

A close-up photograph of a person's hands typing on a laptop keyboard. The image is overlaid with semi-transparent digital graphics, including a line graph with a red trend line and a bar chart, suggesting a financial or technological context.

Electronic Registration System for Securities

I. Meaning and Background of the Electronic Securities System

On September 16, 2019, the electronic securities system was introduced with the adoption of the Act on Electronic Registration of Stocks and Bonds (“Electronic Securities Act”). The electronic securities system aims to reduce social costs of inefficiency incurred in issuing and handling physical form securities and potential risks associated with distribution of such physical form securities. Through the electronic securities system, all matters concerning securities, such as issuing securities, distributing

them and exercising rights over them, are handled electronically, without issuance of physical securities certificates. In other words, the electronic securities system has completely dematerialized securities.

Even prior to the adoption of the electronic securities system, securities holders were able to deposit their physical form securities with the Korea Securities Depository and rarely kept them in possession. However, as the physical form securities co-existed, there were a number of issues including counterfeiting, forgery and theft, illicit trading for the purpose of tax evasion as well as costs of issuing physical form securities.

Under the electronic securities system, securities are issued through electronic registration only, and no physical certificates are issued. This has resolved the risks involved in distributing physical form securities such as counterfeiting, forgery, theft, loss, and destruction of securities. As investors' rights (bonus stock issuance, stock dividends, cash dividends, etc.) are automatically registered in their electronic registration accounts, they no longer miss the receipt thereof. The electronic securities system is also beneficial to issuers as various procedures required for issuing physical form securities can be skipped, resulting in a streamlined process of issuing and distributing securities and enhanced efficiency in funding.

II. Overview of Electronic Securities System

1. Securities subject to Electronic Registration

(1) Securities subject to Mandatory Electronic Registration

Any issuer that issues the following securities are required to have them electronically registered with the electronic registry: listed securities (including listed stock and listed bonds), beneficial interests in investment trusts, shares of investment companies, contingent convertible bonds (including those issued under the Financial Investment Services and Capital Markets Act, the Banking Act and the Financial Holding Companies Act), derivative-linked bonds (applicable only when the issuer is an investment trader), mortgage-backed securities (MBS), student loan-backed securities (SLBS), derivative-linked securities (such as ELW and ELS), Korea depository receipts (KDR), and other shares so determined and announced by the Financial Services Commission (Proviso of Article 25, Paragraph (1) of the Electronic Securities Act and Article 18 of the Enforcement Decree of the same act).

(2) Securities subject to Optional Electronic Registration



Any issuer that issues stocks, bonds, beneficial interests under the Trust Act, and certificates of deposit that are not subject to the above mandatory electronic registration requirement may also opt for electronic registration. However, certain securities are not eligible for electronic registration: commercial papers (CPs), for which the holders' rights are established only when issued in physical form, and equity interests in a limited partnership company, which are subject to transfer restrictions.

2. Account Management System and Effect of Electronic Registration

When securities are electronically registered, as in the case of the existing depository system, a two-tier account structure is formed, consisting of "an electronic registry and an account management institution". Accordingly, the electronic registration account is opened by the security holder, and when the holder is registered in the electronic registration account book, it is presumed to have a right so registered. Among the management accounts (which have no legal effect), the issuer management account is opened by the issuer, and the customer management account is opened by the account management institution.

However, unlike the depository system, as no issuer shall issue physical form securities or certificates, such securities or certificates issued in violation of the above have no effect (Article 36, Paragraphs (1) and (2) of the Electronic Securities Act).

A holder of electronically registered securities (“Electronic Securities”) opens an electronic registration account at an electronic registration institution or an account management institution (investment broker, etc.). A person who is electronically registered in the applicable electronic registration account book (i.e., customer account book and proprietary account book of account management institutions, etc.) shall be presumed to have a legal right over the relevant Electronic Securities. Bona fide acquisition of the Electronic Securities is recognized (Article 35, Paragraphs (1) and (5) of the Electronic Securities Act). Transfers of the Electronic Securities are only effective if the transfer between the accounts is electronically registered. Establishment and discharge of pledge over the Electronic Securities are also only effected when electronically registered. The trust over the Electronic Securities may be asserted against a third party if it is electronically registered (Article 35, Paragraphs (2) and (4) of the Electronic Securities Act).

3. Exercising Rights over Electronic Securities

A holder of the Electronic Securities may exercise its rights (such as receiving dividends, principal, interest,

etc. or exercising conversion rights, preemptive rights, etc.) through an electronic registry (Article 38, Paragraph (1) of the Electronic Securities Act). Alternatively, such holder may exercise such rights through a certificate of ownership (Article 39, Paragraph (1) of the Electronic Securities Act) or a notice of details of ownership (Article 40, Paragraph (1) of the Electronic Securities Act). The difference between the existing depository system and the electronic securities system is that, under the former, holders of deposited securities could only check the details of their rights through the registry of beneficial owners of shares prepared by the Korea Securities Depository, but under the latter, shareholders are directly listed in the shareholders’ register.

By Ji-Pyoung Kim (Attorney)

Chang-Hee Shin (Foreign Attorney)

Seung-Hwan Cheong (Attorney)

Hyung-June AN (Attorney)

Kim & Chang

** The opinions expressed in this article are the author’s own and do not reflect the views of KOTRA.*