

Thailand New Payment System Law

The Payment System Act (“PSA”) B.E. 2560 was published in the Government Gazette on 16th October 2017. It will become effective on 14th April 2018.

The PSA empowers the Ministry of Finance (“MOF”) and the Bank of Thailand (“BOT”) to regulate and supervise the Systemically Important Payment Systems, the Regulated Payment Systems, and the Regulated Payment Services for the purposes of risk management and security, financial stability, good governance, customer protection and efficiency, and competitiveness.

The Systemically Important Payment Systems are the payment systems that support high-value fund transfers, clearings or settlements between its members of the system. Examples are BAHTNET (BOT Automated High-Value Transfer Network) and ICAS (Imaged Cheque Clearing and Archive System).

The Regulated Payment Systems are defined as (1) a payment system that operates as a center or a network between users of the systems and supports fund transfers, clearings or settlements; or (2) a payment system that may affect the public interest, public confidence or stability and security of payment systems.

The Regulated Payment Services refer to (1) a service of credit card, debit card or ATM card, (2) an e-money service, (3) an e-payment service through electronic means for sellers, service providers or creditors, (4) a fund transfer service through electronic means, (5) other payment services that may affect financial system or the public interest.

Separating Advance Payment. A service provider who receives an advance payment from a customer must prepare and keep a separate advance payment account of each customer. The advance payment funds must be kept separately from the service provider’s assets and it cannot be used for any other purposes. The advance payment is not subject to seizure or attachment in civil cases or distribution to creditors in bankruptcy cases against the operator.

License. Operators of the Regulated Payment Systems and the Regulated Payment Services must hold a license granted by the MOF. The applicant for a license to operate the Regulated Payment Systems and the Regulated Payment Services must be a private limited company, a public limited company or other legal entities to be determined by the BOT.

The existing operators of these payment systems and payment services must obtain necessary licenses from the MOF within 120 days from the effective date of the PSA.

Administrative Fines and Criminal Penalties

Operators who fail to comply with the PSA can be subject to administrative fines, criminal

penalties or both. The administrative fines can be up to THB 13 million. The criminal penalties can be imprisonment up to 10 years or a fine up to THB 10 million, or both. If the offender is a legal entity, its directors, managers or persons in charge of its operation will also be liable for the same penalties jointly with the legal entity.

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