

Chapter 8.11

The Regulation of New Forms of Electronic Fund Transfers in Japan Focusing on Electronic Money

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ABSTRACT

In this chapter, after surveying existing Japanese public laws that regulate the transfer of funds via the Internet, and focusing on electronic money in particular, It will be discussed how these existing regulations may apply to new electronic payment methods that may not have been accounted for when these regulations were established, whether the regulations are sufficient to both provide convenience to the user and protect their safety, and whether these regulations are desirable as business conditions for developing electronic money. Through these discussions, certain objectives will be developed, which should be taken into account when developing regulations in Japan on the transfer of funds via the Internet. Also, this chapter discusses anti-money laundering regulations applicable to transfers of funds on the Internet, focusing on electronic money, and will examine how Japanese money laundering

regulations may apply to cross-border transfers of funds using overseas electronic money services. Through this examination, the chapter will attempt to suggest desirable money laundering regulations on domestic electronic money in the near future. Furthermore, this chapter discusses real money trade and point-rewarded programs in view of function of payment or transferring funds electronically in extended research sections, and closes by predicting future research directions.

INTRODUCTION: WHY ELECTRONIC MONEY NOW?

Electronic Money has Increasingly become a Part of Personal Lives in Japan

The use of Electronic Money has been expanded in Japan in recent years, and it has come to be

used transactions in various goods and services. As the commercial online transactions quickly spread among general consumers, the necessity for establishing electronic payment methods has increased. Also, as the domestic player population of online games continues to expand, intermediate agents on the Internet specialized for Real Money Trading (hereinafter referred to as “RMT”), meaning the exchange of virtual currency within online games with the currency of the real world, has also appeared. Meanwhile, in the real world, in order to avoid the time and effort involved in using cash at vending machines, convenience stores, and so forth, IC chips that act as Electronic Money devices have been introduced. IC chips working as Electronic Money have become a standard function of cellular phones and cellular phones themselves, which are widely used by the Japanese, have an Electronic Money function. The integration of IC chips into cellular phones brought about an increase in the number of users of Electronic Money. Moreover, it did not stop only at transactions with entrepreneurs supplying goods and service, also allowed users to transfer the electronic value recorded on IC chip to each other. In addition, the number of shops that accept Electronic Money from existing Electronic Money issuers has increased rapidly, thanks to associations with other issuers. Furthermore, large-sized mass home electronics retailers and airline companies have started a service which converts points and mileage into Electronic Money issued by other entities.

How has the Japanese Government Responded to the Spread of Electronic Money?

As a social phenomenon, Electronic Money has started to spread to general consumers, rather than merely being confined to special-use groups. Therefore, the introduction of legislation regulating Electronic Money in order to protect consumers has become increasingly urgent. From the 1990s, mem-

bers of the Japanese government have frequently advocated the introduction of full-scale legislation on Electronic Money and have issued research reports. Although these reports are available to the public, since Electronic Money has not yet become fully widespread, the legislation which covers Electronic Money widely has not yet been established. In this situation, the Working Group on Information Technology Innovations and Financial Systems (hereinafter referred to as the “Working Group”) under the Sectional Committee on Financial System of the Financial System Council of Financial Services Agency (FSA) has held several hearings from providers of prepaid-type electronic payment services, focusing on the detailed content of their services and their safety measures. The Working Group released a memorandum from the chairman²³ (FSA, 2006, the “Chairman Memorandum”) to the public entitled “Issues facing the Development of New Electronic Payment Services” in April, 2006. The Chairman Memorandum is primarily a summary of: (1) matters to be considered by service providers and (2) issues to be studied by the government in the future.

However, the Chairman Memorandum covers only prepaid-type electronic payment services, summarized and categorized into “electronic payment services using IC chips” and “electronic payment services over the Internet” and does not cover the newest forms of electronic funds transfer, such as point cards or air miles. Moreover, the Working Group approached the matter mainly from the view point of how to raise the reliability of prepaid-type electronic services through more stable payments and stronger user protection, not from the view point of the right to issue currency only being permitted by the nation, financial policy, and balancing with strict regulations on banks.

The Aim of this Chapter

In this chapter, after surveying existing Japanese public laws that regulate the transfer of funds via the Internet, and focusing on Electronic Money in

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