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Unofficial Translation
Royal Decree Regulating on Electronic Payment Services
B.E. 2551 (2008)

BHUMIBOL ADULYADEJ, REX.

Given on the 17th Day of August B.E. 2551.

Being the 63rd Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to regulate electronic payment service;

By virtue of the provision of section 187 of the Constitution of the Kingdom of Thailand, in conjunction with section 32 paragraph one, section 33 paragraph two and section 34 paragraph two of the Electronic Transactions Act B.E. 2544 (2001), containing certain provisions relating to the restriction of rights and liberties of the people, in respect of which section 29 in conjunction with section 43 of the Constitution of the Kingdom of Thailand so permit by virtue of the provisions of law, be it, therefore, enacted by His Majesty the King, the Royal Decree as follows:

Section 1 This Royal Decree shall be called the “Royal Decree Regulating on Electronic Payment Services Business B.E. 2551 (2008)”.

Section 2 This Royal Decree shall come into force after one hundred and twenty days from the date of its publication in the Government Gazette.¹

Section 3. In this Royal Decree:

“electronic payment” means the transfer of the right to hold money or the transfer of the right to withdraw or debit from the user accounts deposited with the service provider by electronic means in whole or in part;

“electronic card” means an electronic card in accordance with the Penal Code;

“credit card” means an electronic card issued by service provider to its user for the payment of goods, services or other payments in lieu of cash, or for

¹ Published in the Government Gazette Vol. 125, Part 99a, p. 1, dated 16th September 2008.

withdrawing, debiting, transferring or other transactions related to money and the service provider will subsequently demand such user to repay such payment;

“debit card” means an electronic card issued by the service provider to its user for the payment of goods, services or other payment in lieu of cash, or for withdrawing, debiting, transferring, or other transactions related to money in accordance with the value of money that user has deposited with the service provider;

“electronic money” means an electronic card issued by the service provider for its user, whether it is specified the name or not. The user shall pay money in advance to the service provider in order to use such electronic money for the payment of goods, services or other payments in lieu of cash and the value or amount of the prepaid money has been recorded;

“EDC” (Electronic Data Capture : EDC) means devices or tools used for the transmission of electronic payment data from credit card, debit card, electronic money or any other electronic card to the service provider who issues such cards;

“EDC network” means the network for the transmission of EDC data, having data transmission center or linkages among network users;

“credit card network” means the networks providing the service on transmission of electronic payments data from the credit card for the user who is a cardholder to the service provider who is the card issuer in order to approve each credit card transaction or the transmission of money collection data generated from an electronic payment, including balance reconciliation;

“transaction switching” means the service of being a data center or linkage for the transmission of electronic payment data to the service provider as agreed;

“bill payment” means the service of collecting payments by electronic means on behalf of the creditor;

“clearing” means the service of transmission, examination and verification of data generated from payment instructions for the calculation of balance representing status of creditor or debtor of the user in order to use for settlement the balance between the creditor and the debtor, including arrangements to complete the settlement process;

“settlement” means the payment system service agreed in advance between the user and the service provider in order to allow the service provider to reconcile the creditor or the debtor status of the user, whereby the service provider will debit money from the deposit account of the user who is in the status of debtor, or receive performance by other means as agreed and adjust such deposit account of the user as a creditor or pay to the creditor by other means for the extinction of the obligation;

“service provider” means the business operator providing electronic payment service as prescribed in the List annexed to the Royal Decree hereto;

“BOT” means the Bank of Thailand by virtue of the Bank of Thailand Law;

“Governor” means the Governor of the Bank of Thailand;

“Commission” means the Electronic Transactions Commission; and

“competent official” means the Governor of the Bank of Thailand, or a person appointed by the Governor of the Bank of Thailand, to execute the duties set forth in this Royal Decree;

Section 4 The BOT shall be responsible for regulating and overseeing the electronic payment services business under this Royal Decree.

Section 5 This Royal Decree shall not apply to the electronic payment services provided by the BOT.

Section 6 The Prime Minister shall be in charge and control of the execution of this Royal Decree.

CHAPTER I

Undertaking of Electronic Payment Services Business

Section 7 Any electronic payment service business for which the service provider is required to notify, register, or obtain a license shall be as listed in the List annexed to the Royal Decree hereto.

