

# **Order for Enforcement of the Electronically Recorded Monetary Claims Act**

(Cabinet Order No. 325 of October 22, 2008)

The Cabinet hereby enacts this Cabinet Order pursuant to the provisions of Article 6 (including as applied mutatis mutandis pursuant to Article 4, paragraph (2)), Article 48, paragraph (2), Article 49, paragraph (2), Article 50, Article 53, paragraph (1), Article 58, paragraph (1), and Article 92 of the Electronically Recorded Monetary Claims Act (Act No. 102 of 2007).

Chapter I Accrual and Assignment of Electronically Recorded Monetary Claims  
(Articles 1 through 11)

Chapter II Electronic Monetary Claim Recording Institutions (Article 12 and Article 13)

Chapter III Miscellaneous Provisions (Article 14 and Article 15)  
Supplementary Provisions

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

(Information Necessary for Requesting an Electronic Recording to Be Made)

Article 1 The content of the information under Article 6 of the Electronically Recorded Monetary Claims Act (hereinafter referred to as the "Act") required to be submitted to an electronic monetary claim recording institution when a person requests an electronic recording to be made are as follows:

- (i) the name and address of the requester;
- (ii) if the requester is a corporation, the name of its representative;
- (iii) if the request for an electronic recording to be made is by an agent, the name and address of the agent and, if the agent is a corporation, the name of its representative;
- (iv) if the request for an electronic recording is to be made on behalf of another person pursuant to the provisions of Article 423 of the Civil Code (Act No. 89 of 1896) or other laws and regulations, a statement to the effect that the requester is a subrogee, the name and address of the other person, and the cause of subrogation;
- (v) if the requester is the heir or other general successor of an electronically recorded claim holder, electronically recorded claim obligor or electronically recorded person, a statement to that effect;
- (vi) in the case referred to in the preceding item, if the request for an electronic

recording is to be made by the heir or other general successors of an electronically recorded claim holder that is to be an electronically recorded person, the name of the electronically recorded claim holder and its address at the time of general succession;

- (vii) except for the cases referred to in the preceding three items, if the requester is not the electronically recorded claim holder or electronically recorded claim obligor (if neither an electronically recorded claim holder or an electronically recorded claim obligor exists, the electronically recorded person), the name and address of the electronically recorded claim holder, electronically recorded claim obligor or electronically recorded person; and
- (viii) beyond what is set forth in the preceding items, if a person requests an electronic recording to be made that is set forth in the electronic recording column of the Appended Table, matters listed in the column headed "Information Necessary for Requesting an Electronic Recording to Be Made" of that Table.

#### (Recorded Matters in Electronic Recording for a Trust)

Article 2 The following matters must be recorded in an electronic recording for a trust:

- (i) a statement to the effect that electronically recorded monetary claims, etc., is a part of the trust property;
- (ii) the necessary matters for specifying the electronically recorded monetary claims (meaning the electronically recorded monetary claims prescribed in Article 48, paragraph (1) of the Act, hereinafter the same applies in this Chapter) that are part of the trust property; and
- (iii) the date that the electronic recording was made.

#### (Requests for an Electronic Recording to Be Made for a Trust)

Article 3 (1) The trustee may independently request an electronic recording to be made for the trust.

(2) In the cases set forth in the following items, the trustee must request an electronic recording to be made for the trust at the same time as requesting an electronic recording set forth in each item to be made:

- (i) if an electronically recorded monetary claim is to become part of the trust property through the accrual of an electronically recorded monetary claim (excluding those connected with the record of a guarantee and a special right to reimbursement) or through the assignment of an electronically recorded monetary claim: the record of accrual or the record of assignment;
- (ii) if an electronically recorded monetary claim becomes part of the trust property through the transfer of an electronically recorded monetary claim by reason of the assignment of the right to reimbursement as prescribed in

- Article 28 of the Act: the record of alteration prescribed in that Article;
- (iii) if a pledge is to become part of the trust property through the creation of a pledge on an electronically recorded monetary claim (including a sub-pledge): the record of a pledge's creation (including electronic recording of a sub-pledge); and
  - (iv) if a pledge becomes part of the trust property through the transfer of a pledge resulting from the assignment of a secured claim of a pledge (including a sub-pledge) on electronically recorded monetary claims: the record of alteration due to transfer of the pledge or sub-pledge.
- (3) A beneficiary or an assignor may request an electronic recording to be made for the trust on behalf of the trustee.

