

■ Case Highlights ■

## Successful representation of a company in a claim for deferred performance pay filed by a retired employee

The Financial Supervisory Service prepared model criteria for performance-based compensation system for financial investment companies in order to establish a reasonable compensation system, upon being criticized in 2010 that one of the causes of the financial crisis was the financial companies' compensation system based on short-term performance. Specifically, the model criteria provided for tying of compensation with risks, i.e., each securities company was required to consecutively pay considerable part of the compensation to the management and certain employees as floating compensation (performance-linked compensation), considerable part of which was to be deferred in view of the period of duration of risks, and considerable other part of which was to be paid in a form linked with the long-term performance of the company, such as stocks or equity-linked products, and in the event of under-achievement or loss during the period of deferred payment of floating compensation, the floating compensation payable in future shall be reduced. The company established the Regulations on Performance-based Compensation (the "Regulations") based on the above model criteria.

According to the Regulations, the performance-based compensation for the management and employees responsible for financial investment to whom the Regulations apply is postponed for a certain period. An employee who used to be in charge of financial investment at the company filed the lawsuit in question, after leaving the company, for payment of deferred performance pay.

JIPYONG successfully defended the company that it was not obligated under the Regulations to make the deferred performance payment after an employee left the company, and also raised related labor law issues from various perspectives.

The court accepted the company's assertion and dismissed the employee's claim, finding that the relevant provisions of the Regulations did not violate Article 7 of the Labor Standards Act and Article 103 of the Civil Act.

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