

# Fostering Private Equity Using a Law-First Approach

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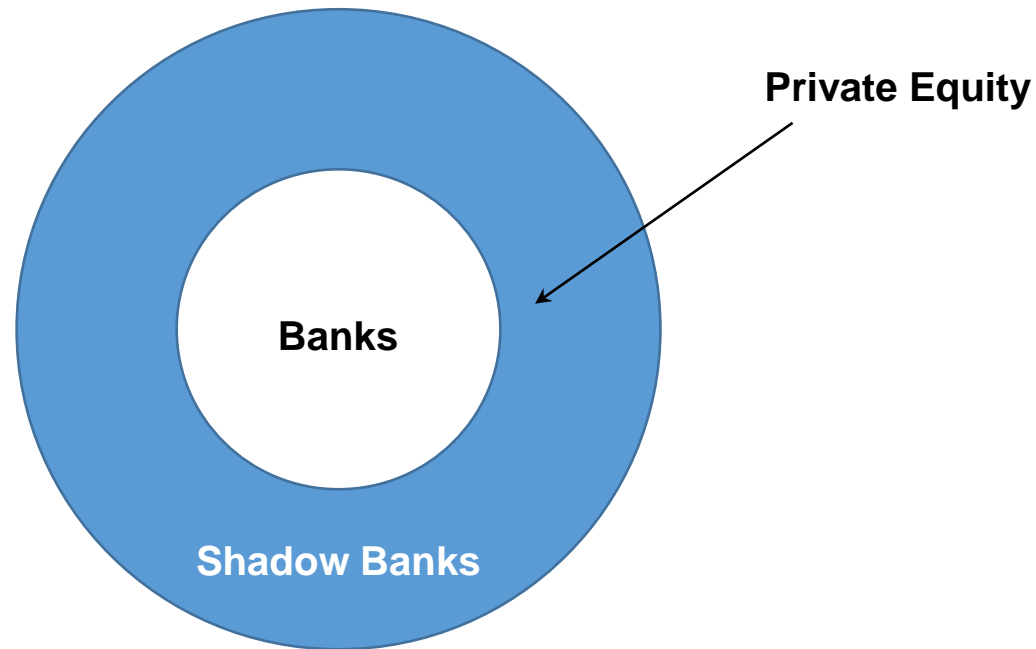
# Definitions

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- **Law-First Approach** = laws set the terms and bounds of permissible market activities, and market participants must comply with such terms before they are able to engage in such activities

# Can private equity be regulated using a law-first approach?



# Korean PE Regulation

- First attempt to regulate private equity using a law first approach
  - Regulating entry and exit
  - Activity restrictions
  - Fiduciary obligations

# My Claims

1. A law-first approach was critical to the successful launch and fostering of private equity in Korea

# My Claims

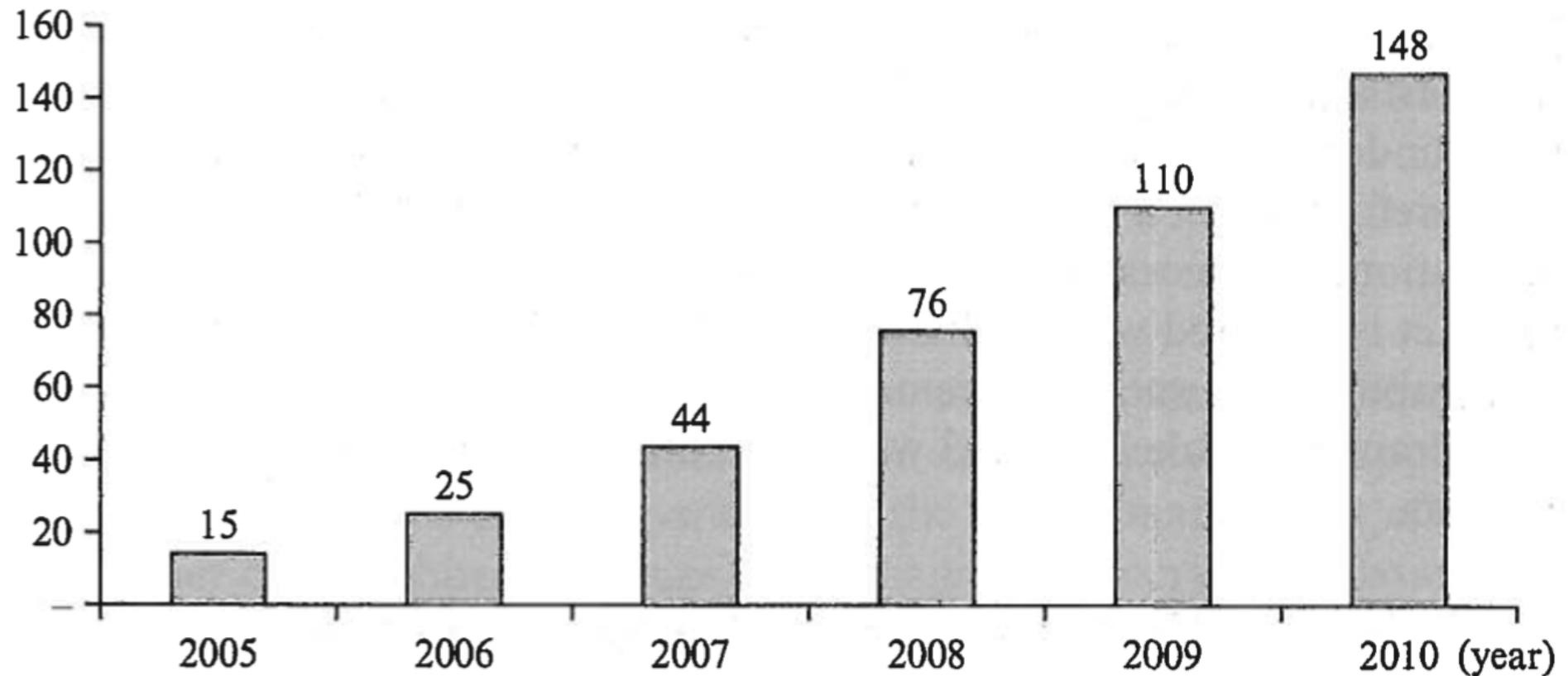
1. A law-first approach was critical to the successful launch and fostering of private equity in Korea
2. The chilling effects of the law-first approach feared by critics has not materialized



