preconditions that lead to informality - also create opportunities for lower officials to take bribes. Indeed, firms that pay bribes typically face more intrusion from government officials than law-abiding enterprises.¹⁵⁹⁾

In big-firm capitalism, large, established enterprises not only have the resources to finance creative activity but also enjoy positions in their markets large enough to earn profits sufficient to make the investment in the development of innovations worthwhile. There are few entrepreneurs in big-firm economies that are innovative in the sense of the term as we use it. Joseph Schumpeter feared that entrepreneurial activity was gravitating toward the large, established enterprises. He also held concern that the growing bureaucracies within large U.S. companies, especially in the wake of the mass production required during World War II, were going to stifle innovation in the future.¹⁶⁰⁾ John Kenneth Galbraith also wrote about the growing power of large, established companies during the early part of the postwar era. But unlike Schumpeter, Galbraith was not worried that Corporate America would run out of commercial ideas. On the contrary, he feared that large corporations were becoming so powerful that society would need “countervailing powers” - unions and government - to check corporate excesses, in wasteful advertising, in lavish perks, and in profits.¹⁶¹⁾

159) Daniel Kaufman and Shang-Jin Wei, “Does ‘Grease Money’ Speed Up the Wheels of Commerce?” NBER Working Paper 7093, Cambridge, Mass.: National Bureau of Economic Research, 1999.

160) Joseph A. Schumpeter, *Capitalism, Socialism and Democracy*, New York: Harper, 1942, p.81.

161) John Kenneth Galbraith, *The New Industrial State*, Boston: Houghton Mifflin, 1967, p.388.

Often, but not always, big-firm capitalism is oligopolistic. The temptation to live for the status quo is especially strong if the large firms that dominate a market are successful in thwarting competition¹⁶²⁾, either through acts on their own or by enlisting governments to shelter them from competition.¹⁶³⁾ At its worst, big-firm capitalism can be sclerotic, reluctant to innovate, and resistant to change.

Entrepreneurial capitalism is a capitalist system in which large numbers of the actors within the economy not only have an unceasing drive and incentive to innovate but also undertake and commercialize radical or breakthrough innovations. These innovations are bolder than the incremental innovations that characterize big-firm capitalism. Entrepreneurship makes an important contribution to economic growth by providing a conduit for the spillover of knowledge that might otherwise have remained un-commercialized.¹⁶⁴⁾ Radical breakthroughs tend to be disproportionately developed and brought to market by a single individual or new firm. Ideas behind breakthroughs that originate in larger firms (or universities) are often not exploited because of their bureaucratic structures. With rare exceptions, truly innovative entrepreneurs can only be found in capitalist economies, where the risk of doing something new - and spending time and money to make it happen - can be handsomely rewarded and the rewards safely kept. This can be best described by the term “creative

162) The U.S. automobile and steel industries are prime examples of large firms in oligopolistic markets that lost their competitive zeal and then sought and obtained trade protection to blunt—but not totally thwart—more efficient competitors from abroad. The domestic counterpart of trade protection here is antitrust litigation aimed at benefiting particular big-firm competitors rather than the entire economy.

163) Amar , “How Novelty Aversion Affects Financing Options,” *Capitalism and Society* I, no.1, Berkeley Electronics Press, 2006.

164) David A. Audretsch, Max C. Keibach and Erik E. Lehmann, *Entrepreneurship and Economic Growth*, New York: Oxford University Press, 2006.

destruction” that is essential and indispensable in entrepreneurial capitalism. The creativity and the destruction are often brought about by the entrepreneur and successor firms, who commercialize the new technology that replaced the old.¹⁶⁵⁾

(2) Drawbacks of capitalism and thereafter

Eventually, the sacrifice for capitalism’s greed was no longer regarded as any meaningful value. The growth of capitalism driven by enterprises made the rich even richer and the poor even poorer. At the same time, many challenges emerged, such as inequality of income distribution, economic instability resulting from alternation between recess and boom, gap between private and public interest, destruction of nature, and human alienation. To help address these challenges resulting from the structural drawbacks of capitalism, new movements emerged. The existing principles of enterprise operation also came under criticism, and it became obvious that economy is also a domain that should be operated based on interactions among diverse stakeholders and in association with different social values. Consequently, voices started to be heard that for the entire economy balanced progress in economic, environmental and social values should be the goal instead of higher economic growth in a broad spectrum, and for individual enterprises maximization of social influence should be the goal instead of profit maximization. In this regard, social enterprises with a goal of helping socially disadvantaged groups get on their own feet started to emerge, and the concept of corporate social responsibilities started to proliferate. Today, discussions are under way

165) The concern over this is sufficiently described by Schumpeter and Galbraith.

about social economy that goes beyond social interest and responsibility and touches on fundamental transformation.

2. Theoretical Background

In Europe, associations have played an important role in protecting people against, and helping them cope with, risks resulting from industrialization. Among them have emerged many thoughts: socialist school, liberal school, social Christian reformist school and solidarist school. These thoughts do not exclude one another, but maintain a close relationship. This is because there is a pluralistic understanding among them that embraces different political and cultural aspects. In other words, they share a critical view in the context of contradiction between industrial capitalists and workers that have existed since the Industrial Revolution.

Henri de Saint-Simon, a theorist of associationist socialism claims that industrialists, who are neither workers nor capitalists, will be the core of a new society, and therefore a new social order should be established to embrace them.¹⁶⁶⁾ Charles Fourier, who was highly influential in the U.S. and France, proposed phalanstère, an agriculture-driven utopian community where wealth could be distributed more fairly than in capitalism.¹⁶⁷⁾ They witnessed the problems of inequality and poverty caused by capitalism and suggested a new social order and building blocks for it to address the problems. Although their thoughts failed to be any structured trend of ideas in associationist socialism, they helped establish the values of

166) Eum Hyung-sik, *Social Economy and Social Enterprises in Korea: Lessons from Europe's Experiences*, Work Together Society, 2008, p.41.

167) Phalanstère is a blend of phalanx and monastère, or monastery. Bernard Werber (trans. Lee Se-uk and Lim Ho-gyeong), *L'Encyclopédie du savoir relatif et Absolu*, Yeolinchakdul, 1993, p.223

solidarity and autonomy that in turn provided a foundation for social economy. They also provide the concepts of inseparable assets and dividends pegged to the level of usage that are important theoretical principles for social economic organizations.¹⁶⁸⁾

School led by, among others, Charles Gide believed that the entire economic domain can be made to be cooperatives-centric and that cooperatives can play a critical role in social transformation and consolidation. Gide took a phased approach, instead of any revolutionary way, to turn countries and the world into huge cooperatives, starting from communities. Such an approach failed in reality, but contributed to the growth of consumer cooperatives as an alternative solution to the problem of distribution during the French socialistic movement.

Catholic countries like Germany, Italy and Spain, except France, were under strong influence of Christian solidarity or social Catholic. According to the social learning of the Roman Catholic Church, which found its fullest expression in the encyclical “Rerum Novarum”, human society is really an existing community of individuals combining the physical and spiritual aspects of human beings, and linked by various natural bonds. The fundamental units of the social structure are families; the key role in social organization is played by the division of labor.¹⁶⁹⁾

According to the concepts of liberalism, society as a whole (and even smaller social groups) does not exist as a separate being and is only a gathering of single individuals linked by a huge network of various

168) Eum Hyung-sik, *Ibid.*, p.42.

169) Adam Piechowski, “The four ideological roots of the social economy, and their present impact”, *Praha Social Economy 2002: Enlarging the social economy*, First European Social Economy Conference in Central and Eastern Europe, Bruno Roelants ed, 2002, p.37.

bonds and relationships. The supreme good of humanity is the full autonomy of all individuals and their right to fulfill their personal interest, including becoming rich.¹⁷⁰⁾ This idea, however, failed to provide sufficient theoretical background as industrialization, which liberalists and mainstream economists had strong belief in, made progress.¹⁷¹⁾

Associationist socialism started to wane when Marxism emerged in the late 19th century, and its experiments in the real world were divided into diverse institutional forms such as labor unions, mutual aid cooperatives and cooperatives. The idea of social economy, as a result, was reduced to nothing more than a complement to capitalism rather than a holistic and radical alternative to it.¹⁷²⁾ After Charles Gide and Leon Walras, social economy was no longer literature combining political economy with ethical considerations and evolved as a concept about economic activities and their organizations that function in other manner than capitalistic control.

Section 2. Implications of Social Economy

The theoretical background of social economy is based on the definition of Walras who saw existing market economy as a system for efficient production of goods and services and social economy as a measure to address the side effects of market economy, or a means of redistribution.¹⁷³⁾ Charles Gide, who made the theory more systematic,

170) Eum Hyung-sik, *ibid.*, p.43.

171) See “Eric Bidet, *Economie, sociale et Tier-secture: Une comparaison en Europe et en Asie*, Université de Paris X, 2000” for details.

172) Such a change in perception was guided by discussions by Léon Walras and Charles Gide. See Eum Hyung-sik, *ibid.*, pp.48-50 for details.

173) Social economy was defined according to the general equilibrium theory, part of welfare economics that is today’s mainstream economics.

introduced an ethical concept - sharing of social profits - into efficiency to improve social environment and bring justice to distribution. They attempted to improve inequality in distribution, one of capitalism's core problems, through the growth of social economic players such as cooperatives and other aid cooperatives.¹⁷⁴⁾ Friedrich Lutz claims that common good of social economy should be recognized and that more discussions should be made over how to increase its efficiency based on cost-benefit analysis. Recently a study was published that the concept of social economy depends on the country.¹⁷⁵⁾

Although there is still no clear definition of social economy, its background and previous studies can be used to derive a definition: a process of redistributing wealth created from market economy based on voluntary solidarity and mutual consideration as a response to the failure of government and the drawbacks of the market. In reality, it is substantiated in various social economic organizations, including aid cooperatives, cooperatives and social enterprises. It combines advantages of the state and the market amid tension between them and attempts to expand its presence. The basic principles of social economy presented by Social Economy Europe can shed light on the values that need to be considered.¹⁷⁶⁾

- The primacy of the individual and the social objective over capital
- Voluntary and open membership
- Democratic control by the membership

174) Shin Myeong-ho, *ibid.*, p.18.

175) See "Amin, A., Cameron, A. & Hudson, R., *Placing the Social Economy*, London: Routledge, 2002" for the difference between concepts resulting from the relationship between social economy and market, country and civil society.

176) Shin Myeong-ho, *ibid.*, p.25.

Part 3. Social Economy

- The combination of the interests of members, users, and general interest (society)
- The defense and application of the principle of solidarity and responsibility
- Autonomous management and independence from public authorities
- Reinvestment of the surplus to carry out sustainable development objectives, services of interest to members or of general interest

Chapter 2. Social Economy: A Snap Shot

Section 1. How Social Economy Operates

1. Consideration of type-specific social economic organizations

Establishment of social economy in the context of a state requires engagement of different types of social economic organizations. On the one hand, regulatory framework to support them comprehensively is required and, on the other, a strategy to develop support measures tailored to different types of individual organize and implement them is needed. To this end, the framework act on social economy must provide legal grounds for different social economic organizations and open up opportunities for them to establish their own disciplines.

Civic groups in Korea experienced serious ideological conflict among them and, as a result, have had difficulty in pursuing common goals strategically. Such an experience can be repeated amongst other organizations constituting social economy. For example, a trend may emerge where the scope of social economy is restricted to certain organizational types, with others being excluded. Self-sufficient communities, social enterprises and cooperatives share similar organizational structures and ways of operation. However, solutions to challenges they encounter during their operation may differ from organization to organization.

The exclusivity of each organization will act as a major barrier when social organizations intend to solidify for common projects. In this regard, social economic organizations must operate in an open manner.

