

Changmin Chun

Cross-border Transactions of Intermediated Securities

A Comparative Analysis in Substantive Law
and Private International Law

 Springer

Cross Border Transactions Of Intermediated Securities

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Justin Monsenepwo



Cross Border Transactions Of Intermediated Securities Cross Border Transactions Of Intermediated Securities:

Cross-border Transactions of Intermediated Securities Changmin Chun, 2012-08-04 This work aims to analyse substantive and conflict of laws rules regarding intermediated securities in a comparative way For this purpose it examines major jurisdictions rules for intermediated securities and the intermediated securities holding systems such as the rules of the German US Korean Japanese and Swiss systems as well as the relevant EU regimes and initiatives Above all it analyses the two international instruments related to intermediated securities i e the Geneva Securities Convention and the Hague Securities Convention Through a functional comparative approach based upon legal traditions of the various jurisdictions this book gives readers theoretical and practical information on intermediated securities and their national and international aspects

The Law Applicable to Security Interests in Intermediated Securities Under OHADA Law Justin Monsenepwo, 2023-01-03 In recent decades the technical handling of custody business in the OHADA region has undergone a lasting change There has been a shift from a direct to an indirect holding system in which the interests of an investor in respect of the underlying securities are recorded in the books of an intermediary such as a bank or a securities firm Under the law of all states within the OHADA region the traditional conflict of laws rule for determining the enforceability of a securities pledge that occurs in the indirect holding system is the *lex rei sitae* or the *lex cartae sitae* or the *lex situs* rule However the traditional *lex rei sitae* rule cannot be appropriately applied to a system where the dematerialised securities are held through multiple layers of intermediaries located in different jurisdictions Yet until the intermediated system and the collateralisation of intermediated securities in the OHADA region will continue to operate in somewhat legally murky waters leading to more instability in the financial markets Therefore Justin Monsenepwo aims to find an appropriate and consistent approach that reflects the reality of the indirect holding system in the OHADA region

Intermediation and Beyond Louise Gullifer, Jennifer Payne, 2019-01-24 The global shift from the direct holding of securities by investors to the current intermediated holding system raises many important legal issues These include the impact of the intermediated holding system on the rights of investors and the enforcement of those rights against intermediaries and issuers The cross border nature of many holding patterns adds another layer of complexity to these issues and reduces legal certainty Against this intermediation offers benefits for many investors including the ability to hold a cross border portfolio with one intermediary a reduction in costs and the facilitation of the use of securities in the collateral repo and securities lending markets This book covers a number of legal topics relating to intermediated securities including the history of intermediation the benefits and problems in the current intermediated holding system and how future legal and technological developments could help to resolve these problems while retaining the benefits of intermediation It also examines the possible impact of FinTech on this area in particular the potential for Blockchain to be used in the issuing holding and settlement of securities the extent to which this will solve some of the difficulties that currently exist and whether the use of Blockchain will create new difficulties

that will need to be overcome This book which originated in a series of workshops organised by the Commercial Law Centre at Harris Manchester College Oxford will appeal to those interested in financial and corporate law including academics practitioners policy makers and students

Title and Title Conflicts in respect of Intermediated Securities under English Law Wenwen Liang, 2013-08-19 This book examines property issues in respect of intermediated securities under English law namely title and title conflicts between a true owner and a purchaser Intangible book entry securities held with an intermediary often commingled with the holdings of other clients of the intermediary often give rise to uncertainty in property rights in the securities of an investor under most legal systems for example whether property rights can be established and how title conflicts are dealt with This book identifies the flexible framework of English property law for establishing property rights over commingled intangibles in particular through trusts establishes the policy of priority rules as of comparing the merits of rights and preferring a vested right of a true owner over a subsequent purchaser particularly a vested right under fiduciary relations The book works towards the conclusion that given the general principle of English property law for vested rights title conflicts may be tilted towards purchasers in a mild rather than a radical way by introducing a good faith purchaser rule to intermediated securities or leaving it to judicial discretion where an estoppel might work in favour of a purchaser This book is suitable for lawyers officials and academics in the field of intermediated securities as well as trust property and financial regulation