(Record of Alteration Due to a Change of Trustee)

- Article 4 (1) Notwithstanding the provisions of Article 29, paragraph (1) of the Act, if the trustee's duties have terminated due to the trustee's death, a ruling for the commencement of guardianship or commencement of curatorship, a ruling for the commencement of bankruptcy proceedings, dissolution for a reason other than the merger of a corporation, or a dismissal order issued by the court or a competent government agency (including a national government administrative agency to which the authority of the competent government agency is delegated, and a prefectural executive agency that administers affairs pertaining to the authority of the competent government agency), and a new trustee has been appointed, the newly appointed trustee may independently request a record of alteration to be made due to the change of trustee for an electronically recorded monetary claim, etc. that is part of the trust property.
- (2) Notwithstanding the provisions of Article 29, paragraph (1) of the Act, if there are two or more trustees and the duties of one of the trustees have terminated due to any of the causes prescribed in the preceding paragraph, the other trustees may request a record of alteration to be made due to the termination of the trustee's duties in relation to an electronically recorded monetary claim, etc. that is part of the trust property by themselves.

(Electronic Recording to Be Made when Electronically Recorded Monetary Claims Cease to Be Part of the Trust Property)

- Article 5 (1) Notwithstanding the provisions of Article 29, paragraph (1) of the Act, the trustee may independently request a record of alteration to delete the electronic recording for a trust (when an electronically recorded monetary claim, etc. that was part of the trust property ceases to be part of the trust property because it has become the trustee's own property, the trustee and the beneficiary may make the request).

- (2) With regard to the application of the provisions of the preceding paragraph when there is a trust administrator, the term "beneficiary" in that paragraph is deemed to be replaced with "trust administrator."
- (3) In the cases set forth in the following items, the trustee must request the record of an alteration to delete the electronic recording for the trust at the same time as requesting the electronic recording set forth in each item to be made:
- (i) if the electronically recorded monetary claim ceases to be part of the trust property due to the assignment of an electronically recorded monetary claim that was part of the trust property: the record of assignment;
  - (ii) if the electronically recorded monetary claim ceases to be part of the trust property due to the transfer of an electronically recorded monetary claim by reason of the assignment of the right to reimbursement prescribed in Article 28 of the Act: the record of alteration that is prescribed in that Article;
  - (iii) if the electronically recorded monetary claim has ceased to be part of the trust property due to the payment, etc. of the obligation under an electronically recorded monetary claim that was part of the trust property (meaning "payment, etc." prescribed in Article 24, item (i) of the Act; the same applies in item (v)), and a record of the payment, etc. is to be made (except for a record pursuant to the provisions of Article 63, paragraph (2) or Article 65 of the Act): the record of payment, etc.;
  - (iv) if a pledge on electronically recorded monetary claims (including a sub-pledge; the same applies in the following item) has ceased to be part of the trust property due to the transfer of the pledge resulting from the assignment of the secured claim of the pledge, which was part of the trust property: the record of alteration due to the transfer of the pledge or sub-pledge;
  - (v) if a pledge on electronically recorded monetary claims ceases to be part of the trust property due to the payment, etc. of the obligation pertaining to the secured claims of the pledge, which was part of the trust property, and a record of payment, etc. is made for the payment, etc.: the record of payment, etc.

