

## Notification of the Ministry of Finance

### Business that requires a permit according to section 5 of the Declaration of the Revolutionary Council No. 58 (Business regarding the Electronic Money Card)

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According to section 5, 7, 8, and 14 of the Declaration of the Revolutionary Council No. 58 (dated 26 January 1972) regarding the supervision of trading business which has an impact on public safety and well-being, the Declaration of the Revolutionary that has restrictions on the rights and freedom of person and under section 29, 35, 48, and 50 of Thai Constitution states that it could be executed by the virtue of the law, the Minister of Finance shall announce the Notification to regulate the issuing of electronic money card which is the business resemble to banking that requires permission under this Notification as follows:

**Section 1.** In this Notification:

“Electronic Money Card” means electronic card which has been issued by an electronic money card service provider to the customer, whether the name is specified or not, which the disbursement has been paid to the electronic money card service provider in advance, for the purpose of good payment, service payment, or other payments instead of cash payment, and such payments will be recorded in advance.

“Electronic Card” means electronic card in accordance to Thai Criminal Code

“Consumer” means consumer in accordance to Thai Consumer Protection Act

“Electronic money card service provider” means a person who has been permitted to engage in electronic money business

“State Agency” means the Ministry, sub-Ministry, Government Department, Provincial Administration, Local Administration, State Enterprises, and other agencies of the State

“Financial Institution” means commercial bank, finance company, and credit foncier company, in accordance to the Financial Institution Business Act

## Chapter 1

### Formation and License Application

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**Section 2.** The performing of electronic money card business is the affair that requires a permit.

The provision in paragraph one shall not be applied to:

- (1) The Government Sectors
- (2) Financial Institutions
- (3) Issuer of the electronic money card which has the purpose for purchasing specific goods or services, listed by only one seller or service provider in advance
- (4) Issuer of the electronic money card which has the purpose for purchasing specific goods and/or services, formerly listed by more than one seller or service provider at the place which has similar system of distribution and service

**Section 3.** The electronic money card service provider shall be a legal entity in the form of limited company or public limited company, and shall be permitted by Minister in written form.

The permission application shall be applied through the Bank of Thailand in comply to the form and evidence document requirement regulated by the Bank of Thailand, which at least must have:

- (1) copy of the certificate of incorporation
- (2) copy of the memorandum of association
- (3) copy of the articles of association
- (4) copy of the shareholder's register

Apart from this, the name, career history, and qualification of the committee and auditor, including the branch office and the location, if there is any, shall also be reported.

After the documents to obtain the permission following the previous paragraph have been correctly received, the Bank of Thailand shall propose the permission application to the Minister for approving the permission of such electronic money card service provider within sixty days from the date the application and required documents are completely submitted.

**Section 4.** The electronic money card service provider shall have paid-up registered capital at minimum of two hundred million baht.

## Chapter 2

### Conditions for Business Operating

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**Section 5.** The electronic money card service provider shall specify the details and methods to manage the advance payment received from the consumer and record those information, in accordance with the rules prescribed by the Bank of Thailand.

**Section 6.** The electronic money card service provider shall stipulate all fees and expenses resulting from the Electronic Money Card usage in the prospectus application and contract in accordance with the methods prescribed by the Bank of Thailand.

**Section 7.** The electronic money card service provider shall:

- (1) notify the Bank of Thailand regarding the formation of branch office in advance of no later than fifteen days before the formation of such branch office
- (2) not disclose the private information of consumer, unless;
  - (a) the consent is received by the consumer in writing form
  - (b) the disclosure is an inevitable duty, or for the benefits of investigation or legal proceedings
  - (c) it is disclosed for the auditor of such electronic money card service provider
  - (d) it is disclosed for the benefit of legality

**Section 8.** The electronic money card service provider is not permitted to:

- (1) Reduce the capital, unless there is a permission from the Minister
- (2) Cease or restrain the operation regarding the electronic money card, unless there is a permission from the Minister
- (3) Relocate the business head-office, or relocate or close down the branch office, unless there is a permission from the Bank of Thailand

The permission following the section 8(1) and (2) shall be acquired by submitting the application through the Bank of Thailand. The Bank of Thailand then propose the application to the Minister to approve the application within sixty days from the date that the application and required documents are completely submitted.

