

Unofficial Translation

This translation is for convenience of those unfamiliar with Thai language.

Please refer to the Thai text for the official version.

Notification of the Bank of Thailand

No. FPG. 16/2563

Re. Regulations on the use of services from business partners of
financial institutions

1. Rationale

Currently, financial institutions have many business partners, such as banking agents, outsourcers, and other business partners. Using other persons to perform some types of function on behalf of commercial banks requires the Bank of Thailand's approval before proceeding. In order for financial institutions to offer services that meet customers' needs and to provide customers with quick and easy access to financial services, the Bank of Thailand therefore amends the regulations on using services from business partners, as follows;

(1) Appointment of banking agents, the use of outsourcers, and other forms of business collaboration with business partners are regarded as the use of services from business partners.

(2) Financial institutions can use services from business partners, both juristic persons and natural persons to support business operations of financial institutions. Financial institutions can decide which functions to be performed by business partners as appropriate, unless they are strategic functions which financial institutions must perform by themselves since they may have impacts on financial institutions' financial positions or operation. However, if financial institutions find it necessary to use services that are related to strategic functions from service providers within the same business group, such as centralizing tasks at parent companies or overseas head offices to enhance operational efficiency or for enterprise risk management, they can apply for approval from the Bank of Thailand on a case-by-case basis.

(3) In case of business partners in the form of banking agents that must have a service location to provide services such as deposit agents or withdrawal agents, the Bank of Thailand has set out regulations, scope, and conditions on service provision, in addition to the guideline governing business partners in general and

extended the scope that commercial banks can use services from banking agents of other commercial banks or specialized financial institutions with joint agreements or contracts. Banking agents that are natural persons can only provide withdrawal services, settlement services, and payment services for retail customers.

In order to use services from business partners, financial institutions must place importance on business continuity, customer protections, and responsibilities same as they conduct the functions themselves, risk management, and security of transactions and customers' data.

2. Statutory Power

By virtue of Section 41, Section 47 and Section 71 of the Financial Institution Business Act B.E. 2551 (2008), the Bank of Thailand hereby issues the regulations on the use of services from business partners of financial institutions for financial institutions to comply with.

3. Repealed notifications

The Bank of Thailand Notification No. FPG. 8/2557 Re: Regulations on outsourcing in financial institutions' business operation dated 25 December 2014.

4. Scope of Application

This Notification shall apply to all financial institutions according to the law on financial institution business.

5. Content

5.1 Definition

In this Notification,

“Business partner” means a juristic person or a natural person who has entered into a contract or an agreement with a financial institution to provide service, either as a business partner that provide service on behalf of a financial institution such as a banking agent and an outsourcer, or as a business partner in other forms with business collaboration that generates mutual business benefits where there may be connection of information technology systems to the financial institution.

“Banking agent” means a juristic person or a natural person that a commercial bank appoints as an agent to provide service on behalf of a commercial bank with service location, comprising deposit agents, withdrawal agents, money

transfer agent, paying agents for retail customers, paying agents for significant customers and settlement agents.

“Deposit agent” means a banking agent appointed by a commercial bank to provide service of receiving cash into deposit accounts on behalf of a commercial bank.

“Withdrawal agent” means a banking agent appointed by a commercial bank to provide service of withdrawing cash **from deposit accounts** on behalf of a commercial bank.

“Money transfer agent” means a banking agent appointed by a **commercial bank to provide service of transferring money on behalf of a commercial bank.**

“Paying agent for retail customers” means a banking agent appointed by a commercial bank to provide service of paying money to natural persons according to orders and conditions received from a commercial bank, **including cash withdrawal from credit line approved by a commercial bank.**

“Paying agent for significant customers” means a banking agent appointed by a commercial bank to provide service of paying money or writing cashier cheque to persons according to orders and conditions received from a commercial bank, **including cash withdrawal from credit line approved by a commercial bank** to support business and trade operation of a commercial bank’s customers. Such customers must be juristic persons, organizations, or small and medium-sized enterprises (SMEs) only.

“Settlement agent” means a banking agent appointed by a commercial bank to provide service of providing payment settlement on outstanding from loan, credit card, utility, cost of goods, and services or e-money top-up on behalf of a commercial bank.

“Companies within the same business group”

(1) For locally incorporated commercial banks: means companies within the same financial group under the Bank of Thailand Notification on regulations on consolidated supervision. For commercial banks with more than half foreign ownership or a foreign bank’s subsidiary: shall also include parent companies, subsidiaries, and affiliate companies that provide financial or support businesses.

(2) For foreign bank’s branch: means head office or overseas branches or overseas regional office of a foreign bank’s branch, parent companies, subsidiaries and affiliate companies that provide financial or support businesses.

