

# Electronically Recorded Monetary Claims Act

(Act No. 102 of June 27, 2007)

## Chapter I General Provisions

(Purpose)

Article 1 This Act provides for the accrual and assignment, etc. of electronically recorded monetary claims, as well as the necessary matters regarding the business and supervision, etc. of electronic monetary claim recording institutions that are engaged in the electronic recording of monetary claims.

(Definitions)

Article 2 (1) The term "electronically recorded monetary claim" as used in this Act means a monetary claim for which electronic recording pursuant to this Act (hereinafter referred to simply as "electronic recording") is required for accrual or assignment.

(2) The term "electronic monetary claim recording institution" as used in this Act means a stock company designated by the competent minister pursuant to the provisions of Article 51, paragraph (1)

(3) The term "registry" in this Act means a book in which monetary claims record is recorded, and which is prepared by an electronic monetary claim recording institution using a magnetic disk (including media specified by order of the competent ministry as being capable of securely recording certain matters by means equivalent to those of a magnetic disk).

(4) The term "monetary claims record" in this Act means an electronic or magnetic record (a record which is produced by electronic, magnetic, or any other means unrecognizable by natural perceptive function, and is used for information processing by a computer; the same applies hereinafter) that is prepared for each electronically recorded monetary claim that accrues through the recording of its accrual, for each electronically recorded monetary claim that is divided from electronically recorded monetary claims as prescribed in Article 43, paragraph (1), or for each electronically recorded monetary claim subject to change of electronic monetary claim recording institution as prescribed in Article 47-2, paragraph (1).

(5) The term "record matters" in this Act means matters that are required to be recorded in a monetary claims record based on the provisions of this Act.

(6) The term "electronically recorded person" in this Act means a person recorded in a monetary claim record as the obligee or pledgee of an electronically recorded monetary claim.

- (7) The term "electronically recorded claim holder" in this Act means a person in an electronic record who directly benefits from making electronic recording, excluding a person who receives an indirect benefit.
- (8) The term "electronically recorded claim obligor" in this Act means a person in an electronic recording who suffers a direct disadvantage from making electronic recording, excluding a person who suffers an indirect disadvantage.
- (9) The term "electronically recorded guarantee" in this Act means a guarantee recorded in a record of guarantee, whose principal obligation is connected with an electronically recorded monetary claim.

## **Chapter II Accrual and Assignment of Electronically Recorded Monetary Claims**

### **Section 1 General Rules**

#### **Subsection 1 Electronic Recording**

(Method of Electronic Recording)

Article 3 An electronic recording is made by an electronic monetary claim recording institution by recording record matters in a registry.

(Electronic Recording by a Party's Request or Public Agency's Commission)

Article 4 (1) An electronic recording may not be made if there is no request from a party or if there is no commission from a government agency or a public office, unless otherwise prescribed by laws and regulations.

(2) The provisions of this Act on the procedures for electronic recording by request are applied mutatis mutandis to the procedure for electronic recording by commission from a government agency or a public office, unless otherwise prescribed by laws and regulations.

(Requesting Party)

Article 5 (1) A request for an electronic recording must be made by both the electronically recorded claim holder and the electronically recorded claim obligor (in the case of general succession, including inheritance, that heir or other general successors of the holder or obligor; the same applies in paragraph (3)), unless otherwise prescribed by laws and regulations.

(2) An electronic recording based on a final and binding judgment ordering an electronically recorded claim holder or electronically recorded claim obligor (in the case of general succession including inheritance, that heir or other general successors; the same applies hereinafter in this paragraph) to file a request for the electronic recording, may be requested solely by either electronically recorded claim holder or electronically recorded claim obligor who is required to file that request.

(3) If an electronically recorded claim holder or electronically recorded claim obligor has not filed a joint request for an electronic recording, a request for the electronic recording is put into effect when they both have filed requests for the electronic recording.

(Method of Request)

Article 6 A request for an electronic recording must be filed by submitting to an electronic monetary claim recording institution the name and address of the person filing the request and other information specified by Cabinet Order as necessary for requesting an electronic recording.

(Electronic Recording by an Electronic Monetary Claim Recording Institution)

Article 7 (1) When an electronic monetary claim recording institution receives a request for an electronic recording filed pursuant to the provisions of this Act or an order based on this Act, it must make the electronic recording pertaining to that request without delay.

(2) Pursuant to the provisions of the rules of operation prescribed in Article 51, paragraph (1), item (v) (hereinafter referred to simply as "rules of operation" in this chapter), the electronic monetary claim recording institution may decide not to make a record of a guarantee, a record of a pledge's creation, a record of a division, or a record of change of recording institution, and it may impose restrictions on the number of electronic recordings or records of assignment or other restrictions. In this case, if the electronic monetary claim recording institution has not recorded the matters listed in Article 16, paragraph (2), item (xv) in the monetary claims record, no person may claim the validity of the provisions of those rules of operation.

(Order of Electronic Recordings)

Article 8 (1) If two or more requests for electronic recordings are filed for the same electronically recorded monetary claim, the electronic monetary claim recording institution must make the electronic recordings in the order in which those requests were filed.

(2) If two or more requests are made simultaneously for the same electronically recorded monetary claim, and the contents of the electronic recordings pertaining to these requests contradict each other, notwithstanding the provision of Article 7, paragraph (1), the electronic monetary claim recording institution must not make an electronic recording based on either request.

(3) If two or more requests are made for the same electronically recorded monetary claim and the chronological order of that requests is not clear, the requests are deemed as having been made simultaneously.

(Validity of Electronic Recording)

- Article 9 (1) The contents of an electronically recorded monetary claim are determined according to the record contained in the monetary claim record (if a recording of change of recording institution has been made, the post-change monetary claims record prescribed in Article 47-2, paragraph (2), and if there is more than one post-change monetary claims record, the one with the most recent date on which the recording of change of recording institution was made).
- (2) The electronically recorded person is presumed to legitimately hold the right to the electronically recorded monetary claim pertaining to the electronic recording.

(Correction to Electronic Recording)

- Article 10 (1) An electronic monetary claim recording institution must make corrections to electronic recordings in the following cases; provided, however, that if a third party with an interest in the electronic recordings exists, the correction may be made only with the consent of that third party:
- (i) the information provided to the electronic monetary claim recording institution in a request for an electronic recording differs from that which has been recorded;
  - (ii) an electronic recording that may not be made without a request has been made without a request;
  - (iii) regarding the record matters that the electronic monetary claim recording institution is required to record by its own authority, contents that differ from the those to be recorded have been recorded; and
  - (iv) the record matters which the electronic monetary claim recording institution is required to record by its own authority have not been recorded (excluding when all the record matters in one electronic recording have not been recorded).
- (2) If an electronic recording has been deleted before one of the dates specified in the items of Article 86 according to the cases listed in the respective items, the electronic monetary claim recording institution must restore that electronic recording. In this case, the provisions of the proviso to the preceding paragraph apply mutatis mutandis.
- (3) If an electronic monetary claim recording institution makes a correction or restoration pursuant to the provisions of the preceding two paragraphs, it must correct any electronic recording that contradicts the content of the corrected or restored electronic recording.
- (4) If an electronic monetary claim recording institution corrects or restores an electronic recording pursuant to the provisions of paragraph (1) or (2), it must notify the electronically recorded claim holder and electronically recorded

claim obligor (if neither an electronically recorded claim holder nor an electronically recorded claim obligor exists, the electronically recorded person) of the contents of the correction or restoration.

- (5) The notice pursuant to the provisions of the preceding paragraph must also be given to a person who filed a request for the electronic recording in lieu of another person pursuant to the provisions of Article 423 of the Civil Code (Act no.89 of 1896) or other laws and regulations. However, if there are two or more persons who have made the request for the electronic recording in lieu of another person, it is sufficient to notify one of them.

(Responsibility of the Electronic Monetary Claim Recording Institution  
Regarding a False Electronic Recording)

Article 11 In the cases listed in the respective items of paragraph (1) of the preceding Article, or in the cases prescribed in paragraph (2) of the preceding Article, the electronic monetary claim recording institution is responsible for compensating for damage suffered by the person requesting the electronic recording and other third parties due to a cause prescribed in these provisions; provided, however, that this does not apply if the representative person, employees, and other workers at the electronic monetary claim recording institution prove that they did not neglect to exercise care in conducting their duties.

**Subsection 2 Manifestation of Intention Pertaining to Electronically  
Recorded Monetary Claims**

(Special Provision for Nullity or Rescission of Manifestation of Intention)

Article 12 (1) Regarding manifestation of intention to the counterparty in a request for an electronic recording, nullity pursuant to the provisions of the proviso to Article 93 or the provisions of Article 95 of the Civil Code, and rescission pursuant to Article 96, paragraph (1) or (2) of the Civil Code, may not be asserted against a third party in good faith and without gross negligence (limited to a third party after rescission carried out pursuant to the provisions of Article 96, paragraph (1) and (2) of the Civil Code).

(2) The provisions of the preceding paragraph do not apply in the following cases:

- (i) the third party prescribed in the preceding paragraph is the assignee, pledgee, attaching creditor, provisional attaching creditor, or bankruptcy trustee of an electronically recorded monetary claim, and the respective assignment, pledge, attachment, provisional attachment, or ruling for the commencement of bankruptcy proceedings with regard to the electronically recorded monetary claim was made after the payment date (regarding an electronically recorded monetary claim to be paid in installments, limited to

the parts of the claim whose payment dates have arrived); or  
(ii) a person who attempts to assert the nullity or rescission of manifestation of intention under the preceding paragraph is an individual (excluding those who are recorded as an individual business operator (meaning an individual who is also a business operator as provided in Article 2, paragraph (2) of the Consumer Contract Act (Act No. 61 of 2000); the same applies hereinafter) in the relevant electronic recording).

(Special Provisions Regarding the Responsibility of Unauthorized Agents)

Article 13 When applying the provisions of Article 117, paragraph (2) of the Civil Code regarding the manifestation of intention toward the other party in a request for an electronic recording, the term "negligence" in that paragraph is replaced with "gross negligence".

(Responsibility of Electronic Monetary Claim Recording Institutions Regarding Requests for an Electronic Recording Filed by Person without Authority)

Article 14 The electronic monetary claim recording institution is responsible for compensating for damage suffered by a third party if it makes an electronic recording based on a request from either of the following persons; provided, however, that this does not apply if the representative person, employees, and other workers of the electronic monetary claim recording institution can prove that they did not neglect to exercise care in conducting their duties:

- (i) a person without authority of representation; or
- (ii) a person who impersonates another person.

## **Section 2 Accrual**

(Accrual of Electronically Recorded Monetary Claims)

Article 15 An electronically recorded monetary claim (excluding an electronically recorded monetary claim connected with a record of guarantee and an electronically recorded monetary claim acquired by a person that has provided an electronically recorded guarantee (hereinafter referred to as "recorded guarantor") pursuant to the provisions of Article 35, paragraph (1) (including when those provisions are applied mutatis mutandis to paragraphs (2) and (3) of the same Article) (that electronically recorded monetary claim is hereinafter referred to as a "special right to reimbursement"); the same applies to the following Article) accrues as a result of a record being made of its accrual.