Rules, procedures, and forms regarding the notice, registration or licensing process shall be in accordance with those prescribed **in the notification of** the Commission.

Section 8 An applicant who would like to be the service provider under List A may be a natural person or a juristic person under section 9 (2).

An applicant who would like to be the service provider under List B or C shall be a juristic person under section 9 (2)

Section 9 Each applicant shall have the qualifications and not have prohibited characteristics, as follows:

(1) natural person:

- (a) at least twenty years of age;
- (b) being domiciled in Thailand, or a Thai resident;
- (c) not in the course of receivership, not being a bankrupt or having been discharged from bankruptcy within two years from the date of the court issued an order of annul or discharge the bankruptcy;
- (d) not being a person of unsound mind or having been adjusted as an incompetent or quasi-incompetent person;
- (e) not having been imprisoned by a final court judgment for any offence relating to forgery, theft, snatching, extortion, blackmail, robbery, gang-robbery, defraud, cheating against the creditor, embezzlement, receiving stolen property, or any computer crime under the computer crimes law;
- (f) not having been prohibited from carrying out electronic payment services and not having been discharged from such prohibition with the five years period to the date of the notice not having elapsed;
- (g) not being a director, or a person with managerial power of a juristic person which has been prohibited from carrying out the electronic payment services or for which the license was revoked and the five years period to the date of the application for the notice, the date of the application for registration, or the date of application for a license, as the case may be, not having elapsed.

(2) juristic person:

- (a) shall be a juristic person incorporated as a registered partnership, limited partnership, limited company, or public limited company with the objective of carrying out electronic payment services as set forth in the List annexed to the Royal Decree hereto; the Commission may determine the registered capital. For List C applicant shall not be a juristic person incorporated as a registered partnership or a limited partnership;

- (b) its director or person with managerial power shall have the qualifications and not have prohibited characteristics as stated in (1);
- (c) of which the license has not been suspended at such time; and
- (d) not having been prohibited from manage a business in electronic payment services or of which a license has been revoked, and the five years period to the date of the application for the notice, the date of application for registration, or the date of application for a license, as the case may be, not having elapsed.

The Commission may prescribe in its notification additional qualifications or prohibited characteristics of each services provider of electronic payment services as prescribed in the List annexed to this Royal Decree as appropriate.

Section 10 An applicant who would like to be the service provider shall file a form of notice, application for registration or application for license, as the case may be, together with the document as follows:

- (1) For a List A service provider:
 - (a) a business contingency plan, or backup system ensuring an uninterrupted service; and
 - (b) policy and measure on the information technology security which meets at least the standards prescribed by the BOT;
- (2) For Lists B and C service providers:
 - (a) documents under (1) above;
 - (b) a policy and a business plan on an electronic payment services;
 - (c) an operation plan for undertaking an electronic payment service business;
 - (d) a risk management system;
 - (e) an internal control system; and
 - (f) a report of a feasibility and risk assessment study on the provision of services and a business continuity plan in case of any failure occurred

For the purpose of regulating services provided by service providers under each list, the BOT may require any addition documents from which prescribed in paragraph one.

Section 11 An applicant who would like to be a service provider under List A or B shall file a form of notice or an application for registration, as the case may be, together with the documents under section 10 to the Governor or a competent official appointed by the Governor. If it appears that the applicant has filed all required documents and complied with the rules and procedures prescribed in the notification of the Commission under section 7 paragraph two, an acknowledgement of the notice or a certificate of registration shall be issued, as the case may be.

If it is subsequently found that any List A or B service provider has submitted incorrect or incomplete documents or evidence, or to observe the rules and procedures prescribed in the notification of the Commission, or does not comply with qualifications or has any disqualifications, the Governor or a competent official appointed by the Governor shall order such service provider, as the case may be, to correct such failure within seven days from the date of the order.

In the case of such service provider fails to comply with the order, or to correct such failure within the time specified in paragraph two, the Governor or a competent official appointed by the Governor shall report such failure to the Commission for further action as set forth in section 33 paragraph four of the Electronic Transactions Act B.E. 2544 (2001). The Commission shall have the power to order the service provider to take any corrective action as appropriate.

