

# Client Alert

April 2016

## Recent Developments of e-Payment in Thailand: New Regulation on e-Payment Service and National e-Payment Master Plan

### 1. The ETC Notification on e-Payment Service Businesses

The ETC Notification re: Requirements, Procedures, and Conditions for Undertaking Electronic Payment Service Business B.E. 2559 (2016) was published in the *Thai Government Gazette* on 11 April 2016 and came into effect on 12 April 2016. This revokes and replaces earlier versions of the relevant ETC Notifications. Several requirements remain the same. For example, List A, List B, and List C service providers remain service businesses which are required (a) to notify, (b) register or (c) obtain a license before providing the services respectively. However, there are some key changes that existing and potential e-Payment service providers should consider, as summarized below.

#### 1.1 Specific requirements for e-money service provider

- e-money can now be recorded in Thai baht (THB) or foreign currency and can be used in Thailand or outside Thailand. However, other laws such as the exchange control law must also be considered.
- List B and List C e-money service providers must specify an appropriate maximum limit for the outstanding balance per card/account.
- List B and List C e-money service providers must have a system or mechanism to take care of customers and limit damage in case of loss or theft of e-money (e.g. registration system).
- Upon receiving a specific approval from the Bank of Thailand (BOT) on a case-by-case basis, non-financial institution e-money service providers under List C will be able to operate the following businesses in addition to e-money business:
  - businesses that partially or wholly relate to, or are in connection with the e-money service (if this business is a regulated e-Payment business, appropriate license must be obtained); and
  - businesses that support the e-Payment business so long as it does not result in risks which may adversely affect the core business and the prepaid amounts.

#### 1.2 Specific requirements for e-Payment via any equipment or network (List C3) and substitute payment (also known as bill payment) (List C5)

- non-financial institution C3 or C5 service providers must maintain separate accounting records for money received as payment from the users apart from other working capital.

#### 1.3 Requirements for all e-Payment service providers

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- The appointment of an agent for providing service to service users, must comply with a new BOT notification, which will likely be issued in the future.
- Existing service providers will have an additional period of time for compliance in some respects e.g.
  - 180 days for compliance with qualifications of director or management and separate accounting records
  - 1 year for implementing measures in case of e-money loss or theft.

## 2. The National e-Payment Master Plan

As mentioned in our previous Client Alert (February 2016), the Thai Cabinet approved in principle the National e-Payment Master Plan which comprises the following five projects, that all relevant parties (banks and non-bank e-Payment service providers, BOT, Ministry of Finance, Revenue Department, and other government agencies) are diligently pushing forward:

- 2.1 **Any ID payment system** - To support payment and money transfer by specified ID (e.g. 13-digit ID numbers, mobile numbers, e-Wallet IDs, bank account numbers, or email addresses) registered with financial institutions or other e-Payment service providers. This is to improve convenience for Thai people and increase business opportunities for SMEs and e-commerce businesses that might benefit from lower operational costs.
- 2.2 **Expansion of the use of electronic cards** - To promote the use of electronic cards in lieu of cash. This includes the expansion of Electronic Data Capture (EDC) machines coverage in all areas of the country, establishing Local Debit Card scheme, and developing financial infrastructure to support payment via electronic cards.
- 2.3 **e-Tax system and e-Transactions documents** - To integrate an e-Tax system by implementing e-Tax invoices, e-Receipts, the transfer of electronic data for VAT and withholding tax; boosting the efficiency of tax collection and reducing unnecessary time-consuming red-tape between Thai people and government entities. The use of data analytics based on an electronic database would also be exploited to forecast and set the economic policy of the country.
- 2.4 **Government e-Payment** - To support payment to and by government entities electronically in order to create payment efficiency and reduce corruption, which is made easy by the use of cash. This includes establishing an electronic channel for government entities to pay social welfare money to Thai people effectively.
- 2.5 **Educating Thai people with e-Payment knowledge and awareness** - To disseminate information to change people's behavior, leaning towards the use of e-Payment and e-Transactions. This involves issuing government incentives to boost e-Payment usage instead of cash and cheques.

## 3. Other Developments

- 3.1 Royal Decree Regarding Supervision of e-Payment Service Businesses of Specialized Financial Institutions was published in the government gazette on 30 March 2016 and will become effective on 28 July 2016. The Royal Decree is intended to bring the e-Payment service businesses of specialized financial institutions under the regulation with the same standards as those applicable to players in the private sector.
- 3.2 As mentioned in our previous Client Alert (February 2016), the Thai Cabinet also approved in principle the new Payment System Bill on 1 December 2015. Once passed, it may repeal and replace the Royal Decree Regulating e-Payment Service Business B.E. 2551 (2008)

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and the Notification of the Ministry of Finance regarding Business that Requires Permission According to Section 5 of the Notification of the Revolutionary Council No. 58 (Electronic Money Card).

3.3 Effective from 18 April 2016, the exchange control law now allows several new types of cross-border money transfer agents, including e-Payment service providers. e-Payment service providers who wish to operate cross-border money transfer business will need to obtain a license from the Ministry of Finance, through the BOT.