Most social economic organizations are not significantly different by nature. That, however, does not mean that their organization can be of any type. Social economic organizations must have a democratic decision-making process and a worker-dcentric profit distribution system, provide more opportunities for vulnerable groups and maintain solidarity with the local community. They also have to have an organizational structure that can best achieve their objectives in the most effective manner possible.

2. Expanded Areas of Social Economic Activities

One of the leading drivers of the growth of social economy in our society in the last decade has been social services. That is because social services have provided much room for social economic organizations to participate as their goals include providing job opportunities for vulnerable groups and making social contributions. It is, however, obvious that social services are not the only area of activities for social economic organizations. They operate in almost all industrial sectors ranging from manufacturing and agriculture to wholesale, food & beverage, services, and entertainment. Look at self-sufficient communities and social enterprises and you will see that they operate in a wide range of areas.

Each area has its own reason why it needs social economic organizations. For example, delivering musical services to underdeveloped geographical locations requires social economic organizations. For coffee sales, social economic organizations may be more appropriate if it intends to have ethical value and return profits to society in the name of fair trade. Likewise, for recycling of computers, it is probably none other

than social economic organizations that willingly take reduced profits by employing those from vulnerable groups and adopting eco-friendly processes.

In theory, social economic organizations can operate in almost all corners of society. In practice, however, they operate in areas where for-profit enterprises are not interested due to the difficulty to remain profitable. That is, in a way, their choice: they have avoided direct competition with for-profit enterprises intentionally. In particular, organizations that receive subsidies for labor costs cannot help but be cautious about competing with for-profit enterprises. That is because there is a possibility of social dumping where they attack small businesses by supplying goods or services at lower prices than market prices based on the subsidy. Without such subsidy or other favors from the government, there is no reason for them to avert competition in the market. From a different perspective, social economic organizations can realize new values through competition and gain advantages in the market.

3. Establishing financial foundations for social economy

Many social economic organizations in Korea have relied excessively on the government for their financial strength for the past few years. It is true that their counterparts in other countries do receive assistance from their governments to some degree. The organizations in Korea, however, seem to have greater reliance on the government than their counterparts. Projects designed to create jobs and offer services, of course, require a large amount of fund, and it is impossible for individual organizations to cover them alone. In this respect, government's support is important. Excess reliance on the government,

however, often cause social economic organizations to pay less attention to making contributions to the community through region-based voluntary businesses and raise funding from it. In addition, some organizations take advantage of government commissioned projects to sustain the labor required their own businesses. All these can pose a threat to their self-regulation and accountability.

Here, the role of microcredit, the extension of very small loans to impoverished borrowers who typically lack collateral, needs to be stressed. Microcredit in Korea could be successful at first by raising funds without relying on the government, and this led the government to turn its attention to the growth of microcredit. Not-for-profit voluntary associations provided a good demonstration for successful social economy.

Microcredit has been expanding fast as the government started to provide greater funding and cover its operating cost. Although it has become bigger, weaker at its foundation. The more it is reliant on the government, the weaker its ability to self-regulate becomes. In a society like Korea where dramatic changes occur when a new administration takes office, social economic organizations are even more exposed to such a risk. Social organizations must have a minimum level of financial self-sufficiency. To this end, strategies are required on three fronts: one is to earn as much operating capital as possible from the community and another is to help raise social finance such as microcredit that can sustainably provide funding for social economic organizations. Finally, the domains of social economy should be expanded so that organizations in it can earn funding for their operation in a systematic manner.

Section 2. Trends of Social Economy in Western States

Mutual aid cooperatives and other similar organizations that emerged in the early 19th century based on uncertainty in human lives were assimilated into public medical insurance when European countries started to build welfare states after World War II. Cooperatives that had emerged in reaction to the drawbacks of capitalism could continue to grow in favorable environments created through negotiations with the states in most countries except for Germany and Italy where they were oppressed. They subsequently tended to choose to compete with regular corporations in most market economies.¹⁷⁷⁾

Social economy started to gain attention again when the welfare model in Europe exhibited a series of crisis symptoms in the 1970s. The globalization of capitalist economies brought tremendous changes to individual countries' economic structure such as a major shift in their demographic composition and the fall of the myth of full employment. These, in turn, led to mass unemployment and financial burden on welfare states. Amid such dramatic changes in capitalism, social economy emerged in areas where neither the state nor the market can fill the needs. There were also highly intentional and strategic needs to promote voluntary economic movement in the private sector.¹⁷⁸⁾ In many countries in Europe, self-contained organizations started to sprout in the community

177) Their diverse political goals waned as they started seeking ways to sustain their business in the long run and could not help but choosing to resemble for-profit organizations. Adalbert Evers and Jean-Louis Laville (eds.), *The Third Sector in Europe*, Edward Elgar Publishing, 2004.

178) Shin Myeong-ho, *ibid.*, p.20.

to cope with newly emerging social issues. By the 1990s, social economy became a plausible alternative to job creation, social services and community development.

Social economic organizations that originated in France in the 1970s started to seek solidarity among them to enhance their political capability and increase their bargaining power and, by the 1980s. They embraced cooperatives, mutual aid cooperatives and other similar organizations as new members. Subsequently, countries that had recognized the concept of social economy saw it as one that combined traditional social economy and solidaristic economy. The Wallon Commission (Conseil wallon de l' Economie sociale, or CWES) established in 1988 adopted the conceptual definition of social economy proposed by Jacques Defourny in 1990.¹⁷⁹⁾

In Italy, the term not-for-profit sector as used in economics or the third sector as used in sociology is used more widely than social economy. Key participants in social economy in the country include associations, volunteering groups, foundations and social cooperatives.¹⁸⁰⁾ Associations in Italy refer to civic groups that engage in a wide range of social activities including those related to culture and education. There are many volunteering groups in the country, and many people participate in them. There is also tendency that only social cooperatives having

179) According to Wallon, "Social economy is partly the provider of manpower for so-called first labor market which is dominated by different principles of organization and economic functions. These questions are the main ideas and principles of social economy like i) the aim if serving members or the community, ii) an independent management, iii) a democratic decisionmaking process, and iv) the primacy of people and labor over capital in the distribution of income." See "Jacques Defourny, Michel Simon & Sophie Adam, *The cooperative movement in Belgium: perspectives and prospects*, Luc Pire, 2002, p.50"

180) For details, see Tanaka Natsuko(trans. Lee Seong-jo), *Regional Development of Social Economy in Italy*, Arke, 2014.

principles of non- of profits and benefits of non-specific people within the region, instead of regular cooperatives, are not regarded as part of social economy.¹⁸¹⁾ Social economy in Italy takes on both a public and entrepreneurial nature.

[Table] Scale of social economy in Italy¹⁸²⁾

Type	Number	Membership	Member bodies
Associations	150,000	3,315,000	180,000
Volunteer groups	15,000	5,985,000	10,000
NGOs	160	-	-
Social cooperatives	4,250	127,500	108,000
Foundations	1,090	-	42,000
IPAB (Private-public joint operated orgs)	5,200	-	80,000

Social economy in the U.S. emerged in the historic background of charity movement and activities of not-for-profit organizations. In the 1960s, the U.S. government invested millions of dollars in not-for-profit organizations operating in the areas of poverty, education and healthcare service. With the government starting to cut down on welfare budget in the 1980s due to a recession continued from the late 1970s, not-for-profit organizations turned to social enterprises. They saw social enterprises as a

181) Guerrieri's Social Economy in Italy included in Social Economy compiled by J. Defourey et al defines social economy as the sum of not-for-profit organizations, mutual aid organizations and cooperatives. Recently, there is a strong tendency among researchers, especially those working on social cooperatives including Borzaga, that public organizations are excluded from social economy.

182) Source: 2001, Torino, p.702.

plausible means to overcome their financial hardship resulting from the government's welfare budget cut, and this stimulated the emergence of social economy.¹⁸³⁾ In the U.S., social economy can be called impact economy or economy with different objectives because it aims to trigger social innovation. In addition donations and volunteering are also common, and social enterprises are broadly defined.

Section 3. Social Economy in Korea: A Snap Shot and its Roles

In Korea, discussions of social economy started in the 2000s and recently have been heating up. Success stories of social economy in Europe were first introduced into Korea at the International Forum for Overcoming Poverty and Unemployment held in Seoul in 2000. At that time, Korea had just started to adopt policies to help low income earners get on their own feet. In that respect, Europe's experience in social economy provided Korea with a lot of lessons. Korea now faces the same challenges as those Europe had in the 20th century. It spends a tremendous amount of welfare budget and experiences the drawbacks and limitations of economic growth through capitalism due to worsening global economic situations.

Although private groups did not show any systematic social economic features prior to the 1980s, those that subsequently emerged in the course of democratization marked the start of new social economy.¹⁸⁴⁾ The

183) In the U.S., social enterprises are called impact businesses or social ventures. Shared economy that has many things in common with for-profit-economy is often deemed to have social objectives. Lee Won-jae, "Social Economy and Social Innovation, in Sim Sang-dal et al., *Social Economy: Prospect and Potential*, Edit The World, 2015, p.191.

traditional social economy in Korea is similar to its counterpart in the West in that they share the history of modernization and industrialization. However, traditional social economic organizations in Korea such as agricultural cooperatives, fishery cooperatives and forestry cooperatives originated during the Japanese colonization as a means to exploit Korea's economy and, after gaining independence, served the dictatorship during the state-led capitalism for national mobilization.¹⁸⁵⁾ Subsequently, a wide range of voluntary groups emerged in response to a call for democracy and neo-liberalistic social transformation. Meanwhile, civic movement that used to engage in the movement for political democracy movements turned to issues like unemployment and social divide that appeared after the 1997 economic crisis and provided a foundation for social enterprises engaging in poverty and employment issues among vulnerable groups.

Over 1,000 social enterprises have been certified nation-wide since the passing of the Social Enterprise Promotion Act in 2007, and over 4,000 cooperatives were created within just 16 months after the Framework Act on Cooperatives went into effect in 2012. Recently, a bill entitled "Framework Act on Social Economy" has been proposed to situate all these individual acts under a single structure.

Such quantitative growth and development, however, do not come without problems. One cannot assert that the development of policies and legislation intended to support social enterprises and cooperatives do nothing but contribute to the realization of social economy. In fact, there are many cooperatives that are registered, but do not operate. Some even

184) See Eum Hyung-sick, *ibid.*, pp.126-132 for the historic stages of social economy in Korea.

185) Eum Hyung-sik, *ibid.*, p.125.

exist only to receive government subsidies. All these impair the well-intended purpose of social economy to help realize sustainable development of social values. In this regard, we need to understand accurately the meaning and context of social economy and determine its scope by looking into its implications, roles, origin and historic development. Social economy can serve as a mechanism to realize one important task of the state - social welfare - more efficiently and provide an important source of economic growth.

The spectrum of understanding social economy varies across countries. Discussions of social economy depend on the socio-economic circumstances and the history of modernization and political system of individual countries. We can see both diversity and uniqueness as well as uniformity in the diverging discussions. The backgrounds and contexts in which social economy in different countries also have many things in common. This implies that discussions of social economy underpin diverse domains, and social economy can only be accurately understood when the connectivities among them are fully considered. Social economic legislation, in particular, provides the norms to righteously regulate the functional relationship between the state and society instead of dichotomizing them. Legislation and norms on social economy in a country are closely related to public tasks to help realize (intangible) social values in diverse domains including industrial development, employment, equal opportunities for education, and social welfare based on the country's socio-economic circumstances and policies. Social economy, therefore, should work to complement the failure of the state and the market in providing job opportunities and welfare services. It already has significantly long history if charity work by voluntary, not-for-profit organizations to help socially

vulnerable people is included in it. When income divide worsens due to state-led capitalism or big-firm capitalism, and the state does not have the resources to remedy it, social economy can provide an alternative means to reduce reliance on the state and big firms as well as introduce a new method of offering social welfare. Social economy can play a complementary role when the state can no longer sustain state-led capitalism, and the market is not fully functional in responding to distortion caused by the overwhelming power of capital.

