

# **The Enactment of Korea's Electronic Promissory Note Act**

## **2004 and its Legal Principles**

### **—A Comparison with Korea's Electronic Credit System—**

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#### **Abstract**

With the expansion of electronic transaction supported by evolving information technology (IT), electronic negotiable instruments or checks, as well as electronic right of creditors, have been studied for years to enable the development of electronic payment systems between creditors and debtors who are primarily corporations.

In this context, this article, first, examines the legislative background and its legal principles of Korea's "Electronic Promissory Note Act of 2004," and then compares them with those of the "Electronic Credit System," which was established by banking industry in 2002. As for the legal principles of the electronic promissory note (2004), it is questioned, more than anything else, how the electronic version of promissory note can satisfy the requirements of the possession and its transmission of a tangible (paper) note. The legal framework in the act for the harmonization of the requirements in tangible notes with the electronic ones will be closely considered. And as for the Electronic Credit System, it will examine how the Non-Negotiable Right of a creditor can be used electronically for the payment from the debtor or for a loan from the creditor's bank. As a bill for the enactment of this system is now being deliberated in Korea's National Assembly, if it is voted for by a majority, Korea would have two acts concerning electronic payment between corporations (creditor and debtor).

Now in Japan, it is suggested that the "Electronic Right of Creditors," of which the legislation has been discussed, be characterized as the integration model of electronic note (Negotiable Right) and electronic right of creditors (Non-Negotiable Right). With regard to that, lastly, this article compares the two institutions of Korea and analyzes the relationship between the two, as a Negotiable Right for one and a Non-Negotiable Right for the other.

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