5.2 Principle

5.2.1 Financial institutions can use the services from business partners, both juristic persons and natural persons, that have in place appropriate guidelines on risk management and customer protection. However, strategic functions must be carried by financial institutions themselves.

5.2.2 Commercial banks can appoint banking agents for receiving deposit, withdrawing cash, transferring money, paying money, and receiving payment for settlement according to scope, condition, and qualification of banking agents as specified by the Bank of Thailand.

5.3 Regulations

5.3.1 General scope and condition of using services from business partners

(1) Financial institutions can use services from business partners in non-strategic functions, taking into account efficiency enhancement for business operation, enterprise risk management, cost, and business benefits of financial institutions in Thailand as the main purpose.

(2) Financial institutions must perform strategic functions by themselves (principles and examples in attachment 1). In the case that financial institutions find it necessary to use service on strategic functions from business partners within the same business group, financial institutions shall apply for approval from the Bank of Thailand on a case-by-case basis.

(3) Financial institutions can use services from business partners, both juristic persons and natural persons as well as both locally and overseas.

(4) Finance companies and credit fonciers companies cannot appoint banking agents but can use services from outsourcers within the country.

(5) Overseas branches of commercial banks registered in Thailand shall comply with regulations on scope and condition of using service from business partners and customer protection issued by regulators in the countries in which such branch is located.

5.3.2 Additional scope and condition for business partners that are commercial banks' banking agents with service location are as follow.

(1) Banking agents that are natural persons can only provide service as withdrawal agents, paying agents for retail customers, and settlement agents.

(2) Banking agents that are juristic persons can provide service as deposit agents, withdrawal agents, **money transfer agents**, paying agents for retail customers, paying agents for significant customers, and settlement agents, where paying agents for significant customers must only be juristic persons that are commercial banks or specialized financial institutions.

(3) Banking agents that are other juristic persons¹ and natural persons must not have disqualifications, and prohibited characteristics as in attachment 2.

(4) Withdrawal agents and paying agents for every retail customer can provide withdrawing or paying service in total of 20,000 baht per day per customer account to limit risk and loss that may arise to customer accounts. Such banking agents must have sufficient liquidity to support cash withdrawals, taking into account daily service limit of each customer.

(5) Commercial banks can use services from banking agents of other commercial banks or specialized financial institutions that has joint agreement or contract.

Should commercial banks wish to appoint banking agents other than the types of banking agents, types of transactions or qualifications already specified, commercial banks shall apply for approval from the Bank of Thailand on a case-by-case basis.

Table summarizing types of transactions that banking agents can offer services

Types of transactions Types of banking agents	Commercial banks / Specialized financial institutions	Thailand Post Company Limited / e-payment service providers ^{1/}	Other juristic persons	Natural persons
Deposit agent	✓	✓	✓	
Withdrawal agent	✓	✓	✓	✓
Money transfer agent	✓	✓	✓	
Paying agent for retail customers	✓	✓	✓	✓
Paying agent for significant customers	✓			
Settlement agent	✓	✓	✓	✓

^{1/} e-Payment service providers that provide service that requires permission prior to service provision according to the laws on payment system.

¹ Other juristic persons such as registered partnership, limited partnership, company limited, public company limited, village fund, cooperatives, excluding other commercial banks, specialized financial institutions, Thai post company limited and e-payment service providers

5.3.3 Risk management

The use of business partners may cause risks to arise upon financial institutions such as reputational risks, operational risks, information technology risks from system connection with business partners, and business continuity risks when there is business partner's service disruption. Financial institutions must have risk management guideline to manage the use of business partners, as follow.

(1) Financial institutions must establish guideline on the use of services from business partners, at least covering the scope of service to be used from business partners, level of significant risk or impact on customers at large, and it should be reviewed annually or when there are significant changes.

(2) Financial institutions are required to ensure that business partners provide service to customers like they are conducted by financial institutions themselves, keeping the following 3 important principles;

1) appropriate protection of customers' minimum rights especially on security of data, handling of complaints and service problems, 2) business continuity and 3) management system of risks from using business partner's service that is appropriate to significant risk and impact level, covering related risks especially reputational risks, operational risks and information technology risks, where business partners selection process, and business partner risk management cover key issues (details in attachment 3-6).

(3) Financial institutions must ensure that business partners that provide service on their behalf comply with related laws and regulations, such as the laws on data privacy, the laws on anti-money laundering, the laws on exchange control and the Bank of Thailand's notification on market conduct.

(4) Financial institutions must ensure that all levels of subcontractors from business partners must also comply with regulations and conditions required in 5.3.1-5.3.2.

