

The Decline of *Lex Monetae* and its Future (summary)

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Under the present floating exchange rate system, the value of a currency is expressed in terms of its exchange rate to each of other currencies and is only relative. Under a full swing of the freedom of capital transfers, the global money and financial market has grown so immensely. Major currencies are also traded in a similar way as securities and commodities.

Traditionally an important element of a nation's sovereignty was its monetary sovereignty. The economic well-being of a nation rested on the stability of the monetary system which the nation maintained. Its monetary authority controlled the supply of credit and the economy was geared to its maximum potential. In order to accomplish this, certain restrictive rules were imposed as *lex monetae* upon the manner for the use of the currency. Typical of such measures were the legal tender rule, mandatory nominalism, home currency rule, and the prohibition of value maintenance clauses. However, these traditional rules which had been developed to sustain the objectives in issuing a nation's own currency have already declined and related matters are now left to the world of *lex contractus*.

This paper first analyzes why the foundation which supported the traditional principles has currently been shaken. It asks whether the functional basis upon which national currencies used to be issued still exists and explores the extent to which the traditional monetary law doctrines or systemic concepts remain valid. It then attempts to predict a new systemic path for the emergence of an entirely new order in this delocalized world. This is based on a conclusion that *lex monetae* as a nation-based regulation will no longer suited to the present world and on a prediction that a new set of rules may eventually emerge at the global dimension within the domain of *lex contractus* as has been the case with the international money market of Euro-dollar or yen which developed away from national jurisdictional interventions over years.

The experiences associated with the introduction of the common currency Euro in the European Monetary Union are also analyzed because it provides us

with an opportunity to reassess afresh the present state of *lex monetæ* in the context of this changed world of delocalized and globalized economy. Also, it may be noted that, clearly influenced by the successful introduction of Euro, the currently increasing voice in East Asia favors the creation of a common unit of account for regional dealings. Parallel with such a way of thought, the linking of foreign exchange benchmark to a basket of major currencies is also favored. Euro may have set a step for a band wagon to role in search of a more stable global measure of economic value.