Chapter 3. Legislation Concerning Social Economy

Section 1. Framework Act on Social Economy : Necessity and Structure

Amid escalating risk of social conflict due to economic and social divide and unbalanced income distribution, interest is increasing in new economic models that allow members of society to share progress and thrive together. Among them is social economy that is attracting a great deal of attention as an alternative model for economic growth. Many countries have passed adopted laws and regulations concerning it.¹⁸⁶⁾

Korea is no exception and has adopted many systems designed to assist diverse social economic organizations such as social enterprises (governed by the Ministry of Employment and Labor), self-sufficient enterprises (Ministry of Health and Welfare), community businesses (Ministry of Security and Public Administration) that have different goals for protection of socially vulnerable groups, extended welfare safety net or restoration of local community. The policies and institutions concerning social economic organizations, however, have been adopted discreetly without any connectivity.

186) <Legislation concerning social economy in different countries>

Country	Year	Act
Spain	May 2011	Act on Social Economy
Ecuador	May 2011	Act on Economy and Finance for People's Solidarity
Mexico	May 2012	Economic Law on Social Solidarity
Portugal	Mar. 2013	Framework Act on Social Economy
Quebec, Canada	Oct. 2013	Social Economy Act

In order to address inefficiency caused by complex administration, redundant regulation and overlapping assistance, it is necessary to reinforce alliances, collaboration and integration among individual organizations and enhance the transparency and efficiency of support and assistance provided by the government by establishing integrated governance (that can supervise and coordinate policies related to social economy). Even though social economic organizations are subject to different management systems (for their formation, reporting, assessment, management and supervision), they need to be supervised by a single body under minimum regulations.

The proposed Framework Act on Social Economy is aimed at developing social values and social economy in order to help address many social challenges such as poverty, unemployment and regional imbalance resulting from economic divide. It is also intended to support organizations and systems designed to enhance social values such as welfare, job creation and regional development. These, however, can only be achieved when potential conflicts with existing legal systems governing social economic organizations are addressed and the necessity and limitations of the framework act are fully demonstrated.

A framework act means “a unique type of legislation with the features and nature of a policy act or a program act that sets out the philosophy of the policy being served or essential provisions, based upon which necessary measures are taken or systems are improved.”¹⁸⁷⁾ The current constitution of Korea does not give any priority or privilege to any framework act over other acts. The study of legislation defines a framework act as “a type or technique of legislation that facilitates systemization of legislation, easier understanding and the economy of

187) Park Yeong-do, Introduction to the Study of Legislation, KLRI, 2008, p.127.

legislation by defining the fundamental directions of relevant policies under different laws with similar purposes in a separate act.”¹⁸⁸⁾ In other words, a framework act provides guidance or directions for the policy or regulation being served while leaving specific provisions to other acts, and such other acts declare clauses in their purpose that indicated that their purposes are to stipulate specifics regarding the subject matter of the framework act.

In this respect, the proposed Framework Act on Social Economy (the “Proposed Act”) defines social values and social economy as concepts of higher status while situating cooperatives, community businesses, community self-sufficiency centers, occupational rehabs for the disabled, social welfare entities and other similar organizations under different acts as social economic organizations to help realize them. The Proposed Act brings extensive domains of regulation and social economic organizations under a single category and provides supportive measures for them.

In this respect, some critics are doubtful of the effect of a framework act on social economy that brings different social economic organizations under a single regulatory framework under a very abstract policy goal of realizing social values.¹⁸⁹⁾ For example, community based organizations such as agricultural or fishery cooperatives and disabled or welfare facilities may require different sorts of expertise and have different policy

188) Hwang Seung-hum, “Legal Understanding of Framework Structure”, Study of Public Law, Vol. 11, Issue 1, Society of Public Law, 2010, p.246

189) They argue that although putting distinctive and professional domains under an abstract concept can be beneficial in that comprehensive policy planning and holistic support measures can be achieved, there is a risk of making an ineffective law by combining areas that cannot be related with each other in a practical sense. In light of the format and legal structure of a framework act, such a law can be anything but declaration of economic growth without any specific or effective regulatory discipline.

goals to consider. It may not be reasonable to put organizations with different goals and visions under a single abstract concept of social values for regulation.¹⁹⁰⁾

Despite the extensiveness and diversity of what is to be regulated under the act, the Proposed Act is not inconsistent with the nature of a framework act in that it basically intends to regulate social economic organizations from a holistic perspective respecting their not-for-profit and self-sufficient nature.

The sections that follow will discuss bills proposed by lawmakers Yoo Seung-min, Shin Gye-ryun and Park Won-seok, respectively.

Section 2. Framework Act on Social Economy Proposed by Lawmaker Yoo Seung-min

1. Overview

The proposed framework act on social economy (the “Proposed Act”) consists of 6 chapters and 33 sections. Chapter 1 General Provisions provides “the purpose of the Proposed Act is to help address income divide, form healthy and sound communities and achieve balanced growth

190) Cooperatives, community businesses, occupational rehabs for the disabled, social welfare organizations and others are currently governed by different laws. They each belong to different and highly professional legal domains that often require different policy goals or directions. Restoration of local communities, job creation and welfare services are a just few examples of different goals of social economic organizations. An attempt to govern organizations with such difference can cause a major conflict among them. Yet, despite the risks associated with a framework act to put them under a single umbrella as mentioned earlier, there is a strong need for a centralized system that can supervise and coordinate efforts to support and mediate them.

of the national economy by building an integrated ecosystem and developing an integrated implementation system for the sustainable growth of social economy. Chapter 2 Setup and Implementation of Policy for Social Economic Development provides specifics regarding setup and implementation of a basic plan for social economic development. Chapter 3 Development Fund for Social Economy provides creation and operation of a development fund for social economy in order to secure financial resources required for the formation of financial foundation for social economy and the support of social economic organizations. Chapter 4 Support and Nurturing provides preferred purchase by public organizations, tax exemption and reduction, financial support, training support and others. Chapter 5 Operation of Social Economic Organizations provides the openness and disclosure obligations of the organizations. Chapter 6 provides penalty concerning violations.

Chapter/ section	Title	Chapter/ section	Title
Chapter 1	General Provisions	Section 18	Use of Fund
Section 1	Purpose	Section 19	Operation and Management of Fund
Article 2	Definitions	Section 2	Review Sub-committee on Fund Operation
Section 3	Basic Principles	Chapter 4	Support and Nurturing of Social Economic Organizations

Part 3. Social Economy

Chapter/ section	Title	Chapter/ section	Title
Section 4	Obligations of the State	Section 21	Preferred Purchase by Public Organizations
Section 5	Relationship with Other Acts	Section 22	Coverage of Facility Costs, Etc.
Chapter 2	Setup and Implementation of Policy on Development of Social Economy	Section 23	Tax Benefits and Financial Support
Section 6	Setup of Master Plan for the Development of Social Economy	Section 24	Private Participation and Alliance with Private Resources
Section 7	Relationship with Other Plans	Section 25	Support for Education and Training
Section 8	Setup and Implementation of Yearly Implementation Plans	Section 26	Social Economy Day
Section 9	Setup and Implementation of Regional Plans for the Development of Social Economy	Section 27	Facilitation of Cooperation among Social Economic Organizations
Section 10	Commission on Social Economy	Section 28	Facilitation of Cooperation among Cooperatives
Section 11	Composition of Commission	Section 29	International Cooperation

Chapter/ section	Title	Chapter/ section	Title
Article 12	Municipal/Provincial Commission on Social Economy	Chapter 5	Operation of Social Economic Organizations
Section 13	Consultation and Coordination	Section 30	Open Operation
Section 14	Consultative Body on Social Economic Organizations	Section 31	Disclosure of Management
Section 15	Formation of Korea Institute for Social Economy	Chapter 6	Penalty
Section 16	Regional Support Centers for Social Economy	Section 30	Penalty
Chapter 3	Development Fund for Social Economy	Section 31	Fines
Section 17	Creation of Development Fund for Social Economy	ADDENDA	

The key provisions of the Proposed Act can be classified into purpose, social economic organizations, implementation structure and support including funding as summarized in the table below.

Part 3. Social Economy

Purpose	<ul style="list-style-type: none"> o Assist social economic organizations in their formation and operation and help create jobs
Organizations	<ul style="list-style-type: none"> o Social enterprises, cooperatives, self-sufficient enterprises, community businesses, agricultural / fishery / livestock cooperatives, forestry cooperatives, credit unions, community credit cooperatives workers cooperatives, SME cooperatives, sheltered-workplace for the disabled * A consultative body for social economic organizations or a federation of cooperatives can be formed.
Implementation body	<ul style="list-style-type: none"> o Presidential commission on Social Economy,* municipal / provincial commissions on social economy * Up to 30 members including one chair (appointed by the resident) and one vice-chair (appointed by the Minister of Planning and Finance) o Secretariat within the Ministry of Planning and Finance for logistics and support for the Commission o Institute for Social Economy operating on state fund to support activities concerning social economy will be formed under the Ministry of Planning and Finance. (The Promotion Agency for Social Enterprises and the Central Self-sufficiency Center will be consolidated.)
Support including fund	<ul style="list-style-type: none"> o Development fund will be created to provide a financial foundation and make resources available * Sources: Natural persons, legal entities, existing social economy related fund, government contribution, etc.
	<ul style="list-style-type: none"> o Preferred purchase by public organizations, tax benefits, financial support

2. Provisions

(1) Purpose of legislation (Section 1)

The purpose of legislation is text expressing what the act intends to achieve concisely and clearly. It provides the heading and the background of the legislation as well as guidance on how the act should be applied and interpreted. As shown earlier, the purpose of the Proposed Act is to help address income divide, form healthy and sound communities and achieve balanced growth of the national economy by building an integrated ecosystem and developing an integrated implementation system for the sustainable growth of social economy.

The purposes of other acts related to social economic organizations are summarized in the table below to highlight their similarities and differences. The Proposed Act needs to take into account the similarities and differences.

Act	Purpose
Act on Promotion of Social Enterprises (Ministry of Employment and Labor [“MOEL”])	Contribute to social consolidation and higher quality of life for people through expanded social services and more job opportunities by assisting formation, operation and nurturing of social enterprises
Framework Act on Cooperatives (Ministry of Strategy and Finance [“MOSF”])	Facilitate independent, self-supportive, and autonomous activities of cooperatives, thereby contributing to social integration and balanced development of the national economy by setting out provisions regarding the establishment and operation of cooperatives

Part 3. Social Economy

Act	Purpose
National Basic Living Security Act (Ministry of Health and Welfare [“MOHW”])	Provide assistance for those in need to allow them to lead their lives to at least minimum living standards and get on their feet
Special Act on Urban Revitalization and Support (Ministry of Land, Infrastructure and Transport [“MOLIT”])	Contribute to the higher quality of life for people living in urban areas through stronger foundation for self-contained growth, higher urban competitiveness and recovered local community by reinforcing the roles of the public sector
Special Act on Higher Quality of Life of Farmers and Fishermen and Promotion of Rural Areas (Ministry of Agriculture, Food and Rural Affairs [“MOAFRA”], Ministry of Maritime Affairs and Fisheries [“MOMAF”])	Contribute to higher quality of life for farmers and fishermen and regionally balanced development by defining specifics for better welfare, better education opportunities and harmonized and systematic development for them
Agricultural Cooperatives Act (MOAFRA)	Enhance the quality of life for farmers and contribute to the growth of the national economy by helping raise the economic, social, cultural position of farmers and the competitiveness of agriculture based on voluntary agricultural cooperatives
(Fisheries Cooperatives Act) (MOMAF)	Enhance the quality of life for fishermen and marine product processors and contribute to the growth of the national economy by helping raise the economic, social, cultural position of fishermen and the competitiveness of fishery based on voluntary fishery cooperatives

