

Thailand's New Categories of Payment Systems and Services: A Practical Guide

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On October 18, 2017, Thailand published the new Payment System Act B.E. 2560 (2017) in the *Government Gazette*, and the law came into effect 180 days later on April 16, 2018. This legislation reclassifies payment systems and services into three categories: (1) highly important payment systems such as BAHTNET and Imaged Cheque Clearing and Archive System (ICAS); (2) designated payment systems; and (3) designated payment services.

The Ministry of Finance has since issued two notifications, both of which also came into effect on April 16, 2018, prescribing the categories for designated payment systems and designated payment services in categories (2) and (3). In addition, the Bank of Thailand (BOT) has issued several notifications detailing the rules, procedures, and conditions for applications for licenses and registration, as well as the rules relating to supervising the operation of each payment system and service.

Designated Payment Systems

Under the Ministry of Finance Notification Re: Determining Designated Payment Systems, the following payment systems are regarded as "Designated Payment Systems," operation of which requires a license from the BOT:

1. Inter-institution fund transfer systems;
2. Payment card networks; and
3. Settlement systems

With one or more of the following characteristics:

1. Supporting transactions for the overall financial and economic systems of the country;
2. Connecting and settling through the BAHTNET system, which is part of the primary national infrastructure; or
3. Having more than three users, which may pose risks to the overall financial and economic system of the country, or affect the confidence of the public or the stability of the payment system.

Designated Payment Services

Under the Ministry of Finance Notification Re: Determining Designated Payment Services, payment system businesses that provide any of the following services are deemed to be “Designated Payment Services,” operation of which requires a licence from (or registration with, as the case may be) the BOT:

1. Services relating to credit cards, debit cards, and ATM cards, except for cards used to settle payments for goods or services under the same business, or under the same franchise system;
2. Electronic money services, subject to certain exemptions;
3. Electronic payment services, which includes:
 - acquiring a business;
 - payment facilitation;
 - authorized payment reception service; or
4. Electronic fund transfers and money remittance

For ease of reference, the payment systems and services under these three categories are tabulated below:

Highly Important Payment Systems	Designated Payment Systems	Designated Payment Services
BAHTNET	Inter-institution fund transfer system	The provision of services relating to credit cards, debit cards, and ATM cards
Imaged Cheque Clearing and Archive System (ICAS)	Payment card network	Electronic money services
	Settlement system	Electronic payment services <ul style="list-style-type: none">▪ Acquiring business▪ Payment facilitation▪ Authorised payment reception service
		Electronic fund transfer and money remittance

Practical Steps for Registration

In our experience, despite the clarification provided by this new legislation, it is still relatively difficult to determine which type of license or registration will be required to operate an e-payment system or service businesses in Thailand. Therefore, prudent business operators wishing to operate a payment system or provide payment services in Thailand should carry out the following steps for registration in collaboration with Thai legal counsel.

1. Provide your business model and transaction flow to a Thai attorney (and briefly explain them in writing or verbally), and instruct them to determine the appropriate category of payment system or service license, or any other relevant licenses or registrations that may be involved. They should advise you on the applicable requirements, such as the registered capital, the qualifications of the directors, etc., and provide you with a short, simple report on the relevant aspects of your business operations to assist with the application(s).
2. Instruct your attorney to assist you with submitting the report and scheduling for the meeting with the BOT.
3. Prepare presentation materials for the BOT's consideration. We typically recommend that our clients prepare presentation slides that incorporate the background of the company, and provide details about the business model, the business plan, and clear details about the transaction flow.
4. Wait for a response from the BOT to schedule a meeting, which is normally received within one or two weeks, depending on their availability. Arrange for management personnel and staff members who have detailed insight about the proposed business activities and payment systems or services in Thailand to meet with the BOT at the scheduled appointment. At least one attendee must be fluent in Thai (which can be your attorney, if necessary). While most BOT officials have English proficiency, it is vital to have a Thai speaker with you help to provide support and answer any questions raised by the BOT (if required).
5. Stay in touch and be responsive. The BOT may request additional information before the meeting, and it is important to respond promptly to avoid unnecessary delay.
6. Prepare for your presentation. Some of our clients ask us to help them rehearse for their presentation, in order to ensure that their presentation covers all the key points required by the BOT.
7. Your attorney should accompany you to the BOT and attend the meeting with you.

Payment transaction businesses can be subject to many other legal requirements, such as exchange control regulations, which will require additional licenses or registrations. Your attorney should advise you of these in advance and assist you with following a similar process as detailed above for each of them.

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