(Record of Accrual)

Article 16 (1) In the record of an accrual, the following matters must be recorded:

- (i) a statement that the obligor pays a fixed amount of money;
  - (ii) the payment date (limited to a fixed date; if the obligation is paid in installments, each of the payment dates);
  - (iii) the name and address of the obligee;
  - (iv) if there are two or more obligees, and the claim is an indivisible claim, a statement to that effect, and if the claim is divisible, the amount of the claim for each obligee;
  - (v) the name and address of the obligor;
  - (vi) if there are two or more obligors, and the obligation is an indivisible or joint and several obligation, a statement to that effect, and if the obligation is divisible, the amount of the obligation for each obligor;
  - (vii) the record number (meaning the number attached to the respective monetary claims record, which is given when a record of accrual, record of a division, or record of change of recording institution is made; the same applies hereinafter); and
  - (viii) the date on which the electronic recording was made.
- (2) In the record of an accrual, the following matters may be recorded:
- (i) when making a payment pertaining to a contract regarding settlement of remittance between accounts provided in Article 62, paragraph (1), records to that effect and the obligor's account of deposits or postal savings (hereinafter referred to as "obligor's account") and the obligee's account of deposits or postal savings (hereinafter referred to as "obligee's account");
  - (ii) when making a payment pertaining to the contract provided in Article 64, a statement to that effect;
  - (iii) beyond the cases prescribed in the preceding two items, when there are other provisions stipulating the payment method, those provisions (if an obligation is paid in installments, including the amount payable on each of the payment dates);
  - (iv) when there are provisions stipulating interest, delinquency charges or penalties, those provisions;
  - (v) when there are provisions stipulating acceleration of payment, those provisions;
  - (vi) when there are provisions stipulating set-off or substitute performance, those provisions;
  - (vii) when there are provisions stipulating the appropriation of payments, those provisions;
  - (viii) when there are provisions stipulating that the provisions of Article 19, paragraph 1 (including when the provisions are applied mutatis mutandis to Article 38 by replacing terms) do not apply, those provisions;
  - (ix) when the obligee or the obligor is an individual business operator, a statement to that effect;

- (x) when the obligor is a corporation or an individual business operator (limited to those who are recorded as such) and there are provisions stipulating that the provisions of Article 20, paragraph (1) (including when the provisions are applied mutatis mutandis to Article 38 by replacing terms) do not apply, those provisions;
  - (xi) when the obligor is a corporation or an individual business operator (limited to those who are recorded as such) and the provisions listed in the preceding item have not been recorded, if there are provisions stipulating a defense that the obligor can assert against the obligee (including the assignee in the record of assignment; hereinafter the same applies in this paragraph), those provisions;
  - (xii) when there are provisions stipulating that a record of an assignment, record of a guarantee, record of a pledge's creation, record of a division, or record of change of recording institution may not be made, or there are provisions stipulating a restriction on the number of electronic recordings or other restrictions, those provisions;
  - (xiii) when there are provisions stipulating the method of notice between obligee and obligor, those provisions;
  - (xiv) when there are provisions stipulating the method of the settlement of disputes between obligee and obligor, those provisions;
  - (xv) when there are provisions stipulating that the electronic monetary claim recording institution will not make a record of guarantee, record of pledge creation, record of division, or record of change of recording institution pursuant to the provision of Article 7, paragraph (2), or there are provisions stipulating a restriction on the number of electronic recordings or records of assignment, or other restrictions, those provisions; or
  - (xvi) beyond the matters listed in the preceding items, matters that are specified by Cabinet Order as those that may be the contents of electronically recorded monetary claims.
- (3) If a record of any matter listed in paragraph (1), items (i) through (vi) is lacking, relevant electronically recorded monetary claims do not accrue.
- (4) Records made on the matters listed in Article 2, paragraph (2), item (ix) of the Consumer Contract Act pertaining to the consumer defined by Article 2, paragraph (1) of the same Act (hereinafter simply referred to as "Consumer") have no effect.
- (5) Notwithstanding the provisions of paragraphs (1) and (2), electronic monetary claim recording institutions may decide not to record the matters listed in paragraph (1), item (ii) (if the obligation is paid in installments, limited to each installment pertaining to each respective payment date) and in the items of paragraph (2) (excluding items (i), (ii), and (ix)) or to restrict the recording of the matters, pursuant to the provisions of its rules of operation.

### Section 3 Assignment

(Assignment of Electronically Recorded Monetary Claims)

Article 17 An assignment of electronically recorded monetary claims has no effect unless a record has been made of that assignment.

(Record of Assignment)

Article 18 (1) In the record of an assignment, the following matters must be recorded:

- (i) a statement that electronically recorded monetary claims are being assigned;
- (ii) if the assignor is the heir to the electronically recorded claim obligor, the name and address of the assignor;
- (iii) the name and address of the assignee; and
- (iv) the date on which the electronic recording was made.

(2) In the record of an assignment, the following matters may be recorded:

- (i) when provisions are recorded in the record of accrual stipulating that payment of the obligation is to be made to the obligee's account (including the record of an alteration if that is made with regard to a record matter in the recording of the accrual; the same applies hereinafter), and, in the recording of the assignment, the assignee intends to receive the payment by payment to the assignee's deposit account or postal savings account, the account (limited to those that are the same as those in the record of accrual if provisions regarding a change in the deposit or postal savings account used for payments have been recorded in the record of accrual);
- (ii) if the assignor is an individual business operator, a statement to that effect;
- (iii) when there are provisions stipulating the method of notice between assignor and assignee (including those who are recorded as assignee after the recording of the assignment; the same applies in the following item), those provisions;
- (iv) when there are provisions stipulating the method for settling disputes between the assignor and assignee, those provisions; or
- (v) beyond what is listed in the preceding items, matters specified by Cabinet Order.

(3) Records on matters listed in item (ii) of the preceding paragraph regarding consumers have no effect.

(4) When matters listed in Article 16, paragraph (2), item (xii) or (xv) are recorded in a record of accrual (limited to the part involving the record of assignment), the electronic monetary claim recording institution must not

make a record of assignment that conflicts with the contents of the record of accrual.

(Good Faith Acquisition)

- Article 19 (1) A person recorded as the assignee of an electronically recorded monetary claim due to a request for the recording of an assignment acquires the electronically recorded monetary claim; provided, however that this does not apply if the person has acted in bad faith or with gross negligence.
- (2) The provisions of the preceding paragraph do not apply in the following cases:
- (i) the matters listed in Article 16, paragraph (2), item (viii) are recorded;
  - (ii) a person prescribed in the preceding paragraph has been recorded as the assignee of the electronically recorded monetary claim (if payments are made in installments, limited to the part whose payment date has arrived) by a request filed after the payment date for the recording of an assignment; or
  - (iii) the manifestation of intention that the individual who is the assignor of the electronically recorded monetary claim (excluding those recorded as individual business operators) makes to the assignee in the request for the recording of an assignment is not valid, and a person prescribed in the preceding paragraph has been recorded due to a request for the recording of an assignment filed after the recording of that assignment.

(Restriction on Assertion of Defense)

- Article 20 (1) The obligor in a record of accrual or an electronically recorded guarantor (hereinafter referred to as "electronically recorded obligor) may not assert a defense based on a personal relationship with the person who assigned the electronically recorded monetary claim to the obligee of the claim, against the obligee; provided, however, that this does not apply if that obligee acquired the electronically recorded monetary claim knowing that that electronically recorded obligor would be harmed.
- (2) The provisions of the preceding paragraph do not apply in the following cases:
- (i) the matters listed in Article 16, paragraph (2), item (x) or Article 32, paragraph (2), item (vi) are recorded;
  - (ii) the obligee in the preceding paragraph is recorded as an assignee of the electronically recorded monetary claim (if payments are made in installments, limited to the part whose payment date has arrived) due to a request filed after the payment date for the recording of an assignment; or
  - (iii) the electronically recorded obligor in the preceding paragraph is an individual (excluding those recorded as an individual business operator).

**Section 4 Extinguishment**

(Payment Discharge)

Article 21 The payment of an electronically recorded monetary claim to an electronically recorded person is effective even if that electronically recorded person does not have the right to receive the payment; provided, however, that this does not apply if the person who made the payment has acted in bad faith or with gross negligence.

(Merger)

Article 22 (1) When an electronically recorded obligor (including the person's heir and other general successors; hereinafter the same applies in this paragraph) acquires an electronically recorded monetary claim, that claim does not expire, notwithstanding the provisions of the main clause of Article 520 of the Civil Code; provided, however, that this does not apply if a record of a payment, etc. has been made due to a merger accompanying the acquisition of the electronically recorded monetary claim pursuant to a request by that electronically recorded obligor or another electronically recorded obligor with the approval of the former.

(2) The persons listed in the following items may not request the performance of an obligation that arises from an electronically recorded guarantee (hereinafter referred to as an "electronically recorded guarantee obligation") against the persons prescribed in those items, even if they acquire the electronically recorded monetary claim:

(i) the obligor in the record of accrual: the electronically recorded guarantor; and

(ii) the electronically recorded guarantor: other electronically recorded guarantors (limited to those who are able to exercise a special right to reimbursement against the electronically recorded guarantor listed in this item if they make a payment or otherwise conduct any act with their own property to extinguish the obligation recorded as principal obligation).

(Extinctive Prescription)

Article 23 Electronically recorded monetary claims extinguish if they are not exercised for three years, due to extinctive prescription.

(Record Matters in the Record of a Payment)

Article 24 In the record of a payment, etc., the following matters must be recorded:

(i) matters that are needed to identify the obligation to the electronically recorded person that has been or is to be extinguished by payment, set-off or other conduct that extinguishes all or a part of an obligation, or merger (hereinafter referred to as "payment, etc.");

- (ii) the amount of the payment, etc. made and other information regarding that payment, etc. (including the amount of principal that has been extinguished if there are interest payments, delinquency charges, penalties, or expenses);
- (iii) the date on which the payment, etc. was made;
- (iv) the name and address of the person who made the payment, etc. (if the payment, etc. was made in the form of extinguishment of obligation by setting-off, the obligee to the electronically recorded person's obligation thus extinguished; the same applies hereinafter);
- (v) if the person who made the payment, etc. has a legitimate interest prescribed in Article 500 of the Civil Code in regard to making that payment, etc., the reason therefor;
- (vi) the date on which the electronic recording was made; and
- (vii) beyond what is listed in the respective preceding items, matters that are specified by Cabinet Order.

(Request for the Recording of a Payment)

Article 25 (1) A request for the recording of a payment, etc. may be made solely by the persons listed in the following items:

- (i) the electronically recorded claim obligor for the recording of the payment, etc.;
  - (ii) an heir or other general successors to the person listed in the preceding item; or
  - (iii) a person listed in the following sub-items who has obtained approval from all the persons listed in the two preceding items:
    - (a) an electronically recorded obligor;
    - (b) a person who has made the payment, etc. (excluding those listed in the preceding two items and (a)); or
    - (c) an heir or other general successors to the person listed in (a) or (b).
- (2) When payments, etc. have been made for electronically recorded monetary claims or secured claims of pledges on electronically recorded monetary claims (referred to as "electronically recorded monetary claims, etc." in the following paragraph), the persons listed in item (iii), (a) through (c) of the preceding paragraph may request the persons listed in item (i) or item (ii) of the same paragraph to give approval regarding item (iii) of the same paragraph.
- (3) A person who makes the payment for electronically recorded monetary claims, etc. may request approval under paragraph (1), item (iii), in exchange for that payment, from the person listed in item (i) or item (ii) of the same paragraph.
- (4) A request for the recording of a payment, etc. because of the payment, etc. was made for claims secured by a revolving pledge may not be filed unless that payment, etc. was made after the determination of the principal secured by the revolving pledge and an electronic recording has been made of that

determination.

## **Section 5 Alteration of a Record Matter**

(Alteration of the Contents of Electronically Recorded Monetary Claims by Means of Manifestation of Intention)

Article 26 Alteration of the contents of electronically recorded monetary claims or pledges on the electronically recorded monetary claims by manifestation of intention has no effect unless a record is made of the alteration, unless otherwise prescribed by this Act.

(Record Matter in a Record of Alteration)

Article 27 In the record of an alteration, the following matters must be recorded:

- (i) the record matter that is being altered;
- (ii) a statement that an alteration is being made to the record matter prescribed in the preceding item and the cause of the alteration;
- (iii) the contents of the record matter prescribed in item (i) after the alteration (if the record matter will no longer be recorded, a statement that the record matter is being deleted); and
- (iv) the date on which the electronic recording was made.