Act	Purpose
Forestry Cooperatives Act (Korea Forest Service [“KFS”])	Contribute to the balanced growth of the national economy by helping achieve sustainable forestry management, increase forestry production and improve the economic, social and cultural status of forest owners and those involved in forestry through their voluntary cooperatives
Tobacco Producers Cooperative Act (Ministry of Strategy and Finance)	Contribute to the development of the tobacco industry by helping increase the production of leaf tobacco and raise the economic and social status of tobacco producers through organizations of tobacco producers
Credit Unions Act (Financial Services Commission [“FSC”])	Contribute to the development of regional economies by helping community members form credit unions for better financial services and improve their higher economic, social and cultural status
Credit Cooperatives Act (Ministry of Security and Public Administration [“MSPA”])	Contribute to the development of the national economy by helping community members form voluntary credit cooperatives for better access to funding and improve their higher economic, social and cultural status
Consumer Cooperatives Act (Fair Trade Commission [“FTC”])	Encourage consumers to participate in voluntary, self-regulated consumer cooperatives for more benefits from consumption and higher welfare for themselves.
Small and Medium-sized Enterprise Cooperatives Act (Small and Medium Business Administration [“SMBA”])	Contribute to higher economic status of small and medium businesses and ultimately the development of the national economy by ensuring fair business and economic opportunities for them through statutory requirements

Act	Purpose
Act on the Promotion of Employment of the Disabled and their Vocational Rehabilitation (MOEL)	Ensure that the disabled are given more job opportunities and vocational training so that they can enjoy higher quality of life
Act on Welfare of the Disabled (MOHW)	Define the responsibilities of the state and regional governments to ensure higher quality of life for the disabled, provide for policies designed to prevent disability and deliver welfare services for the disabled for better healthcare, education, vocational training and living conditions, and offer financial assistance for more secure life for them
Social Welfare Services Act (MOHW)	Contribute to better social welfare services by ensuring that the services are professional and offered in fair, transparent and appropriate manners by stipulating legal requirements regarding social welfare services

(2) Definitions

Article 2 of the Proposed Act provides the definitions of social economy, social economy promotion projects and social economic organizations. “Social economy means all economic activities aimed at creating social values such as expanded social services, greater availability of welfare services, more job opportunities, and community development through cooperation and solidarity among members and their practice of self-innovation and voluntary participation.” (Article 2.1) This definition seems to reflect the nature of social economy where its activities and achievements are witnessed in the form of act to create social values.

“Social economy promotion projects refer to those organized or sponsored by the state or regional governments to support the formation and operation of social economic organizations and foster environments for their self-sufficiency for the growth of social economy” (Article 2.3). For “social economic organizations,” Article 2.3 of the Proposed Act lists 17 types of such organizations, with the last paragraph providing “other legal entities or associations formed to help realize social economy or support social economic organizations.” This last paragraph broadens the scope of social economic organizations:

Organizations not eligible under the preceding paragraphs may be accepted as social economic organizations under the Proposed Act. The same paragraph, however, may cause inconsistency or confusion concerning requirements and criteria for the certification of organizations as social economic ones.

Social economic organizations (applicable law)	Competent authority (Division responsible)	Responsibilities
Social enterprises Social Enterprise Promotion Act)	Ministry of Employment and Labor (Division of Social Enterprises)	<ul style="list-style-type: none"> - Design and implement measures to support job creation across different sectors including social services - Set up a master plan on the nurturing and support of social enterprises - Operate a system for the certification of social enterprises
Cooperatives Federation of cooperatives (Framework Act on	Ministry of Strategy and Finance (Division of	<ul style="list-style-type: none"> - Set up long term and short term strategies and development plans for cooperatives, supervise and coordinate activities under them

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Social economic organizations (applicable law)	Competent authority (Division responsible)	Responsibilities
Cooperatives)	Cooperative Policy)	<ul style="list-style-type: none"> - Set up a master plan for the promotion of cooperatives and improve regulatory framework - Conduct surveys, publish findings from them, report to the National Assembly - Discuss and mediate policies on social enterprises, community businesses, self-sufficient communities, etc.
Social cooperatives Federations of social cooperatives (Framework Act on Cooperatives)	Ministry of Strategy and Finance (Division of Cooperative Operation)	<ul style="list-style-type: none"> - Manage businesses concerning reporting of formation of, approval and supervision of federations of cooperatives, social cooperatives and federations of social cooperatives - Issue detailed guidelines on the operation of cooperatives - Build and operate computing systems for operation of cooperatives - Set up and implement education and communication plans
Central and provincial self-efficiency centers Self-sufficiency enterprises National Basic Living Security Act	Ministry of Health and Welfare (Division of Self-Sufficiency Support)	<ul style="list-style-type: none"> - Set up and coordinate general self-sufficiency support plans - Select and supervise beneficiaries of self-sufficiency projects - Select, assess and support regional self-sufficiency centers - Nurture and promote self-sufficiency enterprises

Social economic organizations (applicable law)	Competent authority (Division responsible)	Responsibilities
		<ul style="list-style-type: none"> - Manage and operate self-sufficiency fund - Help establish, supervise and support central and provincial self-sufficiency centers
<p>Community businesses (Implementation guidelines on projects for the promotion of community enterprises)</p>	<p>Ministry of Security and Public Administration (Division of Local Economy)</p>	<ul style="list-style-type: none"> - Set up and implement plans for job creation within communities - Set up and implement plans for the promotion of community businesses - Conduct a survey of community businesses and improve regulatory framework - Assist community businesses in education and consulting - Supervise matters concerning operation of organizations that support community businesses
<p>Legal entities, cooperatives, corporations farming / fishery businesses, associations (Special Act on Higher of Life of Farmers and Fishermen and Promotion of Rural Areas)</p>	<p>Ministry of Agriculture, Food and Rural Affairs (Division of Rural Affairs, Welfare and Women)</p>	<ul style="list-style-type: none"> - Set up and implement policies to expand welfare services available in rural areas - Supervise matters concerning promotion of community enterprises

Social economic organizations (applicable law)	Competent authority (Division responsible)	Responsibilities
Workplaces employing the disabled Act on the Promotion of Employment of the Disabled and their Vocational Rehabilitation	Ministry of Employment and Labor (Division of Employment of the Disabled)	<ul style="list-style-type: none"> - Promote employment of the disabled and operate and manage funding for vocational rehab - Operate subsidies for employment of the disabled and collect contributions to their employment
Vocational rehabs for the disabled (Act on Welfare for the Disabled)	Ministry of Health and Welfare (Division of Self-Sufficiency for the Disabled)	<ul style="list-style-type: none"> - Set up and coordinate plans on welfare for the disabled - Set up policies on welfare for the disabled and assess their performance - Organize training for professionals in welfare for the disabled
Social welfare entities	Ministry of Health and Welfare Division of Social Service Support)	<ul style="list-style-type: none"> - Set up a general plan on policies on social welfare - Set up a master plan on social security - Supervise matters on the operation and development of the Korea Federation for Social Welfare

(3) Principles (Article 3)

Article 3 of the Proposed Act provides the principles of social economic organizations: realization of social values (Article 3.1), self-regulated and open operation (Article 3.2), democratic decision-making process and participation by stakeholders (Article 3.3), re-distribution of profits

(Article 3.4), mutual cooperation for sustainable growth of social economy (Article 5). Notable of them all is Article 3.3 that provides for the democratic decision-making process (which is required) and participation in it by stakeholders (which is recommended).

Social enterprises ‘must’ have a democratic decision-making process where their stakeholders such as beneficiaries of their services and their workers can participate¹⁹¹⁾ while social enterprises ‘should endeavor to’ do so.

(4) Planning for the development of social economy (Articles 6 to 9)

Under the Proposed Act, the Ministry of Strategy and Finance shall set up a master plan on the development of social economy, and the Minister of Strategy and Finance and head of central government agencies concerned shall set up annual implementation plans in accordance with the master plan. Governors of provinces and metropolitan cities shall set up and implement regional plans accordingly. For social economy, the self-regularity and accountability of social economic organizations are the most important because it is the commitment and motives of their members that provide the primary power for their sustainable operation. Still, the government needs to set up diverse policies that can help them improve their capability to operate independently in a self-contained manner.

191) Article 8 of the Social Enterprise Promotion Act (Requirements and process of certification of social enterprises) ① Anyone who intends to be certified as a social enterprise must:

1. ~ 3. (Full text not presented here)
4. Have a decision making mechanism where its stakeholders such as beneficiary of its services and its workers participate.

Analysis of the types of social economic organizations listed under Article 3 of the Proposed Act reveals that they vary in their purposes, scope of activities and competent authorities. The table below summarizes what support and assistance different social economic organizations receive currently.

Type	Support received from:	Selected by:	Responsibilities
<Cooperatives>			
o Intermediate support organizations o Regional support centers	- Korea Support Center for Social Enterprises - 16 regional support centers (The one responsible for Chungnam covers Sejong)	- A state-invested institute (MOEL) - Minister of Strategy and Finance, Minister of Employment and Labor	- Support for formation & operation of cooperatives. Education, communication, etc. for them. - Formation support, training, management consulting, best practice sharing, incubating, etc. for cooperatives
<Social enterprises>			
o Intermediate support organizations o Regional support centers	- Korea Support Center for Social Enterprises - 16 regional support centers (The one responsible for Chungnam covers Sejong)	- A state-invested institute (MOEL) - Minister of Strategy and Finance, Minister of Employment and Labor	- Training for entrepreneurs, development of social enterprise models, commercialization, sectorial or regional network of social enterprises - Certification of social enterprises, designation of would-bes, formation support and training, identification of eligible enterprises for government sponsored projects, sharing of best practice

Type	Support received from:	Selected by:	Responsibilities
<Community businesses>			
o Regional support centers	- 17 regional support centers (one for each province or metropolitan city)	- Governor/ mayor	- Pre-formation training, identification and sharing of new models, selection of eligible community businesses, management consulting, sales channel development, regional network
< Self-Sufficiency Enterprises >			
o Intermediate support organizations	- Central self-sufficiency center	- Foundations registered with the Ministry of Health and Welfare	- Research, study, education and communication for self-sufficiency enterprises, business development and assessment, technical training for support centers and enterprises
o Regional support centers	- 10 regional self-sufficiency center	- Minister of Health and Welfare	- Support for business startups at provincial/municipal level, job opportunities for receivers of financial assistance from the government, education & training for those working in regional & local support centers
o Local support centers	- 247 local self-sufficiency center	- Minister of Health and Welfare	- Information sharing, counseling, vocational training, job opportunities, startups, technical / management consulting
<Rural community businesses>			
o Intermediate support organizations	- Rural Corporation (Community Support Team)	- A public organization (Ministry of Agriculture and Forestry)	- Management consulting, rollout of best practices

(5) Establishment of Social Economy Commission (Articles 10 and 11)

Articles 10 and 11 of the Proposed Act stipulate that a Social Economy Commission be formed directly under the President for the review and coordination of policies concerning the development of social economy. The majority of the Commission's members shall be from the private sector, and one of them shall be the chair. The Commission shall have a sub-committee for each professional area.

Article 11 provides that a secretariat be formed within the Ministry of Strategy and Finance, which is responsible for coordinating businesses regarding social economy with its counterparts of other ministries concerned.¹⁹²⁾ The successful and effective operation of the secretariat will depend on whether sufficient and appropriate resources can be made available to it.¹⁹³⁾

Articles 12 to 16 stipulates that regional governments be responsible for setting up their own plans for social economic activities geared to better welfare for people within their jurisdiction. This can only be achieved when financial resources are made available from the central government and full autonomy is guaranteed regarding the spending of resources.

192) See “[Note] List of secretariats for other presidential committees” for more examples.