5.4 Reporting to the Bank of Thailand

Financial institutions must submit an annual report on the use of services from **business partners that cause significant risks to arise or impact on public at large, e.g., banking agents, including the use of services from business partners of overseas branches of commercial banks registered in Thailand,**

according to the requirement set out by the Bank of Thailand² so that the Bank of Thailand can monitor the overall use of services from business partners.

5.5 Audit by the Bank of Thailand, external auditors, or other regulators

Financial institutions must ensure that the Bank of Thailand, external auditors, or other official organizations can audit **business partners that provide service on behalf of financial institutions**, or subcontractors (if any) and also have available accurate and current data related to service used for audit.

5.6 Submission for the approval to the Bank of Thailand

In case that financial institutions wish to use service on strategic functions from business partners that are companies within the same business group, appoint banking agents outside the prescribed types of banking agents, types of transactions, or qualifications, **or face force majeure that causes non-compliance with regulations prescribed in this notification**, financial institutions shall submit application for approval or waiver from the Bank of Thailand on a case-by-case basis, together with rationale and necessities as well as the plan to return to compliance, as set out in public guide.

5.7 Additional conditions, amendment, deferment or suspension of approval

In the event that the Bank of Thailand's supervision finds that financial institutions are contravene or not comply with regulations prescribed by the Bank of Thailand, have risk management with weak points, or do not provide fair service, or any other reasons that the Bank of Thailand deem necessary or that may impact safety or well-being of the public or overall financial system, the Bank of Thailand has power to impose additional conditions on business operation, amendments, delays or suspension on the use of service from business partners, partly or as a whole, on a general or case-by-case basis.

5.8 Transitional provision

Financial institutions that have already received approval or permission from the Bank of Thailand to use service from outsourcers or commercial banks' banking agents on a case-by-case basis prior to the effective date of this notification can continue with such operation without the need to request for a new approval,

² Reports can be downloaded from the Bank of Thailand's website

where financial institutions must comply with guidelines approved or permitted by the Bank of Thailand in such case and such service do not conflict with this notification.

6. Effective Date

This Notification shall come into force as from the day following the date of its publication in the Government Gazette.

Announced on 3rd August 2020

(Mr.Veerathai Santiprabhob)

Governor

Bank of Thailand

Regulatory Policy Department

Telephone 0 2283 6876

E-mail BOPTeam@bot.or.th

Principles and examples of strategic functions

Principles

In deciding which function is a strategic function, financial institutions shall consider the following.

- (1) Functions related to decisions or transactions that impact financial institutions' financial position and risks.
- (2) Functions related to in-depth analysis, auditing, or final review preceding the decision to make transactions.
- (3) Functions related to monitoring, auditing, and reviewing after approving or making the transactions that may impact financial institutions' financial position and risk should it is not carried out appropriately.

Example of strategic functions

Function group	Examples of strategic function
Loans and like-loan transactions function group	<ul style="list-style-type: none"> - Loan analysis¹ - Acceptance of collateral appraisal - Loan underwriting¹ - Audit and entering into an agreement - Audit or review on setting credit line, loan disbursement, and monitoring credit usage - Audit or review on debtor monitoring - Audit on debtor data in database - Audit and approval of KYC/CDD results in loan transactions² - Decision on debt management¹
Account opening, deposit taking, cash withdrawal, or money transfer function group	<ul style="list-style-type: none"> - Audit and approval of KYC/CDD results in deposit account opening² - Account opening approval¹ - Audit or review of data input into the system - Recording transactions in passbooks after approval - Audit and review on data accuracy before making a transaction - Approval of deposit, withdrawal, or money transfer¹ - Daily reconciliation of cash balance, preparation of daily deposit report, and preparation of reports to be submitted to the Anti-Money Laundering Office (AMLO) - Monitoring and controlling non-active accounts and audit on unusual transactions