(Recorded Matters in the Electronic Recording of a Compulsory Execution)

Article 6 The following matters must be recorded in the electronic recording of a compulsory execution, etc.:

- (i) details of the compulsory execution, etc. (meaning restrictions on a compulsory execution, tax delinquency dispositions, or other dispositions; hereinafter the same applies in this Article and the following Article);
- (ii) the cause of the compulsory execution, etc.;
- (iii) the necessary matters for specifying the electronically recorded monetary

- claim, etc. connected with the compulsory execution, etc.;
- (iv) if there is a creditor that has carried out the compulsory execution, the name and address of the creditor; and
- (v) the date on which the electronic recording was made.

(Deletion of the Electronic Recording of a Compulsory Execution)

Article 7 If, after an electronic recording is made of a compulsory execution, etc., the attaching creditor receives payment from a third-party obligor, the petition for an order of seizure through compulsory execution is withdrawn, disposition for tax delinquency such as seizure is canceled, or procedures for the compulsory execution, etc. connected to the electronic recording are terminated, and documents to that effect have been served, an electronic monetary claim recording institution must, without delay, make a record of alteration to delete the electronic recording of the compulsory execution, etc.

(Deletion of Electronic Recordings Made After a Provisional Disposition)

Article 8 If, after an electronic recording is made of a compulsory execution, etc. involving a provisional disposition that prohibits the disposition of property in order to preserve the right to request an electronic recording to be made of an electronically recorded monetary claim, etc., the creditor under the provisional disposition requests an electronic recording to be made in which the obligor under the provisional disposition is the electronically recorded claim obligor, the creditor may independently request that a record of alteration to delete the electronic recording that was made after the provisional disposition to be made.

(Correction to Electronic Recordings)

Article 9 (1) If a matter listed in Article 16, paragraph (2), item (xii) or item (xv) of the Act is recorded in the record of accrual, and if the record of assignment, the record of guarantee, the pledge creation record, or the record of division conflicts with the content of the record of accrual, the electronic monetary claim recording institution must correct the electronic recording; provided, however, that, if there is a third party with an interest in the electronic recording, the correction may be made only with the consent of the third party.

(2) The provisions of Article 10, paragraphs (3) through (5) of the Act apply mutatis mutandis to the correction of an electronic recording pursuant to the provisions of the preceding paragraph.

(Recorded Matters in Correcting an Electronic Recording)

Article 10 When an electronic monetary claim recording institution corrects an electronic recording pursuant to the provisions of Article 10, paragraph (1) or paragraph (1) of the preceding Article of the Act, or restores an electronic

recording pursuant to the provisions of Article 10, paragraph (2) of the Act, the institution must also record the correction date or the restoration date.

(Commissioning Electronic Recordings)

Article 11 The provisions of the Act that are related to procedures for making an electronic recording based on a request for an electronic recording to be made as prescribed in this Cabinet Order include cases in which the provisions are applied mutatis mutandis pursuant to Article 4, paragraph (2) of the Act, and the terms "request" and "requester" in this Cabinet Order are to include the terms commission and person commissioning, respectively.

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

(Minimum Amount of Capital)

Article 12 The amount specified by Cabinet Order which is set forth in Article 53, paragraph (1) of the Act is 500 million yen.

(Financial Institutions)

Article 13 Financial institutions specified by Cabinet Order which are set forth in Article 58, paragraph (1) of the Act are as follows:

- (i) banks prescribed in Article 2, paragraph (1) of the Banking Act (Act No. 59 of 1981) (including branch offices of foreign banks prescribed in Article 47, paragraph (2) of the same Act);
- (ii) long-term credit banks prescribed in Article 2 of the Long Term Credit Bank Act (Act No. 187 of 1952);
- (iii) The Shoko Chukin Bank, Ltd.;
- (iv) The Norinchukin Bank;
- (v) credit cooperatives and federations of cooperatives that conduct business set forth in Article 9-9, paragraph (1), item (i) of the Small and Medium-Sized Enterprise Cooperatives Act (Act No. 181 of 1949);
- (vi) shinkin banks and federations of shinkin banks;
- (vii) labor banks and federations of labor banks;
- (viii) agricultural cooperatives and federations of agricultural cooperatives (limited to those engaged in the business prescribed in Article 10, paragraph (1), item (iii) of the Agricultural Cooperatives Act (Act No. 132 of 1947));
- (ix) fishery cooperatives (limited to those engaged in the business prescribed in Article 11, paragraph (1), item (iv) of the Fisheries Cooperatives Act (Act No. 242 of 1948)), federations of fishery cooperatives (limited to those engaged in the business prescribed in Article 87, paragraph (1), item (iv) of the same Act), marine product processing industry cooperatives (limited to those engaged in the business prescribed in Article 93, paragraph (1), item (ii) of

