

Financial Law Institute

Working Paper Series

WP 2001-15

December 2001

*Virtuele financiële dienstverlening
(e-banking en e-trading). Een
transactionele benadering.*

Michel TISON

*The **Financial Law Institute** is a research and teaching unit within the Law School of Ghent University, Belgium. The research activities undertaken within the Institute focus on various issues of company and financial law, including private and public law of banking, capital markets regulation, company law and corporate governance.*

*The **Working Paper Series**, launched in 1999, aims at promoting the dissemination of the research results of different researchers within the Financial Law Institute to the broader academic community. The use and further distribution of the Working Papers is allowed for scientific purposes only. Working papers are published in their original language (Dutch, French, English or German) and are provisional.*

*For more information and a full list of available working papers, please consult the **homepage** of the Financial Law Institute at:*

<http://www.law.rug.ac.be/fli>

*Virtuele financiële dienstverlening
(e-banking en e-trading). Een
transactionele benadering.*

Michel TISON

Abstract

This paper examines to which extent Belgian law at present enables, from a transactional point of view, the conclusion of financial transactions by electronic means.

Basically, financial services regulation is characterised by a large amount of formal requirements with respect to the formation of contracts, which cannot be fulfilled in an electronic environment. In legal terms, a distinction should be made between a formal requirement imposed for purposes of proof of a contractual relationship and requirements which bear an influence on the validity of contracts. Although recent laws in Belgium have allowed the substitution of traditional means of proof by electronic means, there is not, at present, any rule which allows the formation of (financial) contracts by electronic means in general.

The Belgian law will have to be adapted on numerous points in the near future, due to the forthcoming implementation date of the European Directive on electronic commerce.

The difficulties currently faced by financial institutions in offering virtual financial services are illustrated by different examples: consumer credit, mortgage credit, e-trading.

Published in:

***Privaatrecht in de reële en de virtuele wereld,
Post-Universitaire Cyclus Willy Delva, Kluwer, 2002,
p. 285-321.***

As this working paper has been published in the abovementioned book, it is no longer available in working paper format. Readers are kindly referred to the published article.