193) Financial resources required for the Social Economy Commission and Regional Social Economy Commissions are estimated by the Budget and Policy Administration under the National Assembly at 2.7 to 3 billion won per year for the former and 5.6 billion to 6.1 billion won per year for the latter.

[Note] List of Presidential Committees/Commissions

No.	Commission /Committee	Host agency	Members	Legal ground
1	Regulatory Reformation Commission	Prime Minister's Office	<ul style="list-style-type: none"> o Chair: Prime Minister, one appointed by the President o Members from the government: Minister of Strategy and Finance, Minister of Security and Public Administration PMO, Chairman of FTC, Minister of Legislation 	Article 23 of the Framework Act on Administrative Regulations
2	Committee for National Cohesion	Ministry of Security and Public Administration	<ul style="list-style-type: none"> o Chair: One appointed by the President Members from the government (ministers): MOSF1, MSIP2, MOE3, MOFA4, MOU5, MOJ6, MOD7, MSPA8, MCST9, MOAFRA10, MOTIE11, MOHW12, ME13, MOEL14, MOGEF15, MOLIT16, MOF17, PMO18, ACRC19 	Article 1 of the Regulation on the Establishment and Operation of the Committee for National Cohesion
3	Social Security Commission	Ministry of Health Welfare	<ul style="list-style-type: none"> o Chair: Prime minister o Vice-chair (Ministers): MOSF, MOHW o Members from the government (ministers): MOE, MSPA, MOEL, MOGEF, MOLIT, MOJ, MCST, MOAFRA, MOTIE, ME, PMO, MPVA20 	Article 20 of the Framework Act on Social Security

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No.	Commission /Committee	Host agency	Members	Legal ground
4	Economic and Social Development Commission	Ministry of Employment and Labor	<ul style="list-style-type: none"> o Chair and members: Appointed by the President o Members from the government: Two (Minister of Strategy and Finance, Minister of Employment and Labor) 	Article 1 of the Act on the Tripartite Commission for Economic and Social Development
5	Commission on Architecture Policy	Ministry of Land, Infrastructure and Transport	<ul style="list-style-type: none"> o Chair: One appointed by the President o Members from the government (ministers): MOSF, MOE, MSPA, MCST, MOMAF, MOTIE, MOHW, ME, MOLIT, MOMAF 	Article 13 of the Framework Act on Building
6	Council on Intellectual Property	Ministry of Science, ICT and Future Planning	<ul style="list-style-type: none"> o Chairs: Prime Minister and one appointed by the President o Members from the government (heads of competent authorities) MOSF, MSIP, MOE, MOFA, MOU, MOJ, MSPA, MCST, MOAFRA, MOTIE, MOHW, ME, MOLIT, MOMAF, NIS21, PMO, KCC22, FTC23, FSC24, KCS25, CHA26, SMBA27, KIPO28, KMA29 	Article 6 of the Framework Act on Intellectual Property
7	Commission on Library & Information Policy	Ministry of Culture, Sports and Tourism	<ul style="list-style-type: none"> o Chair: One appointed by the President o Vice-chair: Minister of Culture, Sport and Tourism o Members from the government (ministers): MOSF, MISP, MOE, MOJ, MOD, MSPA, MCST, MOTIE, MOHW, MOGEF, MOLIT 	Article 12 of the Libraries Act

No.	Commission /Committee	Host agency	Members	Legal ground
8	Committee on Local Autonomy Development	Ministry of Security and Public Administration	<ul style="list-style-type: none"> o Chair and vice-chair: Appointed by the President o Members from the government (ex officio, ministers): MOSF, MSPA, PMO 	Article 44 of the Special Act on the Promotion of Decentralization
9	Committee on the Development of an Asian Cultural Hub City	Ministry of Culture, Sports and Tourism	<ul style="list-style-type: none"> o Chair: One appointed by the President o Members from the government (ministers): MOSF, MSIP, MOE, MOFA, MSPA, MCST, MOTIE, ME, MOLIT, PMO, RDC30 	Article 29 of the Special Act on the Development of an Asian Cultural Hub City
10	Committee on Regional Development	Ministry of Trade, Industry and Energy	<ul style="list-style-type: none"> o Chair: One appointed by the President o Members from the government (ministers): MOSF, MSIP, MOE, MSPA, MCST, MOAFRA, MOTIE, MOHW, MOGEF, MOLIT, MOMAF 	Special Act on Balanced National Development
11	Committee for Cultural Enhancement	Ministry of Culture, Sports and Tourism	<ul style="list-style-type: none"> o Chair: One appointed by the President o Members from the government (ministers): MSIP, MOE, MSPA, MCST 	Regulations on the Establishment and Operation of the Committee for Cultural Enhancement
12	National Bioethics Committee	Ministry of Health and Welfare	<ul style="list-style-type: none"> o Chair: One appointed by the President o Members from the government (ministers): MISIP, MOE, MOJ, MOTIE, MOHW, MOGEF 	Article 6 of Bioethics and Safety Act

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No.	Commission /Committee	Host agency	Members	Legal ground
13	Personal Information Commission	Personal Information Protection Commission	<ul style="list-style-type: none"> o Chair: One appointed by the President (no government official) o Members from the government: One (regular public official) 	Article 7 of the Personal Information Protection Act
14	National Committee on Human Resources	Ministry of Education	<ul style="list-style-type: none"> o Chair: President o Vice-chair: Minister of Education o Members from the government (ministers): MOSF, MISP, MOD, MSPA, MCST, MOTIE, MOHW, MOEL, MOGEF, PMO 	Article 7 of the Framework Act on Human Resources Development
15	Committee on Aging Society and Population Policy	Ministry of Health and Welfare	<ul style="list-style-type: none"> o Chair: President o Members from the government (ministers): MOSF, MOE, MOJ, MOD, MSPA, MCST, MOMAF, MOTIE, MOEL, MOGEF, MOLIT, PMO, FSC 	Article 23 of the Framework Act on Low Birth Rate in an Aging Society
16	National Committee on Space	Ministry of Science, ICT and Future Planning	<ul style="list-style-type: none"> o Chair: Minister of Science, ICT and Future Planning o Members from the government (vice-ministers) MOSF, MOFA, MOTIE 	Article 6 of the Framework Act on the Space Development Promotion Act
17	Youth Committee	Ministry of Planning and Finance	<ul style="list-style-type: none"> o Chair: One appointed by the President o Members: Up to 40 appointed by the President 	Article 1 of the Regulations on the Establishment and Operation of the Youth Committee

- 1: Ministry of Strategy and Finance
- 2: Ministry of Science, ICT and Future Planning
- 3: Ministry of Education
- 4: Ministry of Foreign Affairs
- 5: Ministry of Unification
- 6: Ministry of Justice
- 7: Ministry of Defense
- 8: Ministry of Security and Public Administration
- 9: Ministry of Culture, Sports and Tourism
- 10: Ministry of Agriculture, Food and Rural Affairs
- 11: Ministry of Trade, Industry and Energy
- 12: Ministry of Health and Welfare
- 13: Ministry of Environment
- 14: Ministry of Employment and Labor
- 15: Ministry of Gender Equality and Family
- 16: Ministry of Literature, Infrastructure and Transport
- 17: Ministry of Oceans and Fisheries
- 18: Prime Minister's Office
- 19: Anti-Corruption & Civil Rights Commission
- 20: Ministry of Patriots and Veterans Affairs
- 21: National Intelligence Service
- 22: Korea Communications Commission
- 23: Fair Trade Commission
- 24: Financial Services Commission
- 25: Korea Customs Service
- 26: Cultural Heritage Administration
- 27: Small and Medium Business Administration
- 28: Korea Intellectual Property Office
- 29: Korea Metrological Administration
- 30: Regional Development Commission

[Note] Secretariats of Presidential committees/commissions

Committee/ commission	Secre tariat within:	No. of mem bers	Secretariat	Legal ground
Economic and Social Development Commission	MOEL	10	Secretariat (1 department and 2 offices)	Article 3 of the Act on the Tripartite Commission for Economic and Social Development
Commission on Architecure Policy	MOLIT	30	Planning unit (3 divisions)	Article 13 of the Framework Act on Building
Personal Information Protection Commission	Ministry of Security and Public Admini stration	15	Secretariat (3 teams)	Article 7 of the Personal Information Protection Act
Green Growth Commission	PMO	50	Planning unit (6 teams)	Article 22 of Special Act on Low Carbon and Green Growth
Commission on Library & Information Policy	MCST	30	Planning unit (2 divisions)	Article 12 of the Libraries Act
Committee on Social Cohesion (Committee for National Cohesion launched)	MSPA	53	Support unit (7 teams)	Regulations on Social Cohesion

Committee/ commission	Secre- tariat within:	No. of mem- bers	Secretariat	Legal ground
Committee on the Development of an Asian Cultural Hub City	MCST	30	Implementation unit (5 teams)	Article 29 of the Special Act on the Development of an Asian Cultural Hub City
Committee on Promotion of Decentralization (Consolidated with Committee on Local Autonomy Development)	MSPA	10	Implementation unit (3 divisions)	Article 17 of the Special Act on the Promotion of Decentralization
Committee on Regional Development	MOTIE	29	Planning unit (3 departments and 1 team)	Special Act on Balanced National Development
Youth Committee	MOSF	23	Implementation unit (2 departments, 9 teams)	Article 3 of the Regulations on the Establishment and Operation of the Youth Committee
Committee for National Cohesion	MSPA	36	Planning unit (3 departments and 9 teams)	Article 3 of the Regulation on the Establishment and Operation of the Committee for National Cohesion
Committee on Local Autonomy Development	MSPA	9	Planning unit (2 departments and 6 team)	Article 45 of Decentralization and Local Administrative Structure

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Committee/ commission	Secre- tariat within:	No. of mem- bers	Secretariat	Legal ground
Committee on Higher National Competitiveness (shut down)	MOSF	50	Implementation unit (7 departments, 1 division)	Regulations on the Committee on Higher National Competitiveness
National Committee on Science Technology (shut down)	MOE	25	Secretariat (4 departments and 15 divisions)	Article 9 of the Framework Act on Science and Technology
National Brand Committee (shut down)	MCST	50	Support unit (4 departments)	Article 10 of the Regulations on National Brand Values
Committee on Information Strategy (shut down)	MSPA	35	Support unit (3 teams)	Framework Act on National Informatization
Future Planning Committee (shut down)	MOSF	32	Implementation unit (6 departments)	Regulations on Future Planning Committee
National Bioethics Committee	Ministry of Health and Welfare	20	None	Article 6 of Bioethics and Safety Act
National Committee on Space	MSIP	15	None	Article 6 of the Framework Act on the Space Development Promotion Act

(6) Development Fund for Social Economy (Articles 17 to 20)

Articles 17 through 20 of the Proposed Act stipulate that the government should create fund to assist social economic organizations and a sub-committee responsible for reviewing the use and management of the fund.

Unlike budget, the fund may only be created when the state needs to use ‘a certain amount of money flexibly’ for ‘specific purposes’ under Article 5 of the National Finance Act.¹⁹⁴⁾ The head of any central government agency that wishes to create a fund in connection with its businesses must be subjected to review for its feasibility (Article 14) and¹⁹⁵⁾, if and after such fund is created, to follow-up assessment for its need for continuance (Article 15). The criteria for the review and assessment are summarized in the table below.

Feasibility of fund creation	Justification for fund continuance
1. Is the source of the fund closely relevant to the project for which the fund is used?	1. Is the purpose of the fund still valid? (Can it not be transferred to the private sector?)
2. Can the project be implemented flexibly?	2. Does the project still need the fund? (Can it not be supported by budget?)
3. Is the fund sustainable in the mid to long term?	3. Is the fund not overlapping with other funds or budget?

194) Article 15.1 of the National Finance Act only allows funds to be created under the provisions set out in Schedule 2 thereof if such funds are sourced from the government or private sectors under relevant laws. For this reason, the creation of the development fund for social economy requires an amendment to the National Finance Act (Bill No. 1910419).

