

Stablecoins Regulations in Japan



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A. Introduction

The Financial Services Agency (“FSA”) established a Working Group on Payment Services, and the report of this working group (“**Report**”) was published on January 11, 2022. In response to the Report, amendments to the Payment Services Act (“**PSA**”),¹ the Act on Prevention of Transfer of Criminal Proceeds, Financial Instruments and Exchange Act (“**FIEA**”),² the Banking Act, and other statutes were enacted on June 3, 2022 (collectively, the “**Amendments**”). The Amendments will take effect within one year from the date of their promulgation on June 10, 2022.

The Amendments can be grouped as follows: (i) the regulations on stablecoins, (ii) the regulations on prepaid payment instruments, and (iii) joint transaction monitoring by banks. This article provides a brief introduction of the regulations on stablecoins.

B. Classification of Stablecoins

Stablecoins are widely distributed overseas as a method of payment for cryptoassets and other digital assets. In Japan, stablecoins that can be redeemed in currency fall

under the category of assets denominated in currencies as stipulated in Article 2, Paragraph 6 of the current PSA. However, the current PSA does not have a legal framework to regulate stablecoins that are blockchain tokens.

Under the Amendments, stablecoins will be categorized as follows:

- (i) digital money type stablecoins, which are issued at a price linked to the value of a legal currency and promised to be redeemed in the same amount as its issue price; and
- (ii) crypto asset type stablecoins, which are stablecoins that are not digital money type stablecoins.

Digital money type stablecoins will be regulated as electronic payment instruments as stipulated in Article 2, Paragraph 5 of the amended PSA. On the other hand, crypto-asset type stablecoins will not fall under the category of electronic payment instruments and will be categorized as crypto assets under the PSA or as securities under the FIEA.

1. *Shikin kessai ni kansuru horitsu* [Payment Services Act], Act No. 59 of June 24, 2009.

2. *Kinyu shohin torihiki ho* [Financial Instruments and Exchange Act], Act No. 25 of 1948, as last amended by Act No. 95 of December 14, 2018.



C. Regulations on Electronic Payment Instruments

1. Issuers of Electronic Payment Instruments

Issuers of electronic payment instruments are limited to banks, funds transfer service providers, and trust companies.

2. Intermediaries of Electronic Payment Instruments

The amended PSA introduced a new registration system to regulate intermediaries of electronic payment instruments. Also, the electronic payment instruments business has been defined to include the following:

- (i) purchase and sale of electronic payment instruments, or exchange thereof with other electronic payment instruments;
- (ii) intermediary, brokerage or agency services in connection with item (i) above;
- (iii) management of electronic payment instruments for another person; or
- (iv) (a) transfer funds and reduce the claim amount regarding an exchange transaction equivalent to such funds, or (b) increase the claim amount regarding an exchange transaction equivalent to the funds received by using an electronic data processing system in commission and on behalf of the fund transfer service operator.

Additionally, electronic payment instruments business operators must comply with the following regulations:

- (i) provide an information security management;
- (ii) if the electronic payment instruments business operator consigns a part of the electronic payment instruments business to a third party, then it must implement the necessary measures to ensure the proper and reliable conduct of the business;

- (iii) implement necessary measures to protect users and ensure the proper and reliable conduct of the electronic payment instruments business;
- (iv) refrain from accepting deposits of money and other property from users, which is, in principle, prohibited;
- (v) provide for the separate management of the electronic payment instruments of users from the electronic payment instruments business operator's own assets;
- (vi) enter into a contract with the issuer of the electronic payment instrument, which must include provisions regarding the sharing of liability for compensation;
- (vii) provide a financial services alternative dispute resolution mechanism;
- (viii) comply with the measures under the Act on Prevention of Transfer of Criminal Proceeds; and
- (ix) submit an annual report.