**Section 9.** The electronic money card service provider shall act in accordance with the rules, procedures, and conditions as prescribed by the Bank of Thailand of the following list:

- (1) The management of money received in advance from the customer
- (2) Any fee related to the usage of electronic money card
- (3) The examining and maintaining the security of electronic money card usage
- (4) The cash reimbursing
- (5) The code of conduct regarding consumer enquiries
- (6) The code of conduct in case of complaints
- (7) The accounting and reporting
- (8) Other matters which the Bank of Thailand sees necessary for the security or well-being of the public

**Section 10.** A classified person in the following lists shall not be the director, manager or a person with the power of management of electronic money card business;

(1) Having been declared bankrupt

(2) Having been imprisoned by a final court judgement on the offences against property which have been done by corruption

(3) Having been a director, manager, or a person with power of management over the credit card business which the license revocation has been announced by the Minister following section 10 of the Notification of the Ministry of Finance regarding the businesses which require the permission under the section 5 of the Declaration of the Revolutionary Council No. 58 (dated 11 November 2002)

(4) Having been a director, manager, or a person with power of management over the business providing personal loans under the supervision which the license revocation has been announced by the Minister in accordance to section 10 of Notification of the Ministry of Finance regarding the business that requires a permit according to section 5 of the Declaration of the Revolutionary Council No. 58 (Regarding the personal loan under the supervision).

(5) Having been a director, manager, or a person with power of management over the electronic card business which the license revocation has been announced by the Minister in accordance to section 11.

**Section 11.** In the circumstance when;

(1) the electronic money card service provider violates or neglects to comply with any of the operating conditions,

(2) the financial status or the business operation of the electronic money card service provider might cause significant detriment to the public interest, the Bank of Thailand shall have the power to order the electronic money card service provider to correct its violation, the financial status, or any business operation, within the prescribed period and report to the Minister immediately.

If no correction has been done within the period prescribed by the Bank of Thailand as stated in the first paragraph, the Minister under the advice of the Bank of Thailand shall have the power to order the electronic money card service provider to cease all or some part of its business temporarily within the prescribed period to proceed the correction. In this regard, the Minister shall also stipulate any rule, procedure, or any condition for the electronic money card service provider.

If no correction has been done by complying to the Minister's order as stated in the second paragraph, the Minister shall have the power to withdraw the permission to perform the electronic money card business and those stated in second paragraph shall also be compliantly applied.

**Section 12.** In the event when the electronic money card service provider wish to cease the electronic money card business, such person must inform the Minister through the Bank of Thailand.

After being informed, the Bank of Thailand shall take a consideration and immediately propose the opinion to the Minister no later than thirty days since the date of informing.

The Minister, under advice of the Bank of Thailand, shall take a consideration and provide the instruction regarding the time of cessation and under whichever condition and measure, within thirty days since the day that the Minister has been informed by the Bank of Thailand as stated in the second paragraph. If there is an inevitable situation and the consideration could not be done on the prescribed time, the Minister shall inform the electronic money card service provider in written form before deadline. In this regard, the extending of consideration period shall only be permitted no longer than thirty days since the deadline.

After the Minister has approved the cessation, the electronic money card service provider shall publish the information in at least one mass daily newspaper in the duration of no less than three days.

**Section 13.** The Bank of Thailand shall have the authority to appoint the Bank of Thailand Officer to act as competent official to perform and enforce the outcome that is in accordance to the Declaration of the Revolutionary Council No. 58 (dated 26 January 1972) and this Ministerial Notification. The Bank of Thailand has the power to investigate the operations of the business which has been regulated under this ministry notification, and legal proceedings related to the wrongful acts under the Declaration of the Revolutionary Council No. 58, dated 26 January 1972.

**Section 14.** When requested by official, the electronic money card service provider must arrange its director, official, employee, or auditor to provide the statement or declare the book of account and other evidences related to the business of electronic money card service provider, as demanded by official.

**Section 15.** Any person who violates or neglects to act in accordance with the specified conditions regulated under this notification shall be penalized as specified in the Declaration of the Revolutionary Council No. 58, dated 26 January 1972.

## Transitory Provisions

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**Section 16.** The electronic money card service provider, who undertakes the electronic money card business prior to the date of this notification coming into force and wish to continue its business, shall submit the application within sixty days from the date that this notification is active.

**Section 17.** For the electronic money card service provider who has submitted a permission application in accordance with section 16 and has the paid-up registered capital less than the amount of money stipulated in section 4, after the application has been approved, the registration for the capital increase and call for unpaid capital shall be done within six months from the date that this notification is active.

**Section 18.** This notification shall be in force after sixty days from the date that it has been published in the Gazettes.

Announce on 4 October 2004

Countersigned by,  
Somkid Jatusripitak  
Minister of Finance