If it is later detected that any List A or B service provider does not comply with any qualification, or has any disqualification to which no resolution can be made, the Commission shall issue an order prohibiting such service provider from carrying out the service notified or registered, and to revoke the acknowledgement of notice or the certificate of registration of such service provider, as the case may be.

Section 12 If a List C applicant has filed an application for a license together with the documents under section 10 (2), the Governor or a competent official appointed by the Governor shall examine the documents under section 10 to ensure they are correct and complete, and proceed with the rules and procedures prescribed in the notification of the Commission under section 7 paragraph two. If it is found that any document or evidence is incorrect or incomplete, or the service provider has not properly complied with the rules and procedures prescribed by the Commission, the Governor or a competent official appointed by the Governor shall notify to the applicant to resolve such incompliance prior to report the Commission for a consideration for a license.

If it appears that a List C applicant has filed correct and complete documents and complied with the rules and procedures prescribed by the Commission under section 7 paragraph two, or has resolved such failures as ordered by the Governor or a competent official appointed by the Governor under paragraph 1, the Governor or a competent official appointed by the Governor shall propose the matter to the Commission for their consideration for a license.

Section 13 For the purpose of regulating and overseeing services provided by each service provider, the Commission may prescribe any instructions for providing services of List A or B service providers, or may stipulate conditions for the provision of the licensed of service obtained by a List C service provider.

The instructions and conditions under paragraph one shall not place any material obstacle to the service provider.

Section 14 A license granted to service provider under the List C shall be valid for ten years.

A List C service provider may file an application for license renewal within ninety days, but not less than sixty days prior to the expiration date of the license. Such application for renewal shall be filed to the Governor or a competent official appointed by the Governor together with the documents validating of the existing license.

The Commission shall approve or reject an application for renewal within thirty days from the receipt of the application under paragraph two. Notice of such approval or rejection shall be made in writing to the applicant submitting the renewal application.

In the event that the Commission rejects the application for the renewal of a license under paragraph two and the existing license remains valid, the service provider shall continue to provide the services under the existing license until the expiry thereof. In such case, the Commission may instruct the service provider to undertake any action for the purpose of protecting the benefit of users.

The rules, procedures and application forms for the renewal of a license shall be prescribed in the notification of the Commission.

Section 15 In the case that an acknowledgement of notice, registration certificate, or license is lost, destroyed or materially damaged, the applicant shall file an application for replacement to the Governor or a competent official appointed by

the Governor, in accordance with the rules, procedures, and form prescribed in the notification of the Commission.

The Regulating of Electronic Payment Services

Section 16 The Commission shall have the power to promulgate and prescribe the rules, procedures, and conditions for electronic payment services as necessary and requisite for the electronic payment services in each List. The rules, procedures and conditions may include the following matters:

- (1) custody and disclosure of the personal information of the customers;
 - (2) examination and maintenance the security for the reliability and availability of the systems;
 - (3) the execute of the plan, policy, measure and any systems submitted by the service provider under section 10, as the case may be;
 - (4) clarify the service fees:
 - (5) the acknowledgement of a complaint in the case of a grievance or users dispute and the process, as well as time frame, for its resolution;
 - (6) preparation of accounts and operating reports;
 - (7) submission of financial statements and operation report to the BOT;
- and
- (8) other matters as appropriate in order to regulate the services in each type.

Section 17 For the purpose of regulating and overseeing business enterprise of the service providers under each type of service, the BOT may prescribe further rules, procedures, and conditions as necessary for the service to ensure the neatness, as follow:

- (1) the issuance of payment receipt;
- (2) collection of money to be delivered;
- (3) prescribing the finality of money transferred to be unconditionally and immediately available for the recipient;
- (4) process for maintaining the financial status of the service provider; or
- (5) the arrangement for an independent information technology security auditor.

Independent information technology security auditor under (5) above shall be included in the list prescribed by the Commission.

Section 18 The service provider under Lists B and C must :

(1) in the case of any problems or failure to provide an electronic payment service, must notify such incident to the BOT, without delay;

(2) prepare the data and the information of the service under this Royal Decree to be available for examination by a competent official; and also provide facilities to a competent official for such examination of a practice under this Royal Decree; or

(3) in the case of changing director, or a person having management power of the service provider which is a juristic person, notify to the BOT; such replacement shall have the requisite qualifications and have no disqualifications under section 9 (2) (b) on the date of notice of such change.