(Record of Alteration to Be Made when an Electronically Recorded Monetary Claim Is Transferred with the Assignment of the Right to Reimbursement)

Article 28 A record of alteration when an electronically recorded monetary claim is transferred as the result of an assignment of the right to reimbursement (excluding a special right to reimbursement) by the person who is recorded as having made a payment, etc. in the monetary claim record and who has become the obligee of the claim by subrogation due to the payment, etc., is made through a recording that alters the name and address of that person to those of the assignee of the right to reimbursement.

(Request for the Recording of an Alteration)

Article 29 (1) A request for the recording of an alteration must be filed by all persons that have an interest (in case of inheritance or other general succession regarding these persons, meaning their heirs or other general successors) in the electronic recording with regard to the recording of the alteration.

(2) Notwithstanding the provisions of the preceding paragraph, the recording of an alteration to alter the electronically recorded persons or electronically recorded obligors due to inheritance or corporate merger may be requested solely by the heir, or the corporation that will continue to exist after the

merger, or the corporation established by the merger. However, if there are two or more heirs, the request for the recording of the alteration must be filed by all of them.

(3) The provisions of Article 5, paragraphs (2) and (3) apply mutatis mutandis to cases prescribed in paragraph (1) and the proviso to the preceding paragraph.

(4) Notwithstanding the provisions of paragraph (1), a request for the recording of an alteration involving the name or address of the electronically recorded person or electronically recorded obligor may be filed independently by the person. The same applies to the record of an alteration that will clearly have no influence on another person's rights and obligations and is prescribed in the rules of operation.

(Responsibility of the Electronically Recorded Obligor when a Record of Alteration Is Invalid)

Article 30 (1) When a record of alteration is not in effect due to the invalidity or rescission of the request, or for other reasons, the electronically recorded obligor who bore the obligation before the recording of the alteration bears the responsibility in accordance with the contents of the monetary claims record before the recording of the alteration; provided, however, that between a person who made a legitimate manifestation of intention in the request for the recording of the alteration and the counterparty to the request, the electronically recorded obligor who manifested that intention bears responsibility in accordance with the contents of the monetary claims record after the recording of that alteration.

(2) In the case provided for in the main clause of the preceding paragraph, the electronically recorded obligor who came to bear the obligation after the recording of the alteration bears the responsibility in accordance with the contents of the monetary claims record after the recording of that alteration.

## **Section 6 Electronically Recorded Guarantee**

(Accrual of Electronically Recorded Monetary Claims through the Recording of a Guarantee)

Article 31 An electronically recorded monetary claim connected to an electronically recorded guarantee accrues through the recording of a guarantee.

(Recording of a Guarantee)

Article 32 (1) The following matters must be recorded in the record of a guarantee:

- (i) a statement that a guarantee is being provided;
- (ii) the name and address of the guarantor;

- (iii) the name and address of the principal obligor and other matters that are required to identify the principal obligation; and
  - (iv) the date on which the electronic recording was made.
- (2) The following matters may be recorded in the record of a guarantee:
- (i) if there are provisions limiting the scope of guarantee, those provisions;
  - (ii) if there are provisions stipulating delinquency charges or penalties, those provisions;
  - (iii) if there are provisions stipulating set-off or substitute performance, those provisions;
  - (iv) if there are provisions stipulating the appropriation of payments, those provisions;
  - (v) if the guarantor is an individual business operator, a statement to that effect;
  - (vi) if the guarantor is a corporation or an individual business operator (limited to those who are recorded as such) and there are provisions stipulating that the provisions of Article 20, paragraph (1) (including when the provisions are applied mutatis mutandis to Article 38 by replacing terms) do not apply regarding matters which the guarantor may assert against the obligee at the time of the recording of the guarantee, those provisions;
  - (vii) if the guarantor is a corporation or an individual business operator (limited to those who are recorded as such) and the provisions provided for in the preceding item have not been recorded, but there are provisions stipulating a defense that the guarantor may assert against the obligee (including assignee under a record of assignment; hereinafter the same applies in this paragraph), those provisions;
  - (viii) if there are provisions stipulating the method of notice between obligee and guarantor, those provisions;
  - (ix) if there are provisions stipulating the method for settling disputes between obligee and guarantor, those provisions; or
  - (x) beyond what is listed in the respective preceding items, matters specified by Cabinet Order.
- (3) When there is any lack of records of matters listed in paragraph (1), items (i) through (iii), electronically recorded monetary claims pertaining to the electronically recorded guarantee do not accrue.
- (4) A record on matters listed in paragraph (2), item (v) regarding a consumer has no effect.
- (5) When a matter listed in Article 16, paragraph (2), item (xii) or (xv) (limited to those pertaining to the record of a guarantee) has been recorded in a record of accrual, the electronic monetary claim recording institution must not make a record of guarantee that conflicts with the contents of the record of accrual.

(Independence of Electronically Recorded Guarantees)

- Article 33 (1) The validity of an electronically recorded guarantee obligation is not impaired, even if the person recorded as the principal obligor does not owe the principal obligation (excluding when a record of matters listed in Article 16, paragraph (1), items (i) through (vi), or paragraph (1), items (i) through (iii) of the preceding Article is not made).
- (2) The provisions in the preceding paragraph do not apply if the electronically recorded guarantor is an individual (excluding those who are recorded as individual business operators).

(Exclusion from Application of the Civil Code)

- Article 34 (1) The provisions of Articles 452, 453 and 456 through 458 of the Civil Code and Article 511, paragraph (2) of the Commercial Code (Act No. 48 of 1899) do not apply to electronically recorded guarantees.
- (2) Notwithstanding the provisions of the preceding paragraph, if the electronically recorded guarantor is an individual (excluding those who are recorded as individual business operators), the electronically recorded guarantor may assert set-off against the obligee with any claim that the principal obligor may have against the obligee.

(Special Right to Reimbursement)

- Article 35 (1) When an electronically recorded guarantor whose principal obligation accrued through the recording of accrual makes a disbursement (meaning acts to extinguish an obligation recorded as the principal obligation through payment or other conducts with the guarantor's own property; the same applies hereinafter in this Article), and a record of a payment, etc. is made to that effect, notwithstanding the provisions of Articles 459, 462, 463 and 465 of the Civil Code, that guarantor acquires the electronically recorded monetary claims in an amount equal to the aggregate of the amount jointly discharged with the disbursement, the amount of delinquency charges accrued after the date of the disbursement, and the amount of unavoidable expenses, against the persons listed in the following sub-items; provided, however, that the electronically recorded monetary claims so acquired from the person listed in item (iii) are limited to the share to be borne by the person from among the amount of the disbursement that the electronically recorded guarantor bear in excess of the person's share:
- (i) the principal obligor;
  - (ii) other electronically recorded guarantors who have extended electronically recorded guaranties for the same principal obligation whose creditor is the person who made the disbursement, before that person became an electronically recorded guarantor of the obligation; and

- (iii) other electronically recorded guarantors whose principal obligation is the same as the relevant principal obligation (excluding persons listed in the preceding item and the person who was the obligee under the electronically recorded guarantee of the person who made the disbursement before becoming the electronically recorded guarantor).
- (2) The provisions of the preceding paragraph apply mutatis mutandis when an electronically recorded guarantor whose principal obligation is the obligation accrued pursuant to the provisions of that paragraph makes a disbursement.
- (3) The provisions of the first paragraph apply mutatis mutandis when an electronically recorded guarantor whose principal obligation is an electronically recorded guarantee obligation makes a disbursement. In this case, the phrase "persons listed in the following sub-items" in that paragraph is deemed to be replaced with "persons listed in the following sub-items and persons who would fall under the category of those listed in the following sub-items if the disbursement were made by the electronically recorded guarantor who is recorded as the principal obligor".

## **Section 7 Pledges**

(Pledging of Electronically Recorded Monetary Claims)

- Article 36 (1) The creation of a pledge on electronically recorded monetary claims has no effect unless a record is made of the pledge's creation.
- (2) The provisions of Article 362, paragraph (2) of the Civil Code do not apply to pledges in the preceding paragraph.
  - (3) The provisions of Articles 296 through 300, Articles 304, 342, 343, 346, 348, 349, 351, 373, 374, 378, 390, and 391, Articles 398-2 through 398-10, 398-19, 398-20 (excluding paragraph (1), item (iii)), and 398-22 of the Civil Code apply mutatis mutandis to pledges provided in paragraph (1).

(Record Matters in a Record of Pledge Creation)

Article 37 (1) In a record of pledge creation (excluding the record of a revolving pledge's creation; the same applies in the following paragraph), the following matters must be recorded:

- (i) a statement creating the pledge;
- (ii) the name and address of the pledgee;
- (iii) the name and address of the obligor of the secured claim, the amount of the secured claim (regarding claims for an unfixed amount of money, their values; the same applies hereinafter), and other matters necessary in order to identify the secured claim;
- (iv) a number showing the order of the recording of the pledge's creation and the electronic recording of the sub-pledge in one monetary claim record

- (hereinafter referred to as the "pledge number"); and
- (v) the date on which the electronic recording was made.
- (2) In the record of a pledge's creation, the following matters may be recorded:
- (i) if there are provisions regarding the interest on secured claims, delinquency charges, or penalties, those provisions;
  - (ii) if a condition is attached to secured claims, that condition;
  - (iii) if the special provisions referred to in the proviso to Article 346 of the Civil Code as applied mutatis mutandis to paragraph (3) of the preceding Article are stipulated, those provisions;
  - (iv) if there are provisions stipulating the method, conditions, or other matters regarding the execution of the pledge, those provisions;
  - (v) if provisions that the payment of the obligation pertaining to electronically recorded monetary claims is to be made to the obligee's account have been recorded in the record of accrual, and, in recording the pledge's creation, the pledgee intends to receive the payment in a deposit account or postal savings account, that account (limited to those that do not conflict with the record of accrual if provisions regarding a change in the deposit or postal savings account used for payments are recorded in the record of accrual);
  - (vi) if there are provisions stipulating the method of notice between the pledgor and the pledgee (including those who are recorded as pledgee for the pledge after the recording of the pledge's creation; the same applies in the following item), those provisions;
  - (vii) if there are provisions stipulating the method for settling disputes between the pledgor and the pledgee, those provisions; or
  - (viii) beyond what is listed in the respective preceding items, matters specified by Cabinet Order.
- (3) In the record of a revolving pledge's creation, the following matters must be recorded:
- (i) a statement creating the revolving pledge;
  - (ii) the name and address of the revolving pledgee;
  - (iii) the name and address of the obligor of secured claims;
  - (iv) the scope and maximum amount of secured claims;
  - (v) the pledge number; and
  - (vi) the date on which the electronic recording was made.
- (4) In the record of a revolving pledge's creation, the following matters may be recorded:
- (i) if there are provisions stipulating the date on which the principal of the secured claim is to be determined, those provisions;
  - (ii) if there are provisions stipulating the method, condition, or other matters regarding the execution of revolving pledge, those provisions;
  - (iii) if provisions that the payment of the obligation pertaining to electronically

recorded monetary claims is to be made to the obligee's account have been recorded in the record of accrual, and, in recording a revolving pledge's creation, the revolving pledgee intends to receive the payment in a deposit account or postal savings account, that account (limited to those that do not conflict with the record of accrual if provisions regarding a change in the deposit or postal savings account for payments are recorded in the record of accrual);

(iv) if there are provisions stipulating the method of notice between the revolving pledgor and revolving pledgee (including those who are recorded as revolving pledgee with regard to the revolving pledge after the recording of the revolving pledge's creation; the same applies in regard to the following item), those provisions;

(v) if there are provisions stipulating the method for settlement of disputes between the revolving pledgor and revolving pledgee, those provisions; or

(vi) beyond what is listed in the respective preceding items, matters specified by Cabinet Order.