195) The Framework Act on Social Economy shall not be subject to feasibility review because it is proposed by a lawmaker.

Feasibility of fund creation	Justification for fund continuance
4. Is the fund more effective in implementing the project than general or special budget accounts?	4. Is the method of raising the fund appropriate? (Relevance with the purpose) 5. Is the source of the fund stable? (Relevance with the purpose) 6. Are there any policy considerations?

Based on the questions above, more considerations should be made to the development fund for social economy.

① Purpose of the development fund

A fund must have specific purpose. Article 17 of the Proposed Act stipulates that the development fund be created to provide a social economic foundation for social economy and social economic organizations. As mentioned earlier, however, the development fund has a broader purpose of supporting a wide range of organizations including cooperatives, community businesses, and facilities for the disabled.

② Feasibility of the source of the development fund

Article 17.2 of the Proposed Act stipulates that the development fund must be sourced from: i) contributions from individuals or legal entities; ii) existing policy money related to social economy; iii) government contributions; iv) proceeds from the operation of the fund; or v) other revenues as stipulated in the relevant presidential decree.

For practical reasons, the fund will likely be sourced from the government at least in the early stage after the passing of the bill. If the usage of the fund is not obvious, the source of the fund is not specific or the fund is spent on too many areas, the fund may be not

differentiated from the government's general or special budget accounts. Such ambiguity associated with the fund may lead to arguments that financial assistance from the government will serve the purpose better than the fund. Yet if care is taken to achieve balance between private contributions and the government's financial assistance over time and the fund is operated in a way that it does not impair the self-regularity of the private sector, the fund will contribute to the creation of a virtuous circle of development in social economy.

③ Suitability of the spending of the development fund

Article of the Proposed Act stipulates the development fund should be used for: i) support for the formation and operation of social economic organizations; ii) financing for social economic organizations; iii) creation of capital market for social economy; iv) creation of social financing by the private sector and investment in it; and v) other purposes as stipulated in the relevant presidential decree.

The provisions regarding the spending of the development fund, however, seem to be excessively lax, especially the paragraphs of financing for social economic organizations, creation of capital market for social economy and creation of social financing by the private sector and investment in it. Such extensiveness of the scope of spending may cause the fund to overlap with financial assistance offered by the state or regional government under other acts. Some of such acts include the Social Enterprise Promotion Act (Article 14) and the Framework Act on Cooperatives that stipulate assistance by the state for social enterprises and cooperatives, respectively. In short, the development fund for social economy may be channeled to beneficiaries of this assistance.

As mentioned earlier, it should be noted that the development fund may fail to be used for specific purposes in accordance with relevant law and, instead, be channeled to a broad range of beneficiaries including almost all cooperatives, some facilities for the disabled and some welfare centers. To address such a risk, clearly defined criteria must be set up that can allow the competent authorities to distinguish projects eligible for the development fund for social economy from those eligible for other budget-based assistance from the government.

Consequently, the creation of the development fund is more advantageous in supporting social economy organizations than reliance on government's general or special budget accounts as it can reach a broader range of beneficiaries. The risk of the fund's failure to be differentiated from the financial support based on the general or special budget accounts can be minimized by more careful operation of the fund in accordance with clearly defined criteria. Any failure to establish where the fund should be spent and who should be the beneficiaries, however, will lead to overlapping of assistance and, ultimately, waste of public money.

(7) Preferred purchase by public organizations (Article 21)

The Proposed Act stipulates that public organizations should prefer to products from social economic organizations in their procurement under Article 2.2 of the Act on Facilitation of Purchase of Small and Medium Enterprise-Manufactured Products and Support for Development of their Markets. Each public organization must ensure that at least 5 percent of its total annual purchase of products or services are sourced from social enterprises or social cooperatives. However, Article 12 of the Social Enterprise Promotion Act and Article 95.2 of the Framework Act on

Cooperatives¹⁹⁶⁾ provide for preferred purchase by public organizations of products or services from social enterprises or social cooperatives. Therefore, any provision under the Proposed Act requiring preferred purchase of products or services from social economic organizations take into account the relationship with the provisions under the two existing acts.

Since Article 2.2 of the Act on Facilitation of Purchase of Small and Medium Enterprise-Manufactured Products and Support for Development of their Markets define a public organization as a state agency, a regional government, a legal entity established under a special act and named as such under the relevant presidential decree or an organization established under Article 5 of the Act on the Management of Public Institutions,

196) Article 12 (Preferred Purchase by Public Organizations) of the Social Enterprise Promotion Act ① Heads of public organizations shall encourage their organizations to purchase goods or services produced by social enterprises (“Social Enterprise Products”) with priority under Article 2.2 of the Act on Facilitation of Purchase of Small and Medium Enterprise-Manufactured Products and Support for Development of their Markets.

② Heads of public organization shall now report their plans to increase their purchase of products from social enterprises and actual purchases made in the previous year to the Minister of Employment and Labor.

③ The Minister of Employment and Labor shall disclose such plans and actual purchases under paragraph 2.

④ Specifics of the reporting and disclosure of purchase plan and purchases under paragraph 2 and 3 shall be as set out in the applicable presidential decree.

Article 95.2 (Preferred Purchase by Public Organizations) of the Framework Act on Cooperatives ① Heads of public organizations shall encourage their organizations to purchase goods or services produced by social cooperatives (“Social Enterprise Products”) with priority under Article 2.2 of the Act on Facilitation of Purchase of Small and Medium Enterprise-Manufactured Products and Support for Development of their Markets.

② Heads of public organization shall now report their plans to increase their purchase of products from social cooperatives and actual purchases made in the previous year to the Minister of Strategy and Finance.

③ Specifics of the reporting and disclosure of purchase plan and actual purchases under paragraph 2 shall be as set out in the applicable presidential decree.

provisions of the Act on Contracts to Which the State is a Party regarding preferred purchase of products or services from social economic organizations may be applicable *mutatis mutandis*.

Article 23.3 of the Proposed Act stipulates that each public organization must ensure that at least 5 percent of its total annual purchase of products or services are sourced from social enterprises or social cooperatives.

(8) Private participation and alliance with private resources
(Article 24)

Unlike social market economy that stresses the intervention and engagement of the state based on the principle of complementation, social economy starts with voluntary private participation and not-for-profit self-help. For this reason, support is needed to ensure the scalability and network of private resources. In this regard, Article 24 of the Proposed Act stipulates that the state and the regional governments should make and implement policies that can encourage the private sector to participate in the development of social economy.

(9) Facilitation of cooperation (Article 27)

In addition, Article 27 of the Proposed Act also stipulates that the state and regional government should endeavor to encourage social economic organizations to form alliance, enter into partnerships and carry out other forms of cooperation. Article 28 allows cooperatives formed under the Proposed Act to join cooperatives formed under other acts to establish a federation of cooperatives. Such a special provision is to stimulate social economic organizations to go beyond the umbrellas of their competent

authorities so that they can achieve their goals such as more job opportunities for vulnerable groups and wide social welfare can be served on a greater scale.

Section 3. Framework Act on Social Economy Proposed by Lawmaker Shin Gye-ryun

This bill, proposed by 65 lawmakers including Shin Gye-ryun on October 13, 2014, is aimed at “helping establish a sustainable social economic ecosystem by facilitating cooperation and solidarity among social economic organizations and forming an effective policy implementation system involving private and public sectors, based on recognition of social economy’s contribution to the balanced development of the national economy and the state community” (Article 1).

This bill (“Shin’s Bill”) also provides key definitions: social economy is “all economic activities conducted by social economic organizations through business entities based on mutually beneficial cooperation and social solidarity in order to provide mutual benefits for their members and realize social values such as improvement of income disparity, more job opportunities, wide availability of social services, regeneration of local communities, growth of community economy, higher quality of life and social cohesion”; and social values as “achievements of public nature that contribute to public good and community development in social, economic, environmental and cultural areas through social economic activities” (Articles 3.1 and 3.2). It also provides other definitions including “social economic enterprises,” “social economic organizations,” and “social financing.”

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Provisions of Shin’s Bill regarding the government’s organization for social economy are similar to those in the Proposed Act, with one exception: the master plan for the development of social economy to be set up every 4 years (Article 8). Article 13 provides “the state and regional governments should set up policies aimed at greater availability of budget, procurement, financing, tax benefits and funding in order to broaden the foundation for community development and reinforce the social economic capability of communities. Articles 16 and 17 stipulate that the Commission on the Development of Social Economy should be formed where the Minister of Strategy and Finance and a representative from the private sector are the co-chairs, with the Ministry responsible for policy coordination and availability of budget.

The table below shows some highlights of Shin’s Bill.

Category		Description
Purpose		Contribute to the sustainable development of social economy by forming a social economic-friendly ecosystem
Who is eligible	Social economic organizations	Social enterprises (including preliminary ones), cooperatives (including social cooperatives), producers cooperatives, community businesses, self-sufficiency enterprises, agricultural & fishery entities and associations
		Credit unions, agricultural cooperatives (excluding economic / financial holding companies), fishery cooperatives (excluding the federation invested companies and the banking sector), community credit cooperatives, forestry cooperatives, SME cooperatives, tobacco producers cooperatives
New organizations		<ul style="list-style-type: none"> - Presidential Committee on the Development of Social Economy - Up to 40 members including 2 chairs (one is the Minister of Strategy and Finance and one from the private sector)

Category	Description
New organizations	<ul style="list-style-type: none"> - Working groups and secretariat (within the Committee) - Department of Social Economic Policies (within the Ministry) - Committee on Regional Social Economic Development
	<ul style="list-style-type: none"> - Development Institute for Social Economy (supervised by the Ministry in consultation with Ministry of Security and Public Administration and Ministry of Employment and Labor) - Consolidation of the Promotion Center for Social Enterprise
Support	<ul style="list-style-type: none"> ● Creation of development for social economy <ul style="list-style-type: none"> - Sources: Contributions from the central government and regional governments, special accounts earmarked for regional development ● Establishment of social financing institutions <ul style="list-style-type: none"> - Sources: Contributions from individuals, legal entities, associations, etc. Donations and/or investment by public organizations (In this case, the state or regional government can spend its budget) ● Preferred purchase of public organizations (5 percent) ● Subsidies, tax benefits, coverage of facility costs ● Private participation and alliance with private resources
Master plan	<ul style="list-style-type: none"> ● Master Plan on the Development of Social Economy (to be prepared by MOSF every 4 years) ● Sectoral/regional development plan (to be prepared by heads of central government agencies / regional governments every 4 years) ● Sectoral/regional implementation plan (to be prepared by heads of central government agencies / regional governments every year)
Others	<ul style="list-style-type: none"> ● Facilitate cooperation among social economic organizations <ul style="list-style-type: none"> - Consultative bodies or federations among cooperatives ● Open operation, disclosure of management, independent audit, etc. ● Penalty / fines (for disclosure, use of similar names)

Section 4. Framework Act on Social Economy Proposed by Lawmaker Park Won-seok

The Framework Act on Social Economy proposed by 10 lawmakers including Park Won-seok on November 11, 2014 (“Park’s Bill”) is also based on a similar motivation. In the justification, the bill provides “social economy can be a good alternative in addressing challenges facing Korea, such as worsening income disparity, as it is operated based on the principles of shared growth, mutual benefits and solidarity for the realization of social values and greater public good.” In this regard, Park’s Bill is “aimed at contributing to the balancing of the national economy by facilitating activities following the principles and purpose of social economy and helping form an ecosystem for the sustainable development of social economy based recognition that social economy’s contribution to job creation, greater availability of better welfare services and balanced development of the national economy.”