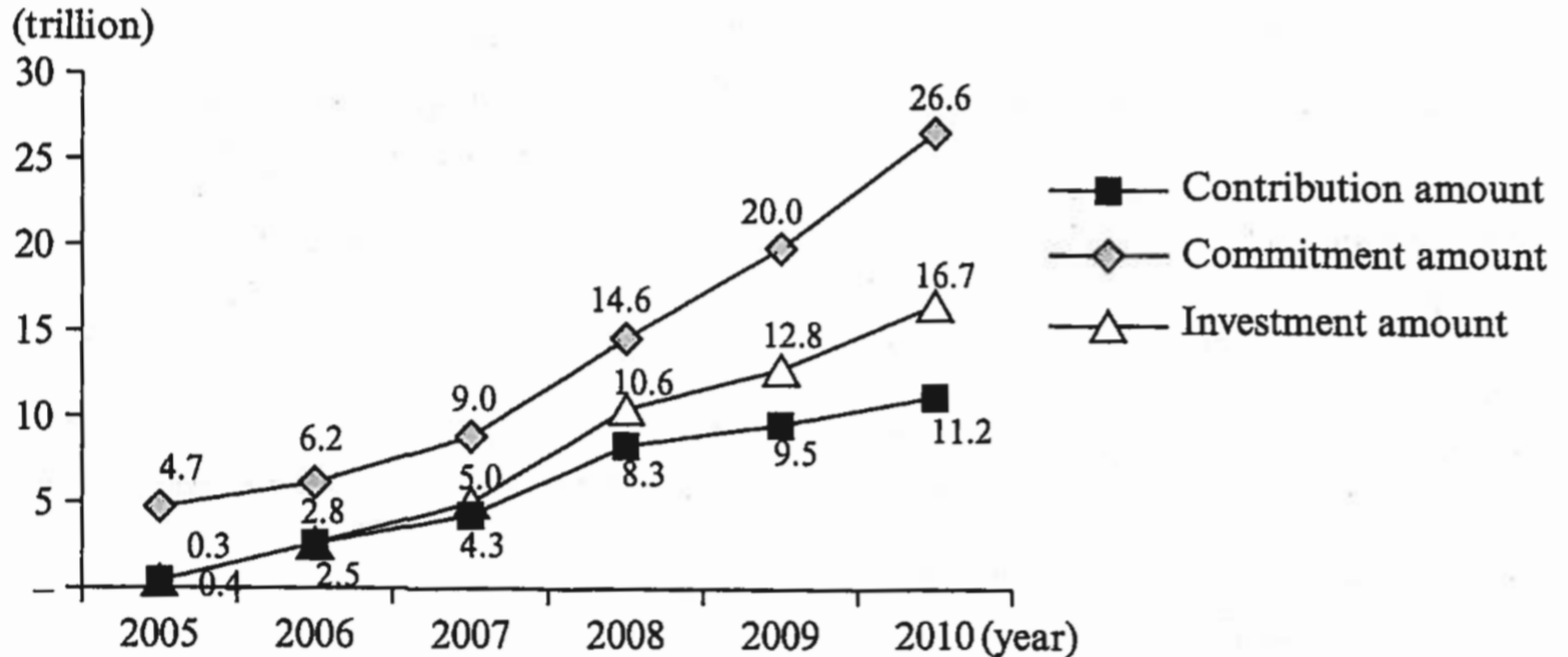
# Phase-Based Regulation

- The *phase* of regulation, rather than the specific features of the product being regulated, should be the most important determinant of regulatory strategy
- The *phase* of regulation should also guide the selection of a comparative framework

# The (Non-)Chilling Effects of a Law-First Approach?



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# Two Explanations

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  - Regulatory channels (Spamann 2009)

## Concluding Remarks

- Korea's law-first approach to regulating private equity has led to regulatory innovations
- Rollback or revision of regulatory levers should be implemented by reference to evolving phases of Korean private equity

Thank you!

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