(5) When matters listed in Article 16, paragraph (2), item (xii) or (xv) (limited to the part pertaining to a record of pledge creation) have been recorded in the record of accrual, the electronic monetary claim recording institution must not make a record of pledge creation that conflicts with the contents of the record of accrual.

(Good Faith Acquisition and Restriction on Assertion of Defense)

Article 38 The provisions of Articles 19 and 20 apply mutatis mutandis to records of pledge creation. In this case, the term "assignee" in Article 19, paragraph (1) is deemed to be replaced with "pledgee", the phrase "the electronically recorded monetary claims" in the same paragraph is deemed to be replaced with "the pledge", the term "assignee" in paragraph (2), item (ii) of the same Article is deemed to be replaced with "pledgee", the phrase "the recording of the assignment" in item (iii) of the same paragraph is deemed to be replaced with "the recording of the pledge's creation", the phrase "with the person who assigned the electronically recorded monetary claim to the obligee of the claim, against the obligee" in Article 20, paragraph (1) is deemed to be replaced with "with the person who created the pledge for the pledgee, against the pledgee", the phrase "the obligee acquired the electronically recorded monetary claims" in the proviso to the same paragraph is deemed to be replaced with "the pledgee acquired the pledge", and the terms "the obligee" and "an assignee" in paragraph (2), item (ii) of the same Article are deemed to be replaced with "the pledgee".

(Electronic Recording of a Change in the Order of Pledges)

Article 39 (1) In an electronic recording of a change in the order of pledges pursuant to the provisions of Article 374, paragraph (1) of the Civil Code as applied mutatis mutandis to Article 36, paragraph (3), the following matters must be recorded:

- (i) a statement that the order of pledges is being changed;
- (ii) the pledge number of the pledges whose order is being changed;
- (iii) the order of pledges after the change; and
- (iv) the date on which the electronic recording was made.

(2) The request for an electronic recording referred to in the preceding paragraph must be filed by all electronically recorded persons for which the order of pledges is to be changed. In this case, the provisions of Article 5, paragraphs (2) and (3) apply mutatis mutandis.

#### (Sub-Pledges)

Article 40 (1) A sub-pledge pursuant to the provisions of Article 348 of the Civil Code applied mutatis mutandis to Article 36, paragraph (3) has no effect unless an electronic recording is made of the sub-pledge.

- (2) The provisions of Article 37, paragraphs (1) through (4) apply mutatis mutandis to the electronic recording of a sub-pledge.
- (3) The pledge number of the pledge that is the subject matter of a sub-pledge must also be recorded in the electronic recording of the sub-pledge.
- (4) When a pledgee creates a sub-pledge for two or more persons, the order of priority of these sub-pledges follows the chronological order of their electronic recording.

#### (Special Provisions on the Recording of an Alteration Due to the Transfer of a Pledge Accompanying the Assignment of a Secured Claim)

Article 41 (1) In the recording of an alteration due to a transfer of pledges or sub-pledges in case of partial assignment of secured claims, the amount of the secured claim that is the subject of that assignment must also be recorded beyond the matters listed in relevant items of Article 27.

- (2) When a claim to be secured by a revolving pledge has been assigned, a request for the recording of an alteration due to the transfer of the revolving pledge may not be made unless that assignment was made after the determination of the principal amount secured by the revolving pledge and an electronic recording has been made of that determination.

#### (Electronic Recording of the Determination of Principal Secured by Revolving Pledge)

Article 42 (1) In an electronic recording of the determination of principal secured by a revolving pledge (hereinafter simply referred to as "principal" in this

Article), the following matters must be recorded:

- (i) a statement that the principal has been determined;
  - (ii) the pledge number of the revolving pledge whose principal has been determined;
  - (iii) the date of determination of the principal; and
  - (iv) the date on which the electronic recording was made.
- (2) An electronic recording of principal that has been determined pursuant to the provisions of Article 398-19, paragraph (2) or Article 398-20, paragraph (1), item (iv) of the Civil Code, applied mutatis mutandis to Article 36, paragraph (3) may be requested solely by the electronically recorded person of the revolving pledge; provided, however, that when a request is made after the principal is determined pursuant to the provisions of Article 398-20, paragraph (1), item (iv) of the Civil Code, the request must be made jointly with the request for an electronic recording of the acquisition of the revolving pledge or the right whose subject is the revolving pledge.

### **Section 8 Division**

(Recording of a Division)

- Article 43 (1) Electronically recorded monetary claims may be divided (including when there are two or more recorded obligees or obligors and a separation is made with respect to specific obligees or obligors).
- (2) Electronically recorded monetary claims are divided, pursuant to the provisions of the following Article through Article 47, by a record of the division being made in the monetary claims record in which the electronically recorded monetary claims being divided have been recorded (hereinafter referred to as "original monetary claims record"), and in the monetary claims record which is being newly created (hereinafter referred to as "divided monetary claims record"), and by some of the matters recorded in the original monetary claims record being recorded in the divided monetary claims record simultaneously with the recording of the division.
- (3) A request for the recording of a division may be filed solely by the person that will be recorded as the obligee in the divided monetary claims record.

(Record Matters in a Recording of a Division)

- Article 44 (1) In a recording of a division, the following matters must be recorded in the divided monetary claims record:
- (i) a statement that the claim has been divided from the original monetary claims record;
  - (ii) the record numbers of the original monetary claims record and the divided monetary claims record;

- (iii) a statement that the person who is the obligor in the record of accrual and is recorded in the divided monetary claims record pays a fixed amount of money;
  - (iv) the name and address of the obligee; and
  - (v) the date on which the electronic recording was made.
- (2) When recording a division, the following matters must be recorded in the original monetary claims record:
- (i) a statement that the claim has been divided;
  - (ii) the record number of the divided monetary claims record; and
  - (iii) the date on which the electronic recording was made.
- (3) If matters listed in Article 16, paragraph (2), item (xii) or (xv) (limited to the part pertaining to the record of a division) have been recorded in the record of accrual, the electronic monetary claim recording institution must not make a record of a division that conflicts with the contents of the record of accrual.

(Recording in Divided Monetary Claims Records Accompanying the Recording of a Division)

Article 45 (1) When an electronic monetary claim recording institution records a division, it must record the following matters in the divided monetary claims record at the same time:

- (i) matters recorded in the currently valid electronic recordings made in the original monetary claims record with regard to the electronically recorded monetary claims being recorded in the divided monetary claims record (excluding the following matters):
  - (a) a statement that the obligor pays a fixed amount of money;
  - (b) if the obligation pertaining to the electronically recorded monetary claim is to be paid in installments, the payment dates and the amount payable on each of those payment dates;
  - (c) if a ceiling on the number of times it is permitted to make a record of assignment, a record of guarantee, a record of pledge creation, a record of division, or record of change of recording institution has been recorded, that number (hereinafter referred to as the "recording ceiling number");
  - (d) the record number of the original monetary claims record; and
  - (e) if a record of the division has been made in the original monetary claims record, the matters recorded in the record of the division (excluding those listed above in (a));
- (ii) if the electronically recorded monetary claim being recorded in the divided monetary claims record has been recorded in the original monetary claims record as an obligation to be paid in installments, the payment dates for the electronically recorded monetary claim (limited to those that are recorded in the original monetary claims record as payment dates);

- (iii) in the case prescribed in the preceding item, when the electronically recorded monetary claims recorded in the divided monetary claims record are to be paid in installments, the amount payable on each payment date for the electronically recorded monetary claims (limited to those that are within the amount payable on corresponding payment dates recorded in the original monetary claims record); and
  - (iv) if a recording ceiling number is recorded in the original monetary claims record, the portion of the recording ceiling number (the portion of the recording ceiling number that remains for the recording of divisions after deducting one from the recording ceiling number for the recording of divisions) that constitutes the recording ceiling number for the divided monetary claims record.
- (2) When the electronic monetary claim recording institution has recorded matters listed in item (i) of preceding paragraph in the divided monetary claims record, a statement that that matter has been transferred from the original monetary claims record and the date of the transfer must be recorded in the divided monetary claims record, and when the electronic monetary claim recording institution has recorded matters listed in item (ii) through item (iv) of the same paragraph, the date of the records must be recorded in that divided monetary claims record.

(Recording in the Original Monetary Claims Record Accompanying the Recording of a Division)

Article 46 (1) When an electronic monetary claim recording institution records a division, it must record the following matters in the original monetary claims record at the same time:

- (i) a statement that, among the matters recorded in the original monetary claims record with regard to the electronically recorded monetary claims being recorded in the divided monetary claims record, the record of matters listed in paragraph (1), item (i), sub-items (a) through (c) of the preceding Article is being deleted;
- (ii) a statement that the obligor in the record of accrual pays an amount calculated by deducting the fixed amount of money provided for in Article 44, paragraph (1), item (iii) which is being recorded in the divided monetary claims record from the fixed amount of money provided for in Article 16, paragraph (1), item (i) (Article 44, paragraph (1), item (iii), if the original monetary claims record is a divided monetary claims record arising from another division of monetary claims) which was recorded in the original monetary claims record just before the recording of the division;
- (iii) if the electronically recorded monetary claims being recorded in the divided monetary claims records have been recorded in the original monetary

claims record as obligations to be paid in installments, the payment dates that will continue to be recorded in the original monetary claims record even after the recording of the division;

- (iv) in the case prescribed in the preceding item, when electronically recorded monetary claims that will continue to be recorded in the original monetary claims record even after the recording of the division are to be paid in installments, the amounts payable for the electronically recorded monetary claims on each payment date; and
  - (v) if a recording ceiling number is recorded in the original monetary claims record, the portion of the recording ceiling number that remains after deducting the recording ceiling number in the divided monetary claims record from the recording ceiling number in the original monetary claims record (from the recording ceiling number for the recording of divisions, after deducting one from that recording ceiling number).
- (2) When an electronic monetary claim recording institution records matters listed in the items of the preceding paragraphs in the original monetary claims record, it must record the date of the record in the original monetary claims record.

(Delegation to Order of the Competent Ministry)

Article 47 Notwithstanding the provisions of Article 43, paragraph (3) and the preceding three Articles, necessary matters regarding a request for the recording of a division, the record matters in the record of a division, and recording in a divided monetary claims record and in an original monetary claims record accompanying the recording of a division in the following cases are specified by order of the competent ministry, in accordance with these provisions:

- (i) the amount of the claims of each respective obligee or the amount of the obligations owed by each respective obligor is recorded in the original monetary claims record;
- (ii) the record of a guarantee in which matters listed in Article 32, paragraph (2), item (i) have been recorded is included in the original monetary claims record;
- (iii) a special right to reimbursement has been recorded in the original monetary claims record; or
- (iv) beyond what is listed in the preceding three items, a case specified by order of the competent ministry.

## **Section 9 Change of Electronic Monetary Claim Recording Institution**

(Recording of Change of Recording Institution)

Article 47-2 (1) An electronic monetary claim recording institution engaged in the electronic recording of monetary claims may be changed (hereinafter referred to simply as a "change of the electronic monetary claim recording institution").

(2) A change of electronic monetary claim recording institution is made by the process wherein the monetary claims record concerning the electronically recorded monetary claims for which a change of electronic monetary claim recording institution is to be made (hereinafter referred to as the "pre-change monetary claims record") is handed over from the electronic monetary claim recording institution that has recorded the pre-change monetary claims record in the registry (hereinafter referred to as the "pre-change electronic monetary claim recording institution") to the electronic monetary claim recording institution that is to take over the record matters in the pre-change monetary claims record (hereinafter referred to as the "post-change electronic monetary claim recording institution"), and the latter institution makes a record of change of recording institution in the monetary claims record to be newly created in its registry to record the record matters in the pre-change monetary claims record (hereinafter that newly created record is referred to as the "post-change monetary claims record"), pursuant to the provisions of the following Article through Article 47-5.