Section 19 If any service provider wishes to cease its service, such service provider shall give at least sixty days of notice to the BOT. The acknowledgement of notice, certificate of registration or license, as the case may be, shall be returned within fifteen days of the date of cessation. If the person wishing to cease the service is a service provider under List B or C, the BOT shall announce such matter to the public.

The BOT shall have the power to instruct the service provider wishing to cease its business under the foregoing paragraph to undertake any action to protect the benefits of its users prior to the cessation.

In the case of the BOT have proceed the action under paragraph one, the BOT shall report the matter to the Commission without delay.

Section 20 For the purpose of compliance with this Royal Decree, in regulating and overseeing electronic payment services, a competent official shall have the power to instruct service providers to provide any information or documents.

Section 21 If any service provider fails to comply with the rules set forth in the Notifications of the BOT, the Notification of the Commission or this Royal Decree, the BOT shall have the power to order such service provider to resolve the breach, or to comply therewith within the time so prescribed

CHAPTER III

Prohibition, Suspension of Use and Revocation of License

Section 22 In the case that any service provider under List A or B violates, or fails to comply with the Notifications of the BOT, Notifications of the Commission or provision under this Royal Decree, the Governor, or a competent official appointed by the Governor, shall forthwith report to the Commission for undertaking any measures provided in section 33 paragraphs four, five, and six of the Electronic Transactions Act B.E. 2544 (2001) without delay.

Section 23 If any service provider under List C fails to comply with the rules set forth in the Notifications of the BOT, the Notifications of the Commission, or this Royal Decree and thereby it is reasonably believed that such failure may impact the whole payment system, or if any such service provider fails to comply with the order of the BOT in remedying a breach pursuant to section 21. The Commission shall undertake any measure provided under section 34 paragraph four of the Electronic Transactions Act B.E. 2544 (2001). The Commission may suspend the license until such service provider resolves such failure within the period prescribed by the Commission.

Section 24 The Commission shall have the power to revoke the license of a service provider under List C if it appears that the service provider:

(1) undertake any action prescribed in section 34 paragraph five of the Electronic Transactions Act B.E.2544 (2001); or

(2) does not comply with qualification, or has any disqualification, under sections 8 and 9; or

(3) fails to comply with the rules set forth in the Notifications of the BOT, the Notifications of the Commission, or provisions under this Royal Decree; or repeatedly breach any provisions under section 21 and thereby it is reasonably believed that such failure may have material impact on the whole payment system.

Transitional Provision

Section 25 Operators providing electronic payments by means of this Royal Decree, on the date this Royal Decree becomes effective, shall continue their business for one hundred twenty (120) days from such date.

If any service provider under the foregoing paragraph intends to continue providing their electronic payment service after the expiry of the time limit prescribed in the foregoing paragraph, such service provider is required to notify, apply for the registration or obtain a license, as the case may be, within ninety (90) days, but not less than sixty (60) days, prior to the expiry of the time limit prescribed in the foregoing paragraph.

Countersigned by
Samak Soonthoravej
Prime Minister

**List Annexed to the Royal Decree
Regulating on Electronic Payment Services B.E. 2551 (2008)**

List A

The service which required to notification prior to the commencement of such business operation;

Electronic Money service provided for payment of certain goods or services, as specified in advance provided by a single service provider, except for electronic money service limited to the purpose of facilitating consumers without taking profit from the issuance of the card, as prescribed by the BOT, with the approval of the Commission.

List B

The service which required to registration prior to the commencement of such business operation ;

- (1) credit card network service;
- (2) EDC network service;
- (3) Transaction switching service for one payment system;
- (4) Electronic Money service provided for payment of specific goods or services as specified in advance by service providers at the site located under a common distribution or service system.

List C

The service which required the license prior to the commencement of such business operation;

- (1) clearing service;
- (2) settlement service;
- (3) electronic payment service through any device or network;
- (4) transaction switching service for multi payment systems;
- (5) bill payment service;
- (6) Electronic Money service provided for payment of specific goods or services, as specified in advance by service providers without limited sites and not under a common distribution or service systems.