The purpose of the bill (Article 1) and definition of social economy (Article 2) are very similar to their counterparts of Shin’s Bill. Article 6 of Park’s Bill stipulates that the chair of the Social Economy Commission set up a Master Plan for Social Economy every 5 years in consultation with the heads of central government agencies concerned. Article 7 requires that the chair of the Social Economy Commission and the heads of central government agencies concerned set up implementation plans for tasks under their responsibilities based on the Master Plan on an annual basis. The Presidential Committee on Social Economy (Article 12) is almost the same as the one proposed in Shin’s Bill, except for the

Korea Institute for Social Economy (Article 19) that will be responsible for implementing all tasks associated with the promotion of social economy in an integrated and more effective way.

Park's Bill stipulates that the Korea Promotion Institute for Social Enterprises under the Ministry of Employment and Labor be shut down and its businesses be transferred to the Ministry of Strategy and Finance. Yet such transfer of businesses for alleged reasons of better policy coordination, better accessibility to budget, improved planning and implementation must be reconsidered.

The Ministry of Employment and Labor has amassed experience related to social economy since 2003 when it first introduced social job opportunities. In 2007, it has also been involved in businesses related to social enterprises since the Social Enterprise Promotion Act went into effect in 2007. Based on such experiences, the ministry set up the Master Plan for the Promotion of Social Enterprises phase 1 and 2 in 2008 and 2012, respectively, and started to expand its support to social economic organizations including cooperatives through the Promotion Institute for Social Enterprises.

Considering the fact that around 76 percent of the budget related to social economy in 2015 is earmarked for social enterprises for whom the Minister of Employment and Labor is the competent authority,¹⁹⁷⁾ no one can deny that the ministry is the largest public organization with the most experience and the highest level of expertise when it comes to social economy. The government plans to integrate existing support

197) Of 196.7 billion won of budget earmarked for social economy in 2015, 149.9 billion won (76.2 percent) is allocated for social enterprises under the jurisdiction of the Ministry of Employment and Labor. Other recipients of the budget include community businesses (8.9 billion won, MSPA), cooperatives (3.6 billion won, MOSF), rural community enterprises (1.8 billion won, MOAFRA) and SME cooperatives (32.5 billion won, MOTIE).

centers into the Employment and Welfare Center, a centralized body delivering social services for citizens of the community when the core of social economy is to provide more job opportunities and social services for those socially vulnerable.¹⁹⁸⁾ Given the situation where regional governments have started to relocate their organizations related to social economy such as social economy centers and self-sufficiency centers into the Employment and Welfare Center.¹⁹⁹⁾ It would be wise to consolidate organic ties with existing organizations and associations instead of removing the Employment and Welfare Center and starting over from scratch. Any amendment to relevant laws and/or regulations will depend on how such policies are implemented.

[Note] Transfer of businesses from the Korea Promotion Institute for Social Enterprises (from MOEL to MOSF)

Bill	Highlight	Remark
Yoo's bill	The MOSF alone will create an organization by merging the Korea Promotion Institute for Social Enterprises and the Central Self-sufficient Center.	Article 15
Shin's bill	The MOSF will create an organization in alliance with the MOEL and MSPA that will succeed to the Korea Promotion Institute for Social Enterprises and supervises the Social Economy Development Institute.	Article 23
Park's bill	MOEL, MOHW, MSPA and MOSF will join forces to create the Korea Institute for Social Economy.	Article 19

198) 10 in 2014 -> 30 in 2015 -> over 70 by 2017

199) In 2015, the Social Enterprise Hub Center (Songpa), Social Enterprise Support Center (Paju), Social Economy Center (Jecheon) and Self-Sufficiency Centers (Paju, Guri, Suwon, Yangsan, Geyongsan, Jeongup and Boryong) are planning to move into the Employment and Welfare Center.

Section 5. Framework Act on Realization of Social Values by Public Organizations

This bill was proposed by 60 lawmakers including Lawmaker Moon Jae-in on June 17, 2014 with a goal of realizing social cohesion by causing public organizations to take social values into account in addition to economic values when they set up and implement their policies. As justification, the bill provides “The Sewol tragedy made us reflect on ourselves who put profit ahead of human lives and safety. It is time to change the whole system of the country so that human beings and community values will be put first. Now the whole economic system of the country needs to accommodate social values as one of its key cornerstones so that human rights, right to work, safety, ecosystem, consideration of the social weak, quality jobs and shared growth between large enterprises and SMEs can be fully realized in reality.”

In this regard, social values should be taken into account as fundamental principles of policy implementation, and the realization of social values should be one important criteria during the assessment of public organizations. The legislature should play a leadership role in improving relevant regulatory framework and, therefore, pass a framework act on social values to cause the administration to adopt social values as their principal guidance for its operation and public organizations to contribute to the realization of social values during their operation and delivery of services.

The purpose of this bill is to help enhance public values across our society and achieve community development by causing public organizations to take social values into account in addition to cost reduction or efficiency

during their engagement in procurement, development, contracting and other tasks. Expected benefits of the legislation include high accountability of the government for its public services, revitalization of communities, growth of a broader range of social economic organizations including social enterprises, cooperatives and community businesses, and greater social responsibility of private enterprises.

Bill	Framework Act on Social Economy (proposed by Lawmaker Yoo Seung-min)	Framework Act on Social Economy (proposed by Shin Gye-ryun)	Framework Act on Social Values (proposed by Lawmaker Moon Jae-in)
Purpose	Support social economic organizations and help create jobs by forming an unified policy implementation structure for the development of social economy	Facilitate sustainable development of social economy by fostering an ecosystem friendly to social economy	Contribute to social cohesion by ensuring that public organizations take social values into account during their policy making
Who is eligible	Social economic New Credit unions, cooperatives (including social ones) producers, cooperatives, community businesses, self-sufficiency enterprises, agricultural entities/associations	Social enterprises (including preliminary ones), cooperatives (including social ones) producers cooperatives, community businesses, self-sufficiency enterprises, agricultural entities/associations	Credit unions, cooperatives (including social ones) producers cooperatives, community businesses, self-sufficiency enterprises

Bill		Framework Act on Social Economy (proposed by Lawmaker Yoo Seung-min)	Framework Act on Social Economy (proposed by Shin Gye-ryun)	Framework Act on Social Values (proposed by Lawmaker Moon Jae-in)
Who is eligible	Social New	Credit unions, agricultural / fishery cooperatives, credit cooperatives, forestry cooperatives, SME cooperatives, tobacco producing cooperatives	Credit unions, agricultural cooperatives (excluding economic / financial holding companies), fishery cooperatives (excluding the federation invested companies and the banking sector), community credit cooperatives, forestry cooperatives, SME cooperatives, tobacco producing cooperatives	-
		Workplaces employing the disabled, social welfare entities, facilities offering vocational training for the disabled, self-sufficiency centers	-	-
	Business owners	-	-	Business owners realizing social values * (whether for-profit or not-for-profit)

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Bill	Framework Act on Social Economy (proposed by Lawmaker Yoo Seung-min)	Framework Act on Social Economy (proposed by Shin Gye-ryun)	Framework Act on Social Values (proposed by Lawmaker Moon Jae-in)
New organization	<ul style="list-style-type: none"> • Presidential Social Economy Committee - Up to 30 members including one chair (appointed by the President) and one vice chair (Minister of Strategy and Finance) 	<ul style="list-style-type: none"> - Presidential Committee on the Development of Social Economy - Up to 40 members including 2 chairs (one is the Minister of Strategy and Finance and one from the private sector) 	<ul style="list-style-type: none"> • Presidential Committee on Social Values - Around 30 members including one chair (appointed by the President) and ex officio members (heads of central government agencies)
	<ul style="list-style-type: none"> • Secretariat (within MOSF) • Provincial/municipal committees on social economy 	<ul style="list-style-type: none"> • Working groups and secretariat (the Committee) • Department of Social Economic Policies (within the Ministry of Strategy and Finance) - Committee on Regional Social Economic Development 	<ul style="list-style-type: none"> • Regional committee on social values

Bill	Framework Act on Social Economy (proposed by Lawmaker Yoo Seung-min)	Framework Act on Social Economy (proposed by Shin Gye-ryun)	Framework Act on Social Values (proposed by Lawmaker Moon Jae-in)
New organization	<ul style="list-style-type: none"> • Social Economy Institute (MOSF) - By merging Promotion Institute for Social Economy and the Central Self-sufficiency Center 	<ul style="list-style-type: none"> • Development Institute for Social Economy (supervised by the MOSF in consultation with MSPA and MOEL) - Consolidation of the Promotion Center for Social Enterprise 	<ul style="list-style-type: none"> - Support organizations for social economy (at the central and regional governments)
Support	<ul style="list-style-type: none"> • Creation of development for social economy - Sources: Investment by the central / regional governments, revenues from the fund, contributions from individuals and enterprises 	<ul style="list-style-type: none"> • Creation of development for social economy - Sources: Contributions from the central government and regional governments, special accounts earmarked for regional development • Establishment of social financial institutions 	<p>(Financial support) Creation of fund and financial assistance</p>

Part 3. Social Economy

Bill	Framework Act on Social Economy (proposed by Lawmaker Yoo Seung-min)	Framework Act on Social Economy (proposed by Shin Gye-ryun)	Framework Act on Social Values (proposed by Lawmaker Moon Jae-in)
Support	<ul style="list-style-type: none"> • Preferred purchase by public organizations (5%, the scope left to discretion) • Subsidies, tax benefits, coverage of facility costs • Private participation and alliance with private resources 	<p>- Sources:</p> <ul style="list-style-type: none"> Contributions from individuals, legal entities, associations, etc. Donations and/or investment by public organizations (State / regional govt's budgets available) • Preferred purchase of public organizations (5 percent) • Subsidies, tax benefits, coverage of facility costs • Private participation and alliance with private resources 	<p>(For contracts on product purchase or services) preferred purchase, quota, restricted bidding, contracting without competitive bidding</p> <ul style="list-style-type: none"> • (Urban or regional development) Preferred participation, restricted bidding • State owned land available free of charge, tax benefits, financing,
Master plan	<ul style="list-style-type: none"> • Master Plan on Development of Social Economy (by MOSF every 5 years) 	<ul style="list-style-type: none"> • Master Plan on the Development of Social Economy (to be prepared by MOSF every 4 years) 	<ul style="list-style-type: none"> • Master Plan on realization of social values (by MOSF every 5 years)

Bill	Framework Act on Social Economy (proposed by Lawmaker Yoo Seung-min)	Framework Act on Social Economy (proposed by Shin Gye-ryun)	Framework Act on Social Values (proposed by Lawmaker Moon Jae-in)
Master plan	<ul style="list-style-type: none"> • Annual implementation plan (by MOSF and central govt agencies every year) • Regional plans (by regional governments every year) 	<ul style="list-style-type: none"> • Sectoral/regional development plan (to be prepared by heads of central government agencies / regional governments every 4 years) • Sectoral/regional implementation plan (to be prepared by heads of central government agencies / regional governments every year) 	<ul style="list-style-type: none"> • Social Economy Promotion Plan (by MOSF every 5 years) • Implementation plans by regional governments
Others	<ul style="list-style-type: none"> • Facilitate cooperation among social economic organizations - Consultative bodies and federations among cooperatives formed under different acts • Open operation and disclosure of management • Penalty / fines (for disclosure, use of similar names) 	<ul style="list-style-type: none"> • Facilitate cooperation among social economic organizations - Consultative bodies or federations among cooperatives • Open operation, disclosure of management, independent audit, etc. • Penalty / fines (for disclosure, use of similar names) 	<ul style="list-style-type: none"> • Public organizations to be subject to performance evaluation and the results to be reported and disclosed

Section 6. Proposed Special Act on Greater Sales and More Marketing Channels for Social Economic Enterprises

This bill was proposed by Lawmaker Shin Gye-ryun on December 19, 2013. Its justification states “Korea now faces tremendous social conflicts and ills resulting from economic divide. Unemployment is becoming chronic due to an economic structure where the majority of society sacrifices for the benefit of a handful of oligopolists. Many people are deprived of opportunities to earn minimum wages in order to subsist and thus suffer ever lower quality of life. This is because the logic of a virtuous circle by capitalists where growth creates jobs, jobs in turn create demand, and demand drives growth again, has exposed its limits.”