(Request for Recording of Change of Recording Institution)

Article 47-3 (1) A request for a recording of change of the recording institution may be filed by the person who is recorded in the pre-change monetary claims record as the obligee of the electronically recorded claim (meaning the person's heir or other general successor in case of inheritance or other general succession regarding the person) and has obtained approval from all obligors of the electronically recorded monetary claims.

(2) A request for a recording of change of recording institution may not be filed in the following cases:

(i) a record of pledge creation has been made in the pre-change monetary claims record;

(ii) the post-change electronic monetary claim recording institution decides not to make a record of guarantee, record of pledge creation, record of division, or record of change of recording institution pursuant to the provisions of Article 7, paragraph (2), or imposes restrictions on the number of times these electronic records or records of assignment or other restrictions can be made, and the contents of the post-change monetary claims record conflict with the contents of the pre-change monetary claims record; or

(iii) the post-change electronic monetary claim recording institution decides not to record the matters prescribed in Article 16, paragraph (5) pursuant to the

provisions of that paragraph or restricts the recording of the matters, and the contents of the post-change monetary claims record conflict with the contents of the pre-change monetary claims record.

- (3) In applying the provisions of Article 6 regarding a request for a recording of change of recording institution, the term "electronic monetary claim recording institution" in the Article is replaced with "pre-change electronic monetary claim recording institution prescribed in Article 47-2, paragraph (2)".
- (4) If a request for a recording of change of recording institution is filed, the pre-change electronic monetary claim recording institution must record the following matters in the pre-change monetary claims record without delay:
  - (i) a statement that a request for a recording of change of recording institution has been filed;
  - (ii) the name and address of the post-change electronic monetary claim recording institution; and
  - (iii) the date on which the electronic recording was made.
- (5) When the pre-change electronic monetary claim recording institution makes a recording pursuant to the provisions of the preceding paragraph, it must notify the post-change electronic monetary claim recording institution of the following matters without delay:
  - (i) the name and address of the pre-change electronic monetary claim recording institution;
  - (ii) the record matters in the pre-change monetary claims record; and
  - (iii) beyond the matters listed in the preceding two items, matters that are specified by Cabinet Order as necessary for handing over the record matters in the pre-change monetary claims record.

(Prohibition of Recording by Pre-change Electronic Monetary Claim Recording Institution)

Article 47-4 Notwithstanding the provisions of Article 7, paragraph (1), when a pre-change electronic monetary claim recording institution makes a recording pursuant to the provisions of paragraph (4) of the preceding Article, it must not make an electronic recording (excluding the recording pursuant to the provisions of paragraph (4) of the following Article) in the pre-change monetary claims record.

(Record Matters in Recording of Change of Recording Institution)

- Article 47-5 (1) When a post-change electronic monetary claim recording institution receives a notification of matters pursuant to the provisions of Article 47-3, paragraph (5), it must make a recording of change of recording institution without delay.
- (2) When recording a change of recording institution, the following matters must

be recorded in the post-change monetary claims record. In this case, the post-change electronic monetary claim recording institution may record the matters listed in Article 16, paragraph (2), item (xv) in the post-change monetary claims record:

- (i) a statement that a change of electronic monetary claim recording institution has been made;
  - (ii) the record number of the post-change monetary claims record;
  - (iii) the matters listed in Article 47-3, paragraph (5), items (i) and (ii) (in the case of the recording ceiling number for the recording of change of recording institution, the portion of the recording ceiling number that remains after deducting one from that recording ceiling number); and
  - (iv) the date on which the electronic recording was made.
- (3) When the post-change electronic monetary claim recording institution makes a recording of change of recording institution, it must notify the pre-change electronic monetary claim recording institution of the following matters without delay:
- (i) the name and address of the post-change electronic monetary claim recording institution;
  - (ii) a statement that the recording under the provisions of the preceding paragraph has been made; and
  - (iii) the matters listed in item (ii) of the preceding paragraph.
- (4) When the pre-change electronic monetary claim recording institution receives a notification of matters pursuant to the provisions of the preceding paragraph, it must record the following matters in the pre-change monetary claims record without delay:
- (i) the matters listed in items (ii) and (iii) of the preceding paragraph; and
  - (ii) the date on which the electronic recording was made.

## **Section 10 Miscellaneous Provisions**

(Electronic Recording for a Trust)

Article 48 (1) With regard to electronically recorded monetary claims or pledges on them, it may not be asserted that they are part of trust property against a third party unless an electronic recording has been made for the trust.

(2) Beyond what is provided for in this Act, matters necessary for electronic recording for a trust are provided for by Cabinet Order.

(Compulsory Execution Concerning Electronically Recorded Monetary Claims)

Article 49 (1) When compulsory execution concerning electronically recorded monetary claims, or restrictions on tax delinquency dispositions or other dispositions concerning electronically recorded monetary claims are conducted

and an electronic monetary claim recording institution has received documents pertaining to these restrictions, the institution must make an electronic recording of the compulsory execution, etc. without delay.

- (2) Necessary matters concerning the electronic recording of compulsory execution, etc. are specified by Cabinet Order.
- (3) Necessary matters concerning procedures for compulsory execution, provisional attachment, provisional disposition, and auctions, and for injunction in anticipation of confiscation with regard to electronically recorded monetary claims are provided by way of Supreme Court rules.

(Delegation to Cabinet Order)

Article 50 Beyond what is provided for in this Act, procedures for the electronic recording of electronically recorded monetary claims and other matters necessary for electronic recording are specified by Cabinet Order.

### **Chapter III Electronic Monetary Claim Recording Institutions**

#### **Section 1 General Rules**

(Designation of Persons Performing Electronic Monetary Claims Recording Business)

Article 51 (1) The competent minister may designate a person who meets the following requirements as a person performing the business prescribed in Article 56 (hereinafter referred to as the "electronic monetary claims recording business") upon the person's application:

- (i) the person is a stock company with bodies listed as follows:
  - (a) a board of directors;
  - (b) a board of company auditors, audit and supervisory committee, nominating committee, etc. (meaning the "nominating committee, etc." prescribed in Article 2, item (xii), Companies Act (Act No. 86 of 2005)); or
  - (c) an accounting auditor;
- (ii) the person is not a person whose designation under this paragraph has been rescinded pursuant to the provisions of Article 75, paragraph (1) within the last five years;
- (iii) the person is not a person who violated provisions of this Act or of a foreign law or regulation equivalent to this Act, and was subject to a fine (including equivalent punishment pursuant to a foreign law or regulation), if five years have not passed from the completion of the execution of the punishment or from the date on which the person became no longer subject to the execution;
- (iv) none of the person's directors, accounting advisors, company auditors or executive officers fall under any of the following categories:
  - (a) an adult ward or person under curatorship, or a person equivalent to

- these according to a foreign law or regulation;
- (b) a person who has not had their rights restored after receiving an order for commencement of bankruptcy, or a person equivalent thereto according to a foreign law or regulation;
  - (c) a person who has been sentenced to imprisonment or a more severe punishment (including an equivalent punishment pursuant to a foreign law or regulation), if five years have not passed from the completion of the execution of the punishment or from the date on which the person became no longer subject to the execution;
  - (d) a person whose designation under this paragraph has been rescinded pursuant to the provisions of Article 75, paragraph (1) or an administrative disposition in a foreign country that is similar to the designation under this paragraph has been rescinded pursuant to the provisions of a foreign law or regulation equivalent to this Act, and who had been a company director, accounting advisor, company auditor or executive officer (including those equivalent to these persons in foreign companies according to a foreign law or regulation; the same applies in item (e)) within thirty days prior to the date of rescission, if five years have not passed from the date of the rescission;
  - (e) a director, accounting advisor, company auditor, or executive officer who has been dismissed under the provisions of Article 75, paragraph (1) or the provisions of a foreign law or regulation equivalent to this Act, if five years have not passed since the date of the dismissal; or
  - (f) a person who has violated the provisions of this Act, the Companies Act, or a foreign law or regulation equivalent to those Acts or has committed a crime under Article 204, 206, 208, 208-2, 222, or 247 of the Penal Code (Act No.45 of 1907), a crime under the Act on Punishment of Violent Conduct (Act No. 60 of 1926), or a crime under Articles 46 through 49, Article 50 (limited to the part concerning item (i)) or Article 51 of Act on the Prevention of Wrongful Conduct by Members of Organized Crime Groups (Act No. 77 of 1991), and who has been subject to a fine (including equivalent punishment pursuant to a foreign law or regulation), if five years have not passed since completion of the execution of the punishment or the day on which the person became no longer subject to the execution;
  - (v) the person's articles of incorporation and its rules concerning the performance of the electronic monetary claims recording business (hereinafter referred to as "rules of operation") are recognized as being in accordance with laws and regulations, and sufficient for appropriately and reliably engaging in the electronic monetary claims recording business, pursuant to the provisions of this Act;
  - (vi) the person is recognized as having a sufficient financial basis for soundly

- performing the electronic monetary claims recording business, and having good prospects for income and expenditure pertaining to the electronic monetary claims recording business; and
- (vii) the person is recognized as having knowledge and experience necessary for appropriately and reliably performing the electronic monetary claims recording business and having sufficient social credibility, in light of the person's personnel structure.
- (2) Upon making a designation provided for in the preceding paragraph, the competent minister must give public notice regarding the trade name and address of the head office of the designated electronic monetary claim recording institution in an official gazette.

(Application for Designation)

Article 52 (1) An applicant that intends to receive a designation provided for in paragraph (1) of the preceding Article must submit to the competent minister a written application for designation that states the following matters:

- (i) the trade name;
- (ii) the amount of stated capital and net assets;
- (iii) the names and addresses of the head office and other business offices;
- (iv) the names of directors and company auditors (for a company with an audit and supervisory committee, directors; for a company with a nominating committee, etc., directors and executive officers); and
- (v) for a company with accounting advisors, the names of the accounting advisors.
- (2) The following documents must be attached to the written application for designation:
- (i) documents pledging compliance with the requirements listed in paragraph (1), items (iii) and (iv) of the preceding Article;
- (ii) the articles of incorporation;
- (iii) a certificate of registered matters of the company;
- (iv) the rules of operation;
- (v) a balance sheet, and profit and loss statement;
- (vi) documents stating the prospects for income and expenditure; and
- (vii) beyond the matters listed in the preceding items, documents specified by order of the competent ministry.
- (3) In the case referred to in the preceding paragraph, when articles of incorporation, a balance sheet, or a profit and loss statement is prepared in the form of electronic or magnetic records, the electronic or magnetic records (limited to those specified by order of the competent ministry) may be attached in lieu of documents.

(Amount of Stated Capital)

Article 53 (1) The amount of stated capital of an electronic monetary claim recording institution must not be less than an amount specified by Cabinet Order.

(2) The amount specified by Cabinet Order in the preceding paragraph must not be under 500,000,000 yen.

(3) The amount of net assets of an electronic monetary claim recording institution must not be less than the amount specified by Cabinet Order referred to in paragraph (1).

(Exclusion from Application)

Article 54 The provisions of the proviso to Article 331, paragraph (2) (including cases in which it is applied mutatis mutandis to Article 335, paragraph (1) of the Companies Act), Article 332, paragraph (2) (including cases in which it is applied mutatis mutandis to Article 334, paragraph (1) of the Companies Act), Article 336, paragraph (2), and the proviso to Article 402, paragraph (5) of the Companies Act do not apply to an electronic monetary claim recording institution.

(Confidentiality Obligations)

Article 55 Directors, accounting advisors (when an accounting advisor is a corporation, its members who are to perform the duty), company auditors, executive officers or employees of the electronic monetary claim recording institution, and those who were formerly in those positions, must not disclose or misappropriate any secrets obtained in the course of their duties relating to the electronic monetary claims recording business.