the same Act), and federations of marine product processing industry cooperatives (limited to those engaged in the business prescribed in Article 97, paragraph (1), item (ii) of the same Act); and  
(x) the Bank of Japan.

### **Chapter III Miscellaneous Provisions**

(Authority Excluded from the Scope of Authority Delegated to the Commissioner of the Financial Services Agency)

Article 14 The authority specified by Cabinet Order which is set forth in Article 92, paragraph (1) of the Act is as follows:

- (i) designation pursuant to the provisions of Article 51, paragraph (1) of the Act;
- (ii) public notice pursuant to Article 51, paragraph (2) and Article 75, paragraph (2) of the Act; and
- (iii) rescission of the designation under Article 51, paragraph (1) of the Act pursuant to the provisions of Article 75, paragraph (1) of the Act.

(Delegation of Authority to the Director-General of a Local Finance Bureau)

Article 15 (1) Among the authority delegated to the Commissioner of the Financial Services Agency pursuant to the provisions of Article 92, paragraph (1) of the Act, the authority delegated pursuant to the provisions of Article 73, paragraph (1) of the Act (referred to as the "authority to order reports, etc." in the following paragraph) may be exercised by the Director-General of the Local Finance Bureau with jurisdiction over the location of the head office of the relevant electronic monetary claim recording institution (if the location is within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, the Director-General of the Fukuoka Local Finance Branch Bureau).

- (2) the authority to order reports, etc. in connection with a business office other than the head office of the relevant electronic monetary claim recording institution or the authority of a person to whom the relevant electronic monetary claim recording institution has entrusted its business (hereinafter referred to as "business office, etc.") may be exercised by the Director-General of the Local Finance Branch Bureau who is prescribed in the preceding paragraph and the Director-General of the Fukuoka Local Finance Branch Bureau, as well as the Director-General of the Local Finance Bureau with jurisdiction over the location of the business office, etc., (if the location is within the jurisdictional district of the Fukuoka Local Finance Branch Bureau, the Director-General of the Fukuoka Local Finance Branch Bureau).
- (3) The Director-General of a Local Finance Bureau or the Director-General of the Fukuoka Local Finance Branch Bureau who has issued an order to the

business office, etc., of the relevant electronic monetary claim recording institution to submit a report or materials or has conducted an inspection or asked questions (hereinafter referred to as an "order for reports, etc." in this paragraph) pursuant to the provisions of the preceding paragraph may issue an order for reports, etc. to the head office or a business office, etc. other than the first-mentioned business office, etc. of the relevant electronic monetary claim recording institution, if the Director-General finds it necessary.

Appended Table (Re: Article 1)

I t e m	Electronic Recording	Information Necessary for Requesting an Electronic Recording to Be Made
(i)	the record of accrual	(a) matters set forth in Article 16, paragraph (1), items (i) through (vi) of the Act (b) matters set forth in Article 16, paragraph (2), items (i) through (xiv) of the Act
(i i)	the record of assignment	(a) the record number of the monetary claims record in which a record of assignment is to be made (b) matters set forth in Article 18, paragraph (1), items (i) through (iii) of the Act (c) matters set forth in Article 18, paragraph (2), items (i) through (iv) of the Act
(i ii)	the record of payment, etc.	(a) the record number of the monetary claims record in which a record of the payment, etc. is to be made (b) matters set forth in Article 24, items (i) through (v) of the Act
(i v)	the record of alteration	(a) the record number of the monetary claims record in which a record of alteration is to be made (b) matters set forth in Article 27, items (i) through (iii) of the Act (c) if the person requests a record of alteration to be made due to the transfer of a pledge or sub-pledge in a partial assignment of secured claims, the amount of the secured claim that is the subject of the assignment
(v)	the record of guarantee	(a) the record number of the monetary claims record in which a record of guarantee is to be made



