

# E-PAYMENT SERVICE PROTECTION FOR CONSUMERS

**R**ecently in Thailand and around the globe, companies have been offering more and more electronic payment services. These have either been in the form of direct debit cards, prepaid credit cards, or counter payment centres such as Paypoint. With the continuing growth of online shopping in Thailand, these electronic payment services have seen greater and greater demand from the general public.

The new Royal Decree Governing Control and Supervision of Electronic Payment Service Business (Electronic Payment Services Decree or EPSD) went into effect on Jan 14, 2009. The general purpose of this new law is to introduce oversight of the electronic debit service business which, prior to the Decree, was not fully addressed by finance company, credit card or banking regulations that already existed. This is one in a series of laws recently enacted for greater consumer protection against fraud.

Enforcement of the EPSD falls within the jurisdiction of the Electronic Transactions Commission (ETC), as originally created under the Electronic Transactions Act (2001).

The EPSD is applicable to those certain electronic payment service providers as specifically identified in Schedules A, B and C. Each schedule identifies different categories of service providers that must meet different qualifications, reporting, and/or licensing requirements.

Category A providers, who can either be individuals or juristic entities, have the least onerous obligations. This group is limited to electronic money services provided for purchases of specific goods or specific services from a single source. Category A providers are required to file reports with the Bank of Thailand outlining their operations, security measures, contingency plans and other terms to be specified by further notices issued by the central bank and/or the ETC.

Category B providers consist of electronic credit card, debit card and e-payment network service providers; switching service providers for any payment system; and any electronic money services provided for the purchase of specific goods or services from more than one source but at a place under the same distribution and servicing system. Category B providers must file reports as discussed above, but also must register their operations with the BoT. If their application to register meets all qualifications specified by the BoT (per future notices), then a certificate of registration will be issued.

Category C providers consist of electronic payment and credit card clearing, balance settlement, and switching services for multiple payment systems, substitute payment services and electronic money services provided for the purchase of specific goods or services from more than one source without limitations as to place or use thereof and not under the same distribution or service system. Category C providers must obtain a licence from the ETC before providing such services.

Category B and C providers can only



be juristic entities.

Although the EPSD became effective on Jan 14, businesses that were already operating electronic payment services on that date have been given a 120-day grace period. However, they are required to submit the necessary reports, or applications to register or for a licence, as applicable, no less than 60 days prior to the lapse of such grace period. This would make March 16 the current deadline, absent any extension.

Under the EPSD, the Bank of Thailand was tasked with issuing further notices related to qualification requirements and data security (utilising its experience from issuing similar notices in the finance, credit card and banking industries). Draft ETC notices that have since been published and are awaiting approval by the central bank governor include imposing minimum capital requirements for Category C providers, regulating disclosure of service fees, complaint procedures and minimum personal and financial data security requirements.

More specifically, the current draft ETC Notice imposes a minimum registered capital requirement for Type C service providers of 200 million baht for settlement activity and e-money services, 50 million for clearing activity and transaction switching activity, and five million baht for electronic payment service and payment service provider services.

In addition, the draft ETC Notice also lays down the specific conditions and criteria for service providers engaging in each of the following types of services e.g. e-money, credit card network, EDC network, transaction switching, clearing, settlement, electronic payments through any device or network, and payment services provider.

Finally, the draft ETC Notice mandates that electronic payment service providers must submit financial statements and periodic reports to the Bank of Thailand, and those who outsource material business processes to external contractors must be liable for such contractors' services and must have the procedures to evaluate and monitor the services of such outsourcing entity and allow auditors including the central bank to monitor their services.

Further notices are anticipated over the future from both the ETC and central bank, which may further regulate the industry as similarly exist in the finance, credit card and banking sectors.

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