## **Section 2 Business**

(Business of Electronic Monetary Claim Recording Institution)

Article 56 An electronic monetary claim recording institution is to conduct business for the electronic recording of electronically recorded monetary claims, in accordance with the provisions of this Act and the institution's rules of operation.

(Prohibition of Subsidiary Business)

Article 57 An electronic monetary claim recording institution may not engage in business other than electronic monetary claims recording business and business incidental thereto.

(Partial Entrustment of Electronic Monetary Claims Recording Business)

Article 58 (1) Pursuant to the provisions of the order of the competent ministry, electronic monetary claim recording institutions may entrust a part of their electronic monetary claims recording business to banks, etc. (meaning banks (meaning the banks prescribed in Article 2, paragraph (1) of the Banking Act (Act No. 59 of 1981)), cooperative financial institutions (meaning the cooperative financial institution prescribed in Article 2, paragraph (1) of the Act on Preferred Equity Investment by Cooperative Financial Institutions (Act No. 44 of 1993)), and other financial institutions specified by Cabinet Order; the same applies hereinafter), and other organizations, with the approval of the competent minister.

(2) Notwithstanding the provisions of other laws, banks, etc. may be entrusted, pursuant to the provisions of the preceding paragraph, to perform the entrusted business.

(Rules of Operation)

Article 59 An electronic monetary claim recording institution must prescribe, in its rules of operation, procedures for electronic recording, contracts regarding settlement of remittance between accounts provided in Article 62, paragraph (1), or matters pertaining to the contract provided in Article 64, and other matters specified by order of the competent ministry.

(Protection of Persons Who Use Electronic Monetary Claim Recording Institutions)

Article 60 An electronic monetary claim recording institution must perform its business so as to provide sufficient protection for persons who use the electronic monetary claim recording institution.

(Prohibition of Discriminatory Treatment)

Article 61 An electronic monetary claim recording institution must not unreasonably discriminate against specific persons.

**Section 3 Measures for Settlement of Remittance between Accounts**

(Concluding Contracts Regarding Settlement of Remittance between Accounts)

Article 62 (1) An electronic monetary claim recording institution may conclude a contract regarding the settlement of remittances between accounts with an obligor and banks, etc.

(2) The phrase "settlement of remittances between accounts" prescribed in the preceding paragraph and paragraph (2) of the following Article means a form of payment, used with regard to the obligation under an electronically recorded monetary claim (excluding one involving a record of guarantee, and a special

right to reimbursement; hereinafter the same applies in this section), in which, based on an agreement among the electronic monetary claim recording institution, the obligor, and the bank, etc., the institution provides the bank, etc. with information, in advance, regarding the payment date that is recorded in the monetary claims records, the amount payable, and the obligor's and obligee's accounts, and on the payment date, the bank, etc. transfers a payment from the obligor's account to the obligee's account.

(Recording of a Payment for the Settlement of Remittance between Accounts)

Article 63 (1) When an electronic monetary claim recording institution concludes a contract regarding settlements of remittance between accounts provided in paragraph (1) of the preceding Article and the matters listed in Article 16, paragraph (2), item (i) are recorded in the monetary claims record, the electronic monetary claim recording institution must provide the bank, etc. to which that contract pertains with the information prescribed in paragraph (2) of the preceding Article.

(2) In the case referred to in the preceding paragraph, when an electronic monetary claim recording institution receives a notice from a bank, etc. prescribed in the same paragraph stating that there has been a settlement of remittance between accounts for the full amount of the obligation pertaining to the electronically recorded monetary claims to be paid on the payment date, the electronic monetary claim recording institution must make a record of the payment, etc. regarding that settlement of remittance without delay.

(Concluding other Contracts Pertaining to Payment)

Article 64 Beyond a contract regarding a settlement of remittance between accounts provided in Article 62, paragraph (1), an electronic monetary claim recording institution may conclude a contract with the obligor or obligee and the bank, etc. regarding payment of obligations pertaining to electronically recorded monetary claims to the obligee's account.

(Record of a Payment Record for Payment Pertaining to Other Contracts)

Article 65 When an electronic monetary claim recording institution concludes a contract provided in the preceding Article and the matters listed in Article 16, paragraph (2), item (ii) have been recorded in the monetary claims record, if the electronic monetary claim recording institution receives a notice regarding the transfer payment of obligations pertaining to electronically recorded monetary claims to the obligee's account from the bank, etc. to which the contract pertains (limited to cases specified by order of the competent ministry as cases in which it is possible for the electronic monetary claim recording institution to be certain that the obligation pertaining to the electronically

recorded monetary claims has been paid), the electronic monetary claim recording institution must make a record of payment, etc. for the payment without delay.

(Application of Article 8 to Notice of Settlement of Remittance between Accounts)

Article 66 The notice prescribed in Article 63, paragraph (2) and the preceding Article is deemed to be a request for an electronic recording and the provisions of Article 8 apply.

#### **Section 4 Supervision**

(Preparation and Keeping of Books and Documents)

Article 67 An electronic monetary claim recording institution must prepare books and documents, and other records on its business and keep these documents, pursuant to order of the competent ministry.

(Submission of Reports on Business and Assets)

Article 68 (1) An electronic monetary claim recording institution must prepare a report on business and assets every business year and submit it to the competent minister.

(2) Matters to be stated in the report referred to in the preceding paragraph, the submission date, and other matters necessary regarding the report are specified by order of the competent ministry.

(Alteration in the Amount of Stated Capital)

Article 69 (1) If an electronic monetary claim recording institution intends to reduce the amount of its stated capital, it must obtain approval from the competent minister, pursuant to order of the competent ministry.

(2) If an electronic monetary claim recording institution intends to increase the amount of its stated capital, it must give notice to the competent minister, pursuant to order of the competent ministry.

(Alteration of Articles of Incorporation or Rules of Operation)

Article 70 An alteration of an electronic monetary claim recording institution's articles of incorporation or rules of operation has no effect unless the competent minister approves it.

(Approval for Discontinuation of Electronic Monetary Claims Recording Business)

Article 71 If an electronic monetary claim recording institution intends to

discontinue electronic monetary claims recording business, it must obtain approval from the competent minister, pursuant to the order of the competent ministry.

(Notification Regarding a Change of Trade Name)

Article 72 (1) When a matter listed in Article 52, paragraph (1), item (i), or items (iii) through (v) is changed, the electronic monetary claim recording institution must give notification to that effect and submit the documents listed in Article 52, paragraph (2), item (i) or (iii) to the competent minister, pursuant to order of the competent ministry.

(2) When a notification of changes to the electronic monetary claim recording institution's trade name or the address of its head office has been given pursuant to the provisions of the preceding paragraph, the competent minister must make a public notice to that effect in an official gazette.

(Report and Inspection)

Article 73 (1) When the competent minister finds it necessary for the appropriate and reliable performance of electronic monetary claims recording business, the competent minister may order the electronic monetary claim recording institution, or the person that has been entrusted with the business by the institution, to submit reports or materials regarding the electronic monetary claim recording institution's business or assets, or may have the employees of the competent ministry conduct on-site inspections of the institution or the business office or office of the person who has been entrusted with the business from the institution regarding its business operation or inspections of financial conditions or books and documents, and other materials (for a person that has been entrusted with the business from the institution, limited to matters necessary for the inspection of the business of the institution or its financial conditions) or have the employees ask the relevant persons questions (for a relevant person of a person that has been entrusted with the business from the institution, limited to matters necessary for the questioning regarding the business of the institution or its financial conditions).

(2) The employees conducting on-site inspections, pursuant to the provisions of the preceding paragraph, must carry identification cards certifying their status and show them to the relevant persons.

(3) The authority to conduct an on-site inspection pursuant to the provisions of paragraph (1) must not be construed as being accorded for the purposes of carrying out criminal investigations.

(Order for Business Improvement)

Article 74 If the competent minister finds it necessary for the appropriate and

reliable performance of electronic monetary claims recording business, the competent minister may, to the extent necessary, order an electronic monetary claim recording institution to take necessary measures for the improvement of business operation or conditions of assets.

(Rescission of Designation)

- Article 75 (1) If an electronic monetary claim recording institution falls under any of the following items, the competent minister may rescind the designation of Article 51, paragraph (1), order the suspension of the whole or a part of its business for a period not exceeding six months, or order the dismissal of the director, the accounting advisor, the company auditor, or executive officers:
- (i) the electronic monetary claim recording institution no longer falls under any of the requirements listed in Article 51, paragraph (1), item (iii) or (iv);
  - (ii) it is found that the electronic monetary claim recording institution did not fall under any of the items of Article 51, paragraph (1) at the time of designation pursuant to that paragraph;
  - (iii) it is found that the electronic monetary claim recording institution obtained the designation as described in Article 51, paragraph (1) by wrongful means; or
  - (iv) the electronic monetary claim recording institution violates this Act or orders based on this Act, or dispositions based thereon.
- (2) If the competent minister rescinds the designation under Article 51, paragraph (1) pursuant to the provisions of the preceding paragraph, the minister must give public notice to that effect in an official gazette.

(Business Transfer Order)

- Article 76 (1) If an electronic monetary claim recording institution falls under any of the following items, the competent minister may order it to transfer its electronic monetary claims recording business to another stock company within a period fixed by the minister:
- (i) the designation referred to in Article 51, paragraph (1) has been rescinded pursuant to the provisions of paragraph (1) of the preceding Article;
  - (ii) the electronic monetary claim recording institution terminates its electronic monetary claims recording business;
  - (iii) the electronic monetary claim recording institution dissolves (including when a judgment confirming the nullity of establishment, consolidation-type merger, or incorporation-type company split becomes final); or
  - (iv) it is likely that the electronic monetary claim recording institution will be unable to pay its debts when due without materially impeding the continuity of its electronic monetary claims recording business, or that a fact constituting a cause of bankruptcy will arise.

- (2) A resolution reached pursuant to the provisions of Article 322, paragraph (1), Article 466, Article 467, paragraph (1), Article 783, paragraph (1) or Article 795, paragraph (1) of the Companies Act at a shareholders meeting of an electronic monetary claim recording institution (excluding a resolution by shareholders meeting provided for in Article 309, paragraph (3), item (ii) of the Companies Act with regard to a resolution made pursuant to the provisions of Article 783, paragraph (1) of the Companies Act) that has received an order pursuant to the provisions of the preceding paragraph may be made provisionally with a two-thirds majority of the voting rights of the shareholders present, notwithstanding the provisions of Article 309, paragraph (2) and Article 324, paragraph (2) of the Companies Act.
- (3) A resolution reached at a shareholders meeting referred to in Article 309, paragraph (3), item (ii) of the Companies Act of an electronic monetary claim recording institution that has received an order pursuant to the provisions of paragraph (1) may be made provisionally with half or more of the shareholders present and a two-thirds majority of the voting rights of the shareholders present, notwithstanding the provisions of Article 309, paragraph (3) of the Companies Act.
- (4) When a resolution is reached provisionally pursuant to the provisions of paragraph (2) (hereinafter referred to as a "provisional resolution" in this paragraph and the following paragraph), notice of the purport of the provisional resolution must be given to each shareholder, and another shareholders meeting must be convened within one month from the day of that provisional resolution.
- (5) When a provisional resolution is approved by the majority prescribed in paragraph (2) in the shareholders meeting referred to in the preceding paragraph, it is deemed that the resolution pertaining to the matter which was provisionally resolved was made when the provisional resolution was approved.
- (6) The provisions of the preceding two paragraphs apply mutatis mutandis when a resolution is provisionally made pursuant to the provisions of paragraph (3). In this case, the phrase "paragraph (2)" in the preceding paragraph is deemed to be replaced with "paragraph (3)".

