

NEWSLETTER

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Digital Finance Team

CONTACT



Hyunkoo KANG

T: +82,2,772,4429
E: hyunkoo.kang@leeko.com



Hwan Kyoung KO

T: +82,2,2191,3057
E: hwankyounk.ko@leeko.com



Chloe Jung-Myung
LEE

T: +82,2,6386,0730
E: chloe.lee@leeko.com



Kyung Won HAN

T: +82,2,6386,7924
E: kyungwon.han@leeko.com



Sihong KIM

T: +82,2,6386,0756
E: sihong.kim@leeko.com

Partial Amendment Bill to the Electronic Financial Transactions Act passed by the National Assembly's National Policy Committee

On May 11, 2023, the “Amendment Bill to the Electronic Financial Transactions Act” (the **Amendment**) passed the plenary session of the National Assembly's National Policy Committee.

The Amendment expands the scope of electronic prepayment means by abolishing the universality requirement, and strengthens the regulation of electronic prepayment means by requiring that prepaid amounts be managed separately and in a safe manner, such as by a deposit or trust. In addition, it is expected to contribute to the revitalization of simple payments by institutionalizing the small deferred payment settlement business introduced through innovative financial services into a concurrent business of issuing and managing electronic prepayment means. The specifics of the Amendment are discussed below.

1. Highlights of the Amendment

■ Expanding the scope of regulated electronic prepayment means

- According to the Amendment, electronic prepayment means under the Electronic Financial Transactions Act (EFTA) can be considered electronic prepayment means even if they can only purchase goods or services of “one business category” from a third party other than the issuer and its related parties.

According to the current EFTA, in order to qualify as electronic prepayment means, the range of goods or services that can be purchased must fall into “two or more business categories”. However, there was a consensus to abolish the “two or more business categories” requirement in order to resolve the blind spots for management of the electronic prepayment means that emerged from the Merge Point incident, and this is reflected in the Amendment.

Accordingly, the EFTA applies to electronic vouchers (including those in paper form that can be converted to an electronic form), mobile coupons, points, etc.

that were previously only available to purchase goods or services in one business category. In order to issue them, you must register the electronic prepayment means issuer and management business (unless you are exempt from registration). However, the Amendment will take effect one year after the date of enactment, and a grace period of one and a half years will be granted by requiring registration of the electronic prepayment means issuance and management business within six months from the date of enactment through transitional measures.

- The Amendment expands the scope of electronic prepayment means, but exempts small business operators from registration if their outstanding balance and total annual issuance are below a certain level, so as not to impose an additional regulatory burden on them. It was stated that the specific amount will be set at a reasonable level based on industry surveys and input, so it will be interesting to see what happens.
- On the other hand, the EFTA in its current form exempts electronic prepayment means issuance and management businesses from registration if they are used only by merchants that meet the criteria set by the Enforcement Decree, such as if there are 10 or fewer merchants, while the Amendment limits the exemption to situations where there is only one merchant.
- In addition, regulations on issuers and managers of electronic prepayment means have been strengthened, and it is possible to grant economic benefits to users, such as issuing discounts or paying reserves, only if they meet the standards of financial soundness. There are also new restrictions on business conduct, that require merchants to include in their terms and conditions that they will pay the full balance recorded on the electronic prepayment means if the merchant reduces or changes the terms and conditions without a justifiable reason.

■ **Protecting prepaid amounts**

According to the Amendment, issuers and managers of electronic prepayment means must separately manage the amount of money which is equal to 50% or more of the prepaid amounts and prescribed by the Enforcement Decree, by means of a trust, deposit, or payment guarantee insurance. The Amendment also restricts the use of prepaid amounts not separately managed, and prepaid amounts with payment guarantee insurance, in a safe manner. Whether the method in question is “safe” is to be determined by the EFTA Enforcement Decree, which will be operated similarly to the “Guidelines for the Protection of User Funds by Electronic Financial Business Entities” currently in effect.

■ **Introduction of small deferred payment settlement services**

The Amendment stipulates that electronic prepayment means issuers and managers can also operate small deferred payment settlement services concurrently, which creates a statutory basis for the small deferred payment settlement services currently provided by electronic prepayment means issuers and managers through innovative financial services.

Regarding the regulation of small deferred payment settlement businesses, there

was a discussion about whether the requirements under the Specialized Credit Financial Business Act should be comprehensively applied. However, an opinion was raised that it is difficult to predict what specific requirements should be applied and comprehensive application would constitute excessive regulation. Therefore, it has been agreed that the EFTA Enforcement Decree will provide detailed regulations on business conduct, such as the scope usage limit and the total provision limit of deferred payment businesses, at the current level of the conditions for innovative financial services.

2. Implications

Under the Amendment, a number of new types of vouchers, which were previously not regulated as electronic prepayment means, as they were used to purchase goods or services in one business category, will now qualify as electronic prepayment means. Therefore, it is expected that many businesses that were not previously required to register for issuing and managing electronic prepayment means will now be required to register as electronic prepayment means issuers and managers (unless exempt from registration) under the Amendment. They will also need to comply with regulations under the EFTA, including restrictions on the operation of prepaid amounts. It is especially important to note that there are criminal penalties for unregistered operators.

Therefore, businesses that offer vouchers and points need to prepare for the implementation of the Amendment by closely examining whether the vouchers and points qualify as electronic prepayment means, whether they are obligated to register as an electronic prepayment means issuers and managers, whether they can be exempted from registration, and (if required to be registered) what are the registration requirements and what regulations they must comply with.

Lee & Ko's Digital Finance Team is comprised of leading experts in the field of the EFTA and has extensively advised on various legal matters and issues related to the EFTA. Please feel free to contact our Digital Finance Team if you need assistance with any of the above.

For more information pertaining to this newsletter, please contact the attorneys identified on the left.

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Seoul, Korea | PanGyo, Korea | Beijing, China | Ho Chi Minh City, Vietnam | Hanoi, Vietnam
+82.2.772.4000 | mail@leeko.com | www.leeko.com