		<p>(b) matters set forth in Article 32, paragraph (1), items (i) through (iii) of the Act</p> <p>(c) matters set forth in Article 32, paragraph (2), items (i) through (ix) of the Act</p>
(v i)	the pledge creation record (excluding the electronic recording prescribed in the following item)	<p>(a) the record number of the monetary claims record in which a pledge creation record is to be made</p> <p>(b) matters set forth in Article 37, paragraph (1), items (i) through (iii) of the Act</p> <p>(c) matters set forth in Article 37, paragraph (2), items (i) through (vii) of the Act</p>
(v ii)	the pledge creation record involving revolving pledges	<p>(a) the record number of the monetary claims record in which a pledge creation record involving revolving pledges is to be made</p> <p>(b) matters set forth in Article 37, paragraph (3), items (i) through (iv) of the Act</p> <p>(c) matters set forth in Article 37, paragraph (4), items (i) through (v) of the Act</p>
(v ii i)	the electronic recording of a change in the order of pledges	<p>(a) the record number of the monetary claims record in which the electronic recording is to be made</p> <p>(b) matters set forth in Article 39, paragraph (1), items (i) through (iii) of the Act</p>
(ix)	the electronic recordings of a sub-pledge (excluding electronic recordings prescribed in the following item)	<p>(a) the record number of the monetary claims record in which an electronic recording is to be made for the sub-pledge</p> <p>(b) the pledge number of the pledge that is the subject matter of the sub-pledge</p> <p>(c) matters set forth in Article 37, paragraph (1), items (i) through (iii) of the Act as applied mutatis mutandis pursuant to Article 40, paragraph (2) of the Act</p> <p>(d) matters set forth in Article 37, paragraph (2), items (i) through (vii) of the Act as applied mutatis mutandis pursuant to Article 40, paragraph (2) of the Act</p>

( x )	the electronic recordings of a sub-pledge creating a revolving pledge	(a) the record number of the monetary claims record in which an electronic recording is to be made for the sub-pledge (b) the pledge number of the pledge that is the subject of the sub-pledge (c) matters set forth in Article 37, paragraph (3), items (i) through (iv) of the Act as applied mutatis mutandis pursuant to Article 40, paragraph (2) of the Act (d) matters set forth in Article 37, paragraph (4), items (i) through (v) of the Act as applied mutatis mutandis pursuant to Article 40, paragraph (2) of the Act
( x i)	the electronic recordings of the determination of the principal secured by the revolving pledge	(a) the record number of the monetary claims record in which the electronic recording is to be made  (b) matters set forth in Article 42, paragraph (1), items (i) through (iii) of the Act
( x ii )	the record of division	(a) the record number of the original monetary claims record  (b) a statement to the effect that electronically recorded monetary claims are to be divided (c) matters set forth in Article 44, paragraph (1), item (iii) of the Act (d) matters set forth in Article 45, paragraph (1), items (ii) through (iv) of the Act (e) matters listed in Article 46, paragraph (1), item (iii) and item (iv) of the Act (f) in the cases set forth in the items of Article 47 of the Act, matters specified by order of the competent ministry in accordance with the rules set forth in these provisions, notwithstanding the provisions of sub-items (c) through (e)
( x ii i)	the electronic recording for a trust	(a) the record number of the monetary claims record in which the electronic recording for the trust is to be made  (b) matters set forth in Article 2, item (i) and item (ii)

( x i v )	the electronic recording of a compulsory execution, etc.	(a) the record number of the monetary claims record in which an electronic recording of the compulsory execution, etc. is to be made  (b) matters set forth in Article 6, items (i) through (iv)
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