(Lapse of Monetary Claims Record)

- Article 77 (1) If an electronic monetary claim recording institution receives an order pursuant to the provisions of paragraph (1) of the preceding Article, and the institution fails to transfer the electronic monetary claims recording business within the period provided by the aforementioned order, the monetary claims record in the registry of the electronic monetary claim recording institution ceases to be effective as of the day after the last date of the period.
- (2) After the day on which the monetary claims record ceases to be effective

pursuant to the provisions of the preceding paragraph (hereinafter referred to as "date of validity expiry" in this Article), electronically recorded monetary claims and pledges created on them continue to exist as nominative claims and pledges on them with the contents of the electronically recorded monetary claims which were recorded in the record.

- (3) When a person who was an electronically recorded guarantor on the date of validity expiry performs payment with the person's own property or other conduct to extinguish the obligation recorded as the principal obligation with regard to the nominative claim in the preceding paragraph, the person acquires the right to reimbursement with the same contents as a special right to reimbursement.
- (4) The competent minister must, after the date of validity expiry, promptly give public notice to the effect that the monetary claims record referred to in paragraph (1) ceases to be effective in an official gazette.
- (5) A person who was an electronic monetary claims recording institution or a general successor (limited to a person who has succeeded to the rights and obligations of the electronic monetary claims recording institution that ceases to exist after a merger, and does not perform electronic monetary claims recording business; hereinafter the same applies in this chapter) must, immediately after the date of validity expiry, send documents evidencing all the matters provided for in the following items (excluding the obligor's account) to persons listed in those respective items:
  - (i) the person who was an electronically recorded person on the date of validity expiry: all the matters recorded in the monetary claims record on the date of validity expiry (if the person listed this item is a person that was recorded in a divided monetary claims record, these include matters recorded in the original monetary claims records until the relevant divided monetary claims record was created, before the record of the division at the time of creation of the divided monetary claims record was made in the original monetary claims records), except matters recorded in the record of assignment, or record of pledge creation or the electronic recording of a sub-pledge (if a record of alteration has been made regarding a matter recorded in these electronic recordings, the record of the alteration is included; hereinafter referred to as the "record of assignment, etc.") in which the assignee or pledgee (excluding those in the following cases) who is not the electronically recorded person is recorded:
    - (a) a record of assignment, etc. in which the matters listed in Article 18, paragraph (2), item (iii) or (iv), Article 37, paragraph (2), item (vi) or (vii), or Article 37, paragraph (4), item (iv) or (v) were recorded;
    - (b) a record of assignment in which an individual was recorded as an assignor or an assignee; and

- (c) a record of assignment, etc. in connection with the relevant record of alteration when a person who was the electronically recorded person on the date of validity expiry was recorded in the record of alteration;
- (ii) the person who was recorded as the electronically recorded obligor on the date of validity expiry: matters recorded in the monetary claims record as of the date of validity expiry (when the person listed in this item is a person that was recorded in a divided monetary claims record, these include matters recorded in the original monetary claims records until the relevant divided monetary claims record was created, before the record of the division at the time of creation of the divided monetary claims record was made in the original monetary claims records).

### **Section 5 Merger, Company Split, and Transfer of Business**

(Approval for Specified Merger)

- Article 78 (1) A merger in which at least one of the parties is an electronic monetary claim recording institution (limited to when a stock company that continues to exist after the merger or a stock company that is established by the merger performs electronic monetary claims recording business; hereinafter referred to as "specified merger" in this Article) has no effect without the approval of the competent minister.
- (2) An electronic monetary claim recording institution that intends to receive the approval under the preceding paragraph must submit to the competent minister a written application for merger approval that states matters listed in the items of Article 52, paragraph (1) regarding a stock company that will continue to exist after the specified merger or a stock company that will be established by the specified merger (hereinafter referred to as "electronic monetary claim recording institution after the specified merger" in this Article).
  - (3) Documents or electronic or magnetic records in which the contents of the merger contract are stated or recorded (limited to those specified by order of the competent ministry; hereinafter the same applies in this paragraph) and other documents or electronic or magnetic records specified by order of the competent ministry must be attached to a written application for merger approval.
  - (4) When an application for approval under paragraph (1) is made, the competent minister must examine whether the application meets the following standards:
    - (i) the electronic monetary claim recording institution after the specified merger satisfies the requirements listed in the items of Article 51, paragraph (1); and
    - (ii) succession of the electronic monetary claims recording business is expected to be conducted smoothly and appropriately.

- (5) An electronic monetary claim recording institution after the specified merger (excluding an electronic monetary claim recording institution that is a stock company that continues to exist after the specified merger) is deemed to have obtained the designation under Article 51, paragraph (1) at the time of the specified merger.
- (6) The electronic monetary claim recording institution after the specified merger succeeds to the rights and obligations arising out of the administrative authority's approval and other dispositions regarding the business of the electronic monetary claim recording institution extinguished after the specified merger.

(Approval of Incorporation-Type Company Split)

- Article 79 (1) An incorporation-type company split conducted by an electronic monetary claim recording institution for the purpose of having a newly formed stock company succeed to the whole or a part of its electronic monetary claims recording business (hereinafter simply referred to as "incorporation-type company split" in this Article) has no effect without the competent minister's approval.
- (2) The electronic monetary claim recording institution that intends to receive an approval under the preceding paragraph must submit to the competent minister a written application for incorporation-type company split approval that states the following matters regarding the stock company to be established by the incorporation-type company split (hereinafter referred to as the "formed company" in this Article):
    - (i) matters provided for in the items of Article 52, paragraph (1); and
    - (ii) the electronic monetary claims recording business to be taken over by the formed company.
  - (3) Documents or electronic or magnetic records in which the contents of the incorporation-type company split plan are stated or recorded (limited to those specified by order of the competent ministry; hereinafter the same applies in this paragraph) and other documents or electronic or magnetic records specified by order of the competent ministry must be attached to the written application for incorporation-type company split approval.
  - (4) When an application for approval under paragraph (1) is made, the competent minister must examine whether the application meets the following standards:
    - (i) the formed company falls under the requirements listed in Article 51, paragraph (1), item (i) and items (iv) through (vii); and
    - (ii) a smooth and appropriate succession to electronic monetary claims recording business is expected.
  - (5) The formed company is deemed to have obtained the designation under Article 51, paragraph (1) at the time of the incorporation-type company split.

(6) The formed company succeeds to the rights and obligations based on the administrative authority's approval and other dispositions regarding the business subject to succession from the electronic monetary claim recording institution that conducted the incorporation-type company split.

(Approval for Absorption-Type Company Split)

Article 80 (1) An absorption-type company split conducted by an electronic monetary claim recording institution for the purpose of having another stock company succeed to the whole or a part of its electronic monetary claims recording business (hereinafter simply referred to as "absorption-type company split" in this Article) has no effect without a competent minister's approval.

(2) The electronic monetary claim recording institution that intends to obtain approval under the preceding paragraph must submit to the competent minister a written application for absorption-type company split approval that states the following matters regarding a stock company that is taking over the whole or a part of its electronic monetary claims recording business by the absorption-type company split (hereinafter referred to as the "succeeding company" in this Article):

- (i) matters provided for in the items of Article 52, paragraph (1); and
- (ii) the electronic monetary claims recording business to be taken over by the succeeding company.

(3) Documents or electronic or magnetic records in which the contents of the absorption-type company split contract are stated or recorded (limited to those specified by order of the competent ministry; hereinafter the same applies in this paragraph) and other documents or electronic or magnetic records specified by order of the competent ministry must be attached to the written application for an absorption-type company split approval.

(4) When an application for approval under paragraph (1) is made, the competent minister must examine whether the application meets the following standards:

- (i) the succeeding company satisfies the requirements provided for in the items of Article 51, paragraph (1); and
- (ii) a smooth and appropriate succession to electronic monetary claims recording business is expected.

(5) The succeeding company (excluding a succeeding company that is an electronic monetary claim recording institution) is deemed to have obtained the designation under Article 51, paragraph (1) at the time of the absorption-type company split.

(6) The succeeding company succeeds to the rights and obligations based on the administrative authority's approval and other dispositions regarding the business subject to succession from the electronic monetary claim recording institution that conducted the absorption-type company split.

(Approval for Business Transfer)

Article 81 (1) The transfer of the whole or a part of electronic monetary claims recording business conducted by an electronic monetary claim recording institution to another stock company (hereinafter referred to as "business transfer" in this Article) has no effect without the competent minister's approval.

(2) The electronic monetary claim recording institution that intends to obtain an approval under the preceding paragraph must submit to the competent minister a written application for business transfer approval that states the following matters regarding the stock company to be transferred the whole or a part of its electronic monetary claims recording business through the business transfer (hereinafter referred to as "transferee company" in this Article):

- (i) matters provided for in the items of Article 52, paragraph (1); and
- (ii) the electronic monetary claims recording business to be taken over by the transferee company.

(3) Documents or electronic or magnetic records in which the contents of the transfer contract are stated or recorded (limited to those specified by order of the competent ministry; hereinafter the same applies in this paragraph) and other documents or electronic or magnetic records specified by order of the competent ministry must be attached to the written application for business transfer approval.

(4) When an application for approval under paragraph (1) is made, the competent minister must examine whether the application meets the following standards:

- (i) the transferee company satisfies the requirements listed in the items of Article 51, paragraph (1); and
- (ii) a smooth and appropriate succession to electronic monetary claims recording business is expected.

(5) The transferee company (excluding a transferee company that is an electronic monetary claim recording institution) is deemed to have obtained the designation under Article 51, paragraph (1) at the time of business transfer.

(6) The transferee company succeeds to the rights and obligations based on the administrative authority's approval and other dispositions regarding the business subject to the transfer from the electronic monetary claim recording institution that made the business transfer.

## **Section 6 Dissolution**

(Approval for Dissolution)

Article 82 The following matters have no effect without the competent minister's approval:

- (i) a resolution at a shareholders meeting for the dissolution of an electronic monetary claim recording institution; and
- (ii) a merger in which at least one of the parties is an electronic monetary claim recording institution (limited to when a stock company that continues to exist after the merger or a stock company that is established by the merger does not perform electronic monetary claims recording business) .

(Lapse of Designation)

Article 83 (1) When an electronic monetary claim recording institution falls under any of the following items, its designation under Article 51, paragraph (1) ceases to be effective:

- (i) the electronic monetary claim recording institution has terminated the electronic monetary claims recording business;
  - (ii) the electronic monetary claim recording institution dissolves (including when a judgment confirming the nullity of establishment, of consolidation-type merger, or of incorporation-type company split has become final and binding); or
  - (iii) the electronic monetary claim recording institution has received an order pursuant to the provisions of Article 76, paragraph (1) (limited to cases that fall under item (iv) of the same paragraph) and failed to transfer the electronic monetary claims recording business within the period stated in the order.
- (2) When a designation under Article 51, paragraph (1) ceases to be effective pursuant to the provisions of the preceding paragraph, the person who was the electronic monetary claim recording institution or general successor must notify the competent minister to that effect, as specified by order of the competent ministry.
- (3) When a notification pursuant to the provisions of the preceding paragraph is made, the competent minister must give public notice to that effect in an official gazette.

(Electronic Monetary Claim Recording Institutions in Case of Rescission of Designation)

Article 84 When a designation under Article 51, paragraph (1) is rescinded pursuant to the provisions of Article 75, paragraph (1) or that designation ceases to be effective pursuant to the provisions of paragraph (1) of the preceding Article (excluding cases that fall under item (iii) of the same paragraph), the person who was the electronic monetary claim recording institution or general successor must promptly finish the electronic monetary claims recording business that was performed by the institution. In this case, the person who was the institution or general successor is still deemed to be an

electronic monetary claim recording institution within the scope of the purpose of finishing the electronic monetary claims recording business.