Function group	Examples of strategic function
Treasury and money-market transactions function group	<ul style="list-style-type: none"> - Client suitability analysis - Audit on accuracy of bid prices and agreed prices¹ - Audit on compliance of limits to guidelines by financial institutions and the Bank of Thailand¹ - Preparation of initial term sheet, contract audit, or contract review¹ - Signing off transactions or contractual commitment¹ - Review and audit on accuracy of settlement¹ - Review and audit on accuracy of outstanding reconciliation and transaction recording¹ - audit on accuracy of transaction data in the system¹
Risk management function group	<ul style="list-style-type: none"> - Making decisions on risk management¹ - Portfolio management and risk control¹
Accounting and finance function group	<ul style="list-style-type: none"> - Audit or review on accuracy of account and finance data
Internal control and compliance function group	<ul style="list-style-type: none"> - Overall regulatory compliance³
Notes	<p>¹ Excluding functions that financial institutions are not empowered to conduct by themselves, i.e., foreign bank's branch's making transactions beyond credit limit or approval limit or providing service or transactions with special conditions which requires approval or consent from head office or regional office. On this, financial institutions must</p> <p>(1) participate in providing opinion and taking responsibility of such transactions or products</p> <p>(2) has a coordinator in Thailand to prepare data or documents and provide basic information regarding such transaction or product to the Bank of Thailand</p> <p>² Know Your Customer / Customer Due Diligence (KYC/CDD) must comply with regulations set out by Anti-money laundering office and the Bank of Thailand.</p> <p>³ Excluding support function for compliance, e.g., audit on AML/CFT fraud, monitoring and review, mystery shopping, and staff training.</p>

Qualifications and prohibited characteristics of banking agents that are other juristic persons and natural persons

Banking agents must be juristic persons that are registered in Thailand or natural persons, with certain service location and date and time, as well as tools, equipment, and system, e.g., Electronic Data Capture (EDC) and must be able to instantly generate evidence of service to confirm transactions at service points. In addition, details of commercial bank's unit responsible for banking agent's service provision must be visibly informed to customers, together with contact details.

Banking agent must not have any of the following prohibited characteristics.

(1) Directors or persons with power of management of the juristic person **or natural person that is a banking agent:**

(1.1) Is under receivership or is a bankrupt or has been discharged from bankruptcy for less than 2 years **or has been a fraud bankrupt.**

(1.2) has been imprisoned by a final court judgement for an offense related to property committed with dishonest intent whether there is a suspension of punishment.

(1.3) has been imprisoned by a final court judgement for an offense related to counterfeit according to criminal code or computer-related offence according to the law on computer-related crime.

(1.4) has been imprisoned by a final court judgement for an offense related to money laundering or has been sentenced or ordered by court for assets be vested in the state according to the law on anti-money laundering **or has been the person designated as having terrorist act or proliferation of weapon of mass destruction, or has been sentenced by a final court judgement for an offence from financing terrorists or proliferation of weapon of mass destruction according to the law on counter-terrorism and proliferation of weapon of mass destruction financing.**

(2) Is a juristic person that has been sentenced by a final court judgement for an offence related to money laundering or has been sentenced or ordered by court for assets be vested in the state according to the law on anti-money laundering **or has been the person designated as having terrorist act or proliferation of weapon of mass destruction, or has been sentenced by a final**

court judgement for an offence from financing terrorists or proliferation of weapon of mass destruction according to the law on counter-terrorism and proliferation of weapon of mass destruction financing.

Guidelines on business partner selection

Financial institutions must set out guidelines on appropriate business partner selection prior to entering into contracts or agreements or review to extend contract or agreement. Financial institutions must set out the guidelines on business partner selection according to the level of risk and service used, covering key issues as follow.

- (1) Technical capability, expertise, operational experiences, and readiness to provide service
- (2) Financial stability
- (3) Business reputations, complaint history, or prosecution history
- (4) Organizational culture and service provision policy that is suitable for financial institutions
- (5) Capability to adapt to new developments
- (6) Concentration risk that such business partner provides service to many other financial institutions or other persons simultaneously
- (7) Has guidelines on considering the use of services from business partners that are related to directors and senior managers (conflict of interest)

Issues that should be included in business partner contract or agreement

Financial institutions must enter into contract or agreement with business partner in writing, where such contract or agreement should cover key issues at least the following.

(1) Details on types of service, scope of responsibility, risk management, internal control system, and security system on storage of financial institutions' assets.

(2) Service level agreement to set out minimum service standards that must be carried out, both under normal and not normal circumstances.

(3) Business continuity plan to support when service disrupts and cannot be provided continually.

(4) Steps in monitoring, auditing, and assessing operational efficiency.

(5) Service charge (if any) must be reasonable, with reference from cost or general market rates. It must not offer disproportionate benefits to any persons or juristic persons, both within and outside business groups.

(6) Contract maturity, terms and conditions to terminate contracts, including rights of financial institutions to amend or extend contracts. This is for flexibility in improving service if necessary and also for preventing obstacles for financial institutions' future operation.

(7) Scope of responsibility in case of service problems, e.g., service delay or mistakes, and also problem solving directions and redress for losses occurred.

(8) Information security, maintaining confidentiality and privacy of customers and financial institutions' data, including access rights and ownership of the data, e.g., data transmission method, data storage method, as well as well-defined penalty should customers and/or financial institutions' data is disclosed.