For this reason, “there is a need for humanistic economic mechanism that can address and complement a market economy that fosters competition and disparity. In this regard, the discussion of social economy, which provides humanistic job opportunities and social values with an emphasis on mutual aid, cooperation and co-existence, should be noted. Fortunately, there are movements in our society to address income divide and achieve sustainable growth by achieving balanced development of economy, society and environment. Although the central and regional governments are actively adopting policies to help boost social economy, with many civic groups joining them, social economic policies in Korea are deemed by many to be in their infancy. That is partly because of lack of appropriate regulatory framework to support them. To address this problem, the National Assembly should play a leadership role by fostering a favorable ecosystem for social economy.”

Specifically, Article 2 of the bill identifies social economic enterprises eligible for assistance for more sales and greater market access. Articles 3 and 4 provide the responsibilities and obligations of the state, regional governments, public organizations, social economic enterprises and the public in connection with the sales support for products from social economic enterprises. Articles 5 and 6 stipulate that a master plan for more purchase of products from social economic enterprises should be set up and require that provincial/municipal governors set up their own plans for their purchase of the products. Article 7 of the bill provides establishment of a committee on purchase of products from social economic organizations, responsible for reviewing and deciding on matters related to such products. In this respect, the Minister of Employment and Labor should draw up guidelines based on the master plan which heads of public organizations should follow when they purchase products from social economic organizations (Article 8). Heads of public organizations set up implementation plans on the purchase of the products for each fiscal year and make a report on purchase actually made under the plans (Article 9 and 10).

The Minister of Employment and Labor has the discretion to: i) designate certain products from social economic enterprises as those requiring competition only among social economic enterprises if he/she deems such designation necessary in order to provide greater market access for the products; and ii) stipulate the method of competition, eligibility and other necessary matters (Article 11 to 13). The head of the competent public organization that enters into contract with social economic enterprises through the competition process must verify that the enterprise actually does the production and define the procedures

regarding issuance of a certificate of actual production, appeals, revocation of the certificate and other necessary matters (Article 14 to 16). Any social economic enterprise performing tasks of a public organization on its behalf may be treated favorably (Article 19).

The competition among social economic organizations only and the preferred purchase of products from them are the two cornerstones of the support measures under this bill and also the affirmative actions to be offered for social economic organizations through limited competition. This may conflict or compete with existing support measures for SMEs or womenowned businesses, which therefore requires closer consideration.

<Key support measures for social economic organizations under the bill>

Measure	Description
Competitive bidding among social economic organizations (Article 12)	<ul style="list-style-type: none"> o Heads of public organizations must hold a competitive bidding involving social economic organizations only if they are to purchase any product designated as one requiring such a bidding process.
Preferred purchase of products from social economic enterprises and contracting without competitive bidding (Article 17)	<ul style="list-style-type: none"> o Heads of public organizations: <ul style="list-style-type: none"> - Shall purchase products from social economic organizations among others if they are designated as those to be purchased with preference - May purchase products from social economic enterprises Make purchase without competitive bidding if the total amount of the purchase is less than a certain level - May purchase any product manufactured by a social economic enterprise of labor-integrated type without competitive bidding regardless of the price of the product.

Measure	Description
<p>Favorable treatment if tasks are assigned (Article 19)</p>	<ul style="list-style-type: none"> o Social economic enterprises performing tasks of public organizations on their behalf may be treated favorably
<p>Better market accessibility for products from social economic orgs (Articles 20, 29 and 30)</p>	<ul style="list-style-type: none"> o Public organizations to help social economic organizations have better market access (Article 20) o Stores selling products from social economic organizations and a support center for purchase from social economic organizations (Articles 29 and 30)
<p>Digitalized management of products from social economic enterprises (Article 24)</p>	<ul style="list-style-type: none"> o Information on products from social economic enterprises to be digitalized for easier access by consumers to them for browsing and ordering
<p>Financial assistance and tax benefits (Article 26)</p>	<ul style="list-style-type: none"> o Coverage of costs associated with production of products from social economic enterprises o Tax benefits under tax related acts
<p>Free availability of state-owned properties (Article 27)</p>	<ul style="list-style-type: none"> o State or publicly owned properties to be made available to social economic enterprises free of charge
<p>Rewards (Article 31)</p>	<ul style="list-style-type: none"> o Prizes for social economic organizations that contributed to sales increase or higher quality of products from social economic enterprises

Chapter 4. Benefits and Prospect

Section 1. Benefits

1. Job Opportunities

Korea has entered an era of marginal growth. This means that it will be hard to mitigate an impact from decreasing demand for labor unless jobs are created in new industry sectors. On one hand, there will appear to be those paid low wage without any job security in certain service area. On the other, self-employed people with below-par sales will increase. Creation of quality jobs is one of the most important missions for the policymakers of our time.

In this context, social economy is a very effective means of job creation. First, social economic organizations have a great potential for job creation as demand for labor is likely to increase in the social service sector. That is partly because Korea's strategy concerning welfare services will likely dictate that more physical items and services are provided rather than cash. Second, social economic organizations have a high employment multiplier, creating more jobs for the same amount of cost spent. The employment multiplier of the third sector is 26.6 as of 2003, compared to 20.1 of the government sector and 17.7 of the private, for-profit sector. Finally, many jobs in social economy do not require a high level of skills, thus providing good opportunities for those from vulnerable groups with no or a low level of skills. This has been fully demonstrated in self-sufficiency initiatives or social job projects where those excluded from the labor market or female breadwinners are the primary beneficiaries.

A high employment multiplier, of course, is not always good. It means that the wage level in the sector is that low. Social economic organizations, however, have one big advantage over for-profit enterprises: the majority of profits generated is distributed to the workers as payment for their contribution instead of the employer or investors. This suggests that individual workers of a social economic organization can be paid higher salaries if it earns the same revenues as its for-profit counterpart's.

2. Rollout of Values of Solidarity in the Community

Another reason for promoting social economy is the need for forming network within the community based on the principle of solidarity. This means that we need to secure a space of communication based on day to day consumption and leverage it to expand social network. The expansion of the space of consumption through social economic organizations is highly significant. That is because they not only provide a space of communication, but also facilitate consumption of other social services. Social economic organizations supplying social services in Korea have had difficulty in expanding their consumer base for the last decade. This suggests that they need to expand the base based on day to day space of consumption.

Social economic organizations have a powerful potential to change local communities as they can roll out alternative ways of production and consumption. Producer cooperatives selling organic produce can connect producers and consumers and promulgate new trends of consumption. Social enterprises in the cultural sector can provide opportunities for vulnerable groups to enjoy culture in a better environment. Self-sufficiency

community or social enterprises can provide goods or services free of charge or at low prices for vulnerable groups having difficulty in consumption due to lack of money available. In addition, social economic organizations can assimilate existing business owners or those without jobs during their production, distribution and sales process. Through this, social economic organizations provide opportunities for ordinary consumers within the community to put the spirit of sharing into practice.

A shift in civic consciousness can no longer be reliant on perspectives from the Enlightenment. It would be nonsense if one expected that certain values could be shared through education of citizens by civic groups. Experiences in the past several years show that citizens take a leadership role in different issues in different areas, social groups following them. Therefore, it is imperative that citizens have a larger space for communication within their comfort zones so that they can share new values in their day to day lives. This can be an important starting point for discussions of various policy issues such as labor, education and housing.²⁰⁰⁾

3. Shift in Social Relationship Network and Realization of Democracy

Social economy is also necessary to ensure democracy at the lowest level of our social lives. Citizens and civic groups are important cornerstones of democracy. Civic groups, of course, may have political or ideological

200) Today, small merchants suffer decreasing sales when a super-super market opens in the neighborhood. This issue largely focuses on economic conflict of interest. From a different perspective, this is also a matter of removing a space for communication for people within the community. Therefore, securing such as space is a very important matter per se. It is time for us to think about why so many local governments in Europe try to retain small bakeries in villages even by giving them .

colors. That does not mean they should be aligned with any specific political group. They should rather keep an arm's length from political groups and have critical autonomy to have their reason for existence.

The problem is that many civic groups in Korea are not politically independent. Some even try to expand their presence by engaging in political activities. This is true for both the right and the left. Such behavior has put civic groups as a whole on the brink of losing their identity. They collapse abruptly when they think they now have stronger presence.

The most fundamental reason for that is they have been lax in securing the base of support from citizens based on their geographical foundation or comfort zones. The failure to have no policy-driven political party in Korea can be attributable to political groups, capitalist and civic groups. Yet the ultimate responsibility for the failure should lie in civic groups that have failed to perform their duty of criticism and check in democracy.

Civic groups in Korea grew significantly in their number and scale along with the democratization triggered after 1987, but tended to focus on political activities instead of offering services for people in their community. Although there have emerged some civic groups focusing on life within comfort zones, their foundations are still weak. In addition, many civic groups are led by a small number of publicly well-known personnel. The way they finance their activities is also problematic from time to time.

Reliance on intermittent donations from the government or corporations instead of regular donations by citizens can be a major barrier to the critical roles of civic groups. Many people envy the flourishing of policy-driven political parties in advanced countries, but they do not look at civic groups that enable it. Those countries have many civic groups operating at local and regional levels, which focus of the day-to-day lives

of people in the community. These groups, in turn, are formidable forces that can hold political parties in check. In such circumstances, it would be very hard for any migrant politicians or those obeying their bosses without questioning to survive. In contrast, the soil in Korea is still too vulnerable for any civic groups as strong as those in advanced countries to grow. In this respect, social economic organizations can be a good alternative: they are based in the community and can provide services for those living in it and advocate their rights.

Section 2. Prospects

Although social economy has just started to be discussed, expectations of its benefits are very high. To make it successful in Korea, it is imperative to remove any overlapping or conflict with existing regulatory framework, have everything required to determine whether and how much it realizes intangible and abstract social values and identify anything that may cause issues in relations with other countries.

Discussions are still being made over what is the reasonable relationship between the state and society even when the strict dualism that used to govern the relationship between the two from the modern era is long gone and the state's intervention and engagement in social economic domains are deemed acceptable. Social economy that can be understood in the same context of The Third Way or Big Society claiming productive welfare seems to have emerged out of limited government roles and lack of its fiscal capability.

If we call the state being responsible for providing welfare services and jobs by operating key infrastructure such as electricity, gas, petroleum,

roads, rails and broadcasting through state-owned or state-invested enterprises a progressive model (nationalization), we can call the state minimizing its roles by transferring them to the private sector a conservative model (privatization). What social economy seeks is a situation where people in the community work to create jobs and deliver welfare services for themselves instead of relying on the state or for-profit enterprises. In such a situation, the state's roles are restricted to form statutory committees to ensure that citizens can fully participate in social economy and diverse plans on social economy are set up in a timely manner and fully implemented at the central, regional and local levels. States of such a type can be situated in the context of the civic labor model by Ulrich Beck or the Ensuring state theory. Under such a model or theory, the dichotomous dispute over state intervention between the progressive and the conservative can become dubious or non-productive. Neither side will have much room for objection when the state's spending decreases while the autonomy and accountability of civil society is guaranteed by the state.

This discussion is in the same context as the discussion of new or post regulatory state. Modern states are no longer providers of social services. They do more than privatizing public services. They leave many other tasks that they used to do to the private sectors. Today, states no longer command or control. They have started to regulate various facets of lives in comfort zones in pluralistic and indirect manners. States should go beyond disputes over welfare states or regulatory states and guarantee ways for citizens to restore autonomy and accountability for greater happiness.

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