Digital Innovation in Financial Services Phoebus L. Athanassiou, 2016-04-24 Consumer behaviour is rapidly trending towards the use of digital devices as instruments through which to transact day to day business This original and timely book shows how this trend creates new opportunities not only for retail consumers but also for financial service providers regulators and central banks The author offers a comprehensive overview of these opportunities and their countervailing legal and regulatory challenges The author describes and analyses in unprecedented detail the application of digital financial innovation FinTech and some of its core manifestations including virtual currencies Blockchain and distributed ledger technologies to the delivery of financial services in areas such as payments securities clearing and settlement central banking real time access to financial information instant completion of core financial transactions data validation and reconciliation processes and digital contracting smart contracts Also clarified are the legal and other barriers to be overcome including cybersecurity and risks to privacy before any widespread adoption of digital innovation in the highly regulated financial sector context can occur As an informed assessment of the legal merits and risks of technological innovation for financial service providers and central banks and as a contribution to establishing a conceptual framework within which to analyse and better understand the applications of digital innovation to the financial sector this practical work is bound to be welcomed by legal practitioners and legal scholars alike with an interest in financial services Policymakers and regulators will also appreciate its guidance on how to temper the less benevolent aspects of FinTech with targeted risk focused regulation so as to promote innovation and preserve the potential benefits for financial

markets and their participants alike Secured Transactions Law Reform Louise Gullifer, Orkun Akseli, 2016-10-20 Secured transactions law has been subjected to a close scrutiny over the last two decades One of the main reasons for this is the importance of availability of credit and the consequent need to reform collateral laws in order to improve access to finance The ability to give security effectively influences not only the cost of credit but also in some cases whether credit will be available at all This requires rules that are transparent and readily accessible to non lawyers as well as rules that recognise the needs of small and medium sized enterprises This book critically engages with the challenges posed by inefficient secured credit laws It offers a comparative analysis of the reasons and the needs for a secured transactions law reform as well as discussion of the steps taken in many common law civil law and mixed law jurisdictions The book written under the auspices of the Secured Transactions Law Reform Project informs the debate about reform and advances novel arguments written by world renowned experts that will build upon the existing literature and as such will be of interest to academics legal practitioners and the judiciary involved in secured transactions law around the world The text considers reform initiatives that have taken place up to the end of April 2016 It has not been possible to incorporate events since then into the discussion However notable developments include the banks decree passed by the Italian Government on 29th June 2016 and the adoption of the Model Law on Secured Transactions by UNCITRAL on 1st July 2016 **Legal Risk in the Financial Markets** Roger McCormick, 2010-12-09 Previous edition 1st published in 2006 Non-State Rules in International Commercial Law Johanna Hoekstra, 2021-03-15 Through further technological development and increased globalization conducting business abroad has become easier especially for Small and Medium Enterprises SME However the legal issues associated with international commerce have not lessened in complexity including the role of non state rules The book provides a comprehensive analysis of non state rules in international commercial contracts Non state rules have legal authority in the national and international sphere but the key question is how this legal authority can be understood and established To answer this question this book examines first what non state rules are and how their legal authority can be measured it then analyses how non state rules are applied in different scenarios including as the applicable law as a source of law or to interpret either the law or the contract Throughout this analysis three other important questions are also answered when can non state rules be applied when are they applied and how are they applied The book concludes with a framework and classification that leads to a deeper understanding of the legal authority of non state rules Providing a transnational perspective on this important topic this book will appeal to anyone researching international commercial law It will also be a valuable resource for arbitrators and anyone working in international commercial litigation **International and Comparative Secured Transactions Law** Spyridon V Bazinas, Orkun Akseli, 2017-10-19 The law of secured transactions has seen dramatic changes in the last decade International organisations particularly the United Nations Commission on International Trade Law UNCITRAL have been working towards the creation of international legal standards

aimed at the modernisation and harmonisation of secured financing laws eg the United Nations Convention on the Assignment of Receivables in International Trade the UNCITRAL Legislative Guide on Secured Transactions and its Intellectual Property Supplement the UNCITRAL Guide on the Implementation of a Security Rights Registry and the UNCITRAL Model Law on Secured Transactions The overall theme of this book is international or cross border secured transactions law It assembles contributions from some of the most authoritative academic voices on secured financing law This publication will be of interest to those involved in secured transactions around the world including policy makers practitioners judges arbitrators and academics

Swedish Perspectives on Private Law Europeanisation Annina H Persson, Eleonor Kristoffersson, 2017-01-12 As part of the European integration an ambitious programme of harmonisation of European private law is taking place This new edition in the Swedish Studies in European Law series the work of both legal scholars and politicians aims to create a modern codification in the tradition of the great continental codifications such as the BGB and the Code Civil A significant step towards this development was taken in 2009 with the creation of the Draft Common Frame of Reference which contains model rules for a large part of central private law The process raises a number of questions What are the advantages and disadvantages of such an intensive process of harmonisation Are there lessons to be learnt from the Europeanisation of private law through history Are there any further steps which have been taken in order to create a European private law What is the future of European private law These crucial questions were discussed at a conference in Stockholm sponsored by the Swedish Network of European Legal Studies This important volume includes the answers offered by leading scholars in the field

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