(Competent Minister's Opinion in Liquidation Procedures)

Article 85 (1) In liquidation procedures, bankruptcy procedures, rehabilitation proceedings, reorganization proceedings, or procedures for the recognition and assistance of an electronic monetary claim recording institution, the court may ask the competent minister for an opinion or submit a request to the competent minister for an inspection or investigation.

(2) In the procedures prescribed in the preceding paragraph, when finding it necessary, the competent minister may state an opinion to the court.

(3) The provisions of Article 73 apply mutatis mutandis when the competent minister has received a request from the court for an inspection or investigation, pursuant to the provisions of paragraph (1).

#### **Chapter IV Miscellaneous Provisions**

(Preservation of Monetary Claims Record)

Article 86 An electronic monetary claim recording institution must preserve documents or electronic or magnetic records in which information provided to the electronic monetary claim recording institution has been stated or recorded in connection with a monetary claims record or a request for an electronic recording in the monetary claims record, until each of the dates specified in the following items according to the cases listed in the respective items:

(i) cases other than those set forth in the following items: either of the dates specified in (a) and (b), whichever comes earlier:

(a) the date on which five years have passed from the day of the recording of the payment, etc. of the entire amount of the debts pertaining to all the electronically recorded monetary claims recorded in the monetary claims record or the day on which the deletion of all record matters in the monetary claims was recorded through the recording of an alteration; or

(b) the date on which ten years have passed from the latest of the following days: the payment date recorded in the monetary claims record (if debts are paid in installments, the final payment date) or the day on which the last electronic recording was made; or

(ii) cases in which the monetary claims record is a pre-change monetary claims record: the date on which five years have passed from the date on which the matters listed in the items of Article 47-5, paragraph (4) were recorded.

(Disclosure of Record Matters)

Article 87 (1) The persons listed in the following items, the persons' heirs or

other general successors, and the persons entitled to manage and dispose of the assets of the persons listed in the items may, after having paid expenses prescribed in the electronic monetary claim recording institution's rules of operation, submit a request to the institution for the inspection of the matters prescribed in the items (excluding the obligor's account) that are displayed with the methods specified by order of the competent ministry, or the provision of documents or electronic or magnetic records that certify all or a part of the matters (hereinafter referred to as "request for disclosure" in this Article) at any time during the business hours of the institution:

(i) the electronically recorded person: all matters recorded in a monetary claims record (if the person is recorded in a divided monetary claims record, these include matters recorded in the original monetary claims records until the relevant divided monetary claims record was created, before the record of the division at the time of creation of the divided monetary claims record was made in the original monetary claims records), other than those recorded in a record of assignment, etc. in which a person who is not the electronically recorded person is recorded as an assignee or a pledgee (excluding the matters listed as follows):

(a) the record of assignment, etc. in which the matters listed in Article 18, paragraph (2), item (iii) or (iv), Article 37, paragraph (2), item (vi) or (vii), or Article 37, paragraph (4), item (iv) or (v) have been recorded;

(b) the record of assignment in which an individual is recorded as an assignor or an assignee; and

(c) the record of assignment, etc. connected with the record of alteration when an electronically recorded person has been recorded in the record of an alteration;

(ii) A person recorded as an electronically recorded obligor: all matters recorded in a monetary claims record (when that person is recorded in a divided monetary claims record, these include matters recorded in the original monetary claims records until the relevant divided monetary claims record was created, before the record of the division at the time of creation of the divided monetary claims record was made in the original monetary claims records), other than those recorded in a record of assignment, etc. in which a person who is not the electronically recorded person is recorded as an assignee or a pledgee (excluding the matters listed as follows):

(a) matters recorded in the record of assignment, etc. connected with a record of alteration when an electronically recorded person has been recorded in the record of the alteration;

(b) when the person who is recorded as the electronically recorded obligor has a defense based on a personal relationship with a person recorded as an obligee, an assignee or a pledgee, or an heir or other general successor

thereof in the record of accrual or a record of assignment, etc. (hereinafter referred to as "obligee, etc." in this item), the names and addresses of persons recorded as an assignee or pledgee (excluding an electronically recorded person) in the series of records of assignment, etc. leading from the obligee, etc. to the electronically recorded person; and

(iii) a person other than those listed in the preceding two items who is recorded in the monetary claims record: the following matters among the matters recorded in the monetary claims record (including matters recorded in a divided monetary claims record that will be made later, if the person listed in this item is the person recorded in the original monetary claims record):

(a) matters recorded in a record of accrual within the monetary claims record and in an electronic recording (including a record of alteration, if a record of an alteration has been made with regard to a matter recorded in the electronic recording) regarding which a person who makes a request for disclosure (referred to as "disclosure requester" in (b)) is the person who filed the request for the electronic recording; and

(b) the names and addresses of those who are recorded as an assignee or pledgee in the series of records of assignment, etc. leading from the disclosure requester to the electronically recorded person, if a record of assignment, etc. has been made in which the disclosure requester is the electronically recorded claim obligor and the electronic recording was made at the request of a person without the authority to represent the disclosure requester or the request of a person who falsely represented the disclosure requester.

(2) Beyond the provisions of the preceding paragraph, regarding record matters which the person who requested the electronic recording agrees, at the time of the request, to disclose, the relevant electronic monetary claim recording institution may accept to requests for disclosure within the scope of the agreement, pursuant to order of the competent ministry.

(Disclosure of Information Provided in the Request for an Electronic Recording)

Article 88 A person whose name was provided to an electronic monetary claim recording institution as a person requesting an electronic recording may, having paid expenses prescribed in the institution's rules of operation, submit a request provided for as follows to the institution for the information provided to the institution when the request for the electronic recording was made at any time during the business hours of the institution, and the same applies to those who have an interest in the legitimacy of the request for the electronic recording, if there are justifiable grounds, to the extent that the person has an interest:

(i) if the information is stated in a document, a request for inspection of the

- document;
- (ii) a request for issuance of a transcript or an extract of the document referred to in the preceding item;
  - (iii) if the information is recorded in an electronic or magnetic record, a request for inspection of the matters recorded in the electronic or magnetic record in a manner specified by order of the competent ministry; or
  - (iv) a request for the provision of matters recorded in the electronic or magnetic record under the preceding item by an electronic or magnetic method (a method specified by order of the competent ministry which uses information and communications technology including, a method which uses an electronic data processing system) that is prescribed by the rules of operation, or a request for delivery of a document that contains those matters.

(Submission of Materials to the Minister of Finance)

Article 89 The Minister of Finance may request the Prime Minister to submit the necessary materials and give an explanation, if the Minister of Finance finds it necessary for the planning or drafting of a system pertaining to electronically recorded monetary claims for the financial failures resolution system and the management of financial crises under the jurisdiction of the Minister of Finance.

(Delegation to Order of the Competent Ministry)

Article 90 Beyond what is provided for in this Act, matters necessary for the enforcement of this Act are provided by order of the competent ministry.

(Competent Minister and Order of the Competent Ministry)

Article 91 In this Act, the competent minister is the Minister of Justice and the Prime Minister, and order of the competent ministry is Ministry of Justice Order or Cabinet Office Order.

(Delegation of Authority)

Article 92 (1) The Prime Minister delegates the authority under the provisions of this Act (excluding that specified by Cabinet Order) to the Commissioner of the Financial Services Agency.

(2) The Commissioner of the Financial Services Agency may, pursuant to Cabinet Order, delegate a part of the Commissioner's authority delegated pursuant to the provision of the preceding paragraph to the Directors-General of Local Finance Bureaus or the Directors-General of Local Finance Branch Bureaus.

## **Chapter V Penal Provisions**

Article 93 A person who falls under either of the following items is subject to imprisonment for not more than three years or a fine of not more than 3,000,000 yen, or both:

- (i) a person who, in violation of the provisions of Article 7, paragraph (1), Article 47-5, paragraph (1), or Article 49, paragraph (1), did not record a matter to be recorded in the registry in electronic form or made a false record in the registry; or
- (ii) a person who, in violation of the provisions of Article 47-3, paragraph (5), did not make a notification of the necessary matters or made a false notification.

Article 94 A person who violated a business suspension order under the provisions of Article 75, paragraph (1) is subject to imprisonment for not more than two years or a fine of not more than 3,000,000 yen, or both.

Article 95 A person who falls under any of the following items is subject to imprisonment for not more than one year or a fine of not more than 3,000,000 yen, or both:

- (i) a person who made and submitted a false statement in a written application referred to in Article 52, paragraph (1), Article 78, paragraph (2), Article 79, paragraph (2), Article 80, paragraph (2), or Article 81, paragraph (2), or in a document referred to in Article 52, paragraph (2), or who made and submitted a false record in an electronic or magnetic record when an electronic or magnetic record was to be attached instead of the document, or who made and submitted a false statement or a false record in a document or electronic or magnetic record under Article 78, paragraph (3), Article 79, paragraph (3), Article 80, paragraph (3), or Article 81, paragraph (3);
- (ii) a person who did not prepare or preserve records pursuant to the provisions of Article 67, or who prepared false records;
- (iii) a person who did not submit a report pursuant to the provisions of Article 68, paragraph (1), or who submitted a report that contained a false statement;
- (iv) a person who did not report or submit a material pursuant to the provisions of Article 73, paragraph (1), or reported a false report or submitted a false material, or who refused, obstructed, or evaded an inspection under the provisions of the same paragraph, or who failed to answer questions under the provisions of the same paragraph or gave a false answer to the questions;
- (v) a person who did not report or submit a material pursuant to the provisions of Article 73, paragraph (1) applied mutatis mutandis to Article 85, paragraph (3), or who reported a false report or submitted a false material,

or who refused, obstructed, or evaded an inspection under the provisions of the same paragraph, or who failed to answer questions under the provisions of the same paragraph or gave a false answer to the question; or  
(vi) a person who, in violation of the provisions of Article 86, did not preserve monetary claims records, documents, or electronic or magnetic records in accordance with the same Article.

Article 96 A person who violated the provisions of Article 55 is subject to imprisonment for not more than one year or a fine of not more than 500,000 yen.

Article 97 A person who falls under any of the following items is subject to a fine of not more than 300,000 yen:

- (i) a person who reduced the amount of stated capital without approval under the provisions of Article 69, paragraph (1) or a person who received the approval under the same paragraph by way of a false application; or
- (ii) a person who failed to give the notification under the provisions of Article 72, paragraph (1) or provided a false notification.

Article 98 If a representative, an agent, an employee or any other worker of a corporation commits a violation of any of the provisions set forth in the following items with regard to the business of the corporation, not only the individual offender but also the corporation is subject to the fine prescribed in the respective items:

- (i) Article 93 or 94: a fine of not more than 300,000,000 yen;
- (ii) Article 95 (excluding item (v)): a fine of not more than 200,000,000 yen; and
- (iii) Article 95, item (v) or Article 97: the fine prescribed in the respective Articles.

Article 99 An officer or a liquidator of the electronic monetary claim recording institution (regarding item (iii), a person who was the electronic monetary claim recording institution or general successor prescribed in Article 77, paragraph (5)) who falls under any of the following items is subject to a civil fine of not more than 1,000,000 yen:

- (i) the officer or a liquidator failed to give notice or gave false notice, in violation of the provisions of Article 69, paragraph (2);
- (ii) the officer or a liquidator violated an order under the provisions of Article 74 or Article 76, paragraph (1);
- (iii) the officer or a liquidator failed to send the document referred to in Article 77, paragraph (5), in violation of the provisions of the same paragraph; or
- (iv) the officer or a liquidator refused a request made pursuant to the

provisions of Article 87, paragraph (1) or Article 88 without justifiable grounds, or provided documents or electronic or magnetic records containing a false statement or record.

Article 100 A person who was an officer or a liquidator of a person that was an electronic monetary claim recording institution or general successor prescribed in Article 83, paragraph (2), and failed to give a notification in violation of the provisions of the same paragraph, is subject to a civil fine of not more than 300,000 yen.