

The Legal Concept “Settlement Finality” in Funds Transfers System

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Abstract

Settlement finality, as defined in general, is the discharge of an obligation by a transfer of funds and a transfer of securities that have become irrevocable and unconditional. This concept has been increasingly focused on while the G-10 countries attached their importance on the risk management in settlement systems. But its relations with the other concepts, such as “payment” and “discharge”, has not been clear, and therefore, its *raison d’être* and scope has been ambiguous. It is crucial to seize the essence of the concept before we discuss the settlement phenomena with it.

This paper outlines the concept “settlement finality”, pointing out its two distinct though related aspects; the one that signifies the discharge in the interbank settlement process and the other that identifies the non-reversibility of finality so as to withstand insolvency laws. Following the present discussion on the meaning of the concept “settlement finality”, it then analyses the roles the two aspects practically perform in the settlement process and sets out the legal framework for the operation of settlement systems by use of both aspects of settlement finality. And moreover, it poses some policy problems surrounding the risk control and settlement mechanisms with the new viewpoints acquired in the above-stated discussion and analysis.

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