(9) No prevention or prohibition on provision of the same service to other financial institutions.

(10) Compliance with regulations set out by the Bank of Thailand as well as other related laws and regulations.

(11) Other conditions as appropriate, e.g., service location, insurance, and use of overseas service.

(12) Conditions in permitting business partners that provide service on behalf of financial institutions to subcontract, partly or as a whole, where such subcontractors must comply with guidelines set out in this notification and in agreement with financial institutions.

(13) Authorize the Bank of Thailand, financial institutions, external auditors, or other official organization to audit operation, internal control system and request for related data from business partners that provide service on behalf of financial institutions or subcontractors (if any) that is related to such service provided. Should conducting audit requires permission from regulating agencies of the business partners that provide service on behalf of financial institutions, financial institutions or business partners that provide service on behalf of financial institutions must take action to ensure that audit can be carried out legally.

Examples of risks that may arise from using service from business partners

Risks from using service from business partners may be categorized into 9 groups as follow.

(1) Strategic risks, such as

(1.1) Business partners do not operate in consistence with financial institutions' determined strategy.

(2) Reputational risks, such as

(2.1) Business partners do not provide service up to the determined standard.

(2.2) Business partners provide service that is not of the same standard as financial institutions'.

(3) Compliance risks, such as

(3.1) Business partners do not comply with related financial laws.

(3.2) Business partners do not comply with laws on consumer protection.

(3.3) Business partners do not have sufficient compliance and control system.

(4) Operational risks, such as

(4.1) System errors

(4.2) inefficient internal management process of business partners

(4.3) Fraud

(4.4) Risks that financial institutions cannot audit business partners

(5) Counterparty risks, such as

(5.1) Worsening credit quality of debtors from which business partners are hired to collect debt

(5.2) Inappropriate underwriting or credit quality evaluation

(6) Country risks¹, such as

(6.1) Changes or uncertainties in economic, political, social, and legal environments of overseas business partners

(6.2) Complexity of overseas business continuity management

¹ Financial institutions may adapt risk management guideline as appropriate to environment in each country of business partners according to the Bank of Thailand's policy statement on country risk management.

(7) Contractual risks, such as

(7.1) Risks from enforcement of contracts or agreements.

(7.2) In case of using service from overseas business partners, law enforcement internationally or in that particular country

(8) Access risks, such as

(8.1) Risks that financial institutions cannot access business partners' data that is essential for internal audit or supervision by the Bank of Thailand or other organizations under related laws

(8.2) Operational complexity of business partners that hinders to compliance.

(9) Concentration and systemic risks, such as

(9.1) Many financial institutions use service from the same business partner

(9.2) A financial institution uses service on many function groups from the same business partner

**Monitoring, assessing, auditing, and controlling risk
from using service from business partners that operate on behalf of financial
institutions**

Financial institutions must clearly and in writing set out risk management guidelines for risks that arise from using service from business partners that operate on behalf of financial institutions, appropriate with significance of service used and consistent with overall risk management policy, as well as communicate to related persons to ensure understanding and strict compliance. The minimum of following key issues must be covered in considering risk management guideline.

(1) Has clear direction in appropriately supervising, monitoring, auditing and assessing, considering significance of service used. This is to ensure standards of internal control, service provision and security of financial institutions and customers' data, and strict compliance of both financial institutions and business partners to related laws, accounting standards, and regulations.

(2) Has business continuity plan and business continuity management in using services from business partners. Financial institutions must ensure that business partners continuously have business continuity plan consistent with the level of risks and impacts of such function. The plan should be in line with financial institutions' business continuity plan and must be regularly tested with significant business partners where financial institutions must have test results available for audit.

(3) Has process migration and change management during transition from operating by themselves to using services from business partners, changes in business partners or canceling the use of services from business partners, and plans to handle impacts that may arise.

(4) Has in place operational manuals and related documents which are regularly updated for benefits of monitoring, assessment, and risk management by financial institutions.

(5) Has staffs or units that understand the scope, function characteristics and work process of service used, to ensure accurate and credible monitoring and assessment on the operation.

(6) Has daily record of problems or risks, loss data, and official order related to the use of services from business partners available for the Bank of Thailand's audit, as

well as immediately report such data to financial institutions' management to ensure appropriate and in-time solution.

(7) Review the use of services at frequency that is appropriate with function characteristics.

Also, financial institutions shall conduct self-assessment on guidelines and effectiveness of risk management related to the overall use of services from business partners, annually or when there are significant changes on the use of services, and in their own format. Such self-assessment results are to be maintained at financial institutions and can be submitted to the Bank of Thailand when requested.