

Unofficial Translation

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

Please refer to the Thai official version.

Notification of the Ministry of Finance

**Re: Rules for Consideration and Issuance of an Order to Impose
Administrative Sanction under the Law on the Payment System**

By virtue of the provision of Section 37 of the Payment System Act B.E. 2560, the Minister of Finance hereby issues a notification to prescribe the rules for consideration and issuance of an order to impose administrative sanction under the law on the payment system as follows:

Article 1 In this notification,

“Consideration to impose administrative sanction” means procedure regarding consideration and issuance of an order to impose administrative sanction under the law on the payment system.

“Panel” means panel who considers administrative fine under the law on the payment system.

“BOT” means the Bank of Thailand under the law governing the Bank of Thailand

“The accused” means a person who the panel determines that his or her circumstantial factor constituting the act is a prima facie case within the scope of the commission of an offence which is subject to administrative sanction, in accordance with the facts initially collected by the BOT.

“The fined person” means a person who violates or fails to comply with the law on the payment system, thereby the panel issuing an order to impose administrative sanction.

Chapter 1

General Provision

Article 2 When considering and issuing an order to impose administrative sanction, apart from rules stipulated in this notification, the law on administrative procedure shall be applied *mutatis mutandis*.

Article 3 Notifications of charge, appointment, order to impose administrative sanction or other notifications must be in written form.

Article 4 In case of urgent needs or the receiver having requested to be notified by other means, notifications of charge, appointment, order to impose administrative sanction or other notifications may be dispatched by facsimile, e-mail or other means as requested by the receiver. However, there must be proof of dispatch and the notification must be delivered to the receiver at the earliest convenience. In this case, it shall be presumed that the receiver has been notified at the date and time recorded on the proof of dispatch by facsimile, e-mail or other means; unless it is able to be proved that receiver has not received or has received notification prior to or later than the aforementioned date and time.

Chapter 2

Consideration and Issuance of an Order to Impose Administrative Sanction

Article 5 When the BOT has collected the facts and considered initially that any person has circumstantial factor constituting the act which is a *prima facie* case, and therefore administrative sanction ought to be imposed; the BOT shall report the facts and submit its recommendation to the panel for further consideration in accordance with the virtue in this chapter.

Part 1

Administrative Consideration

Article 6 Consideration to impose administrative sanction by the panel shall include the following procedures:

- (1) Seeking the evidence considered to be necessary for proving the fact
- (2) Hearing the evidence, the accused's explanation, the BOT's recommendation, opinions from witnesses or experts referred by the BOT or the accused
- (3) Request for facts or opinions from witnesses or experts
- (4) Request for related document from the document possessors
- (5) Site inspection

The accused must cooperate with the panel in proving the fact and notify evidence of which he or she is aware to the panel.

Article 7 When the panel obtains the fact report and recommendations from the BOT, should it determine that the accused's commission is not within the scope of an offence which is subject to administrative sanction, the panel shall dismiss the charge. However, if the panel determines that it is a prima facie case, and therefore administrative sanction ought to be imposed, the panel shall notify the accused so that he or she will dispute and adduce his or her evidence.

In case where the panel determines that the prevailing evidence is not sufficient for consideration, they shall notify the BOT to seek additional evidence and present it to the panel for further consideration.

When obtaining a notification of charge, the accused has the right to submit his or her objections to the charge to the panel via the BOT within 15 days from the date of notification.

In case where the accused has acknowledged the charge but does not submit his or her objections to the charge or the related evidence within the specified time, it shall be assumed that the accused does not wish to raise objections to the charge, and such incident shall be recorded.

Article 8 Subject to Article 4, notifying the charge to the accused must be in written form to inform the accused of the charge that his or her commission is within the scope of an offence which is subject to administrative sanction in accordance with the law on the payment system. The notification shall contain the essential topics as follows:

- (1) The accused's name
- (2) The commissions within the scope of an offence which are subject to administrative sanction, as well as facts or circumstantial factors concerning the commission
- (3) Provisions, notifications, or stipulations under the law on the payment system with which are considered that the accused violates or fails to comply

Article 9 After examining facts and considering evidence as well as objections to the charge (if any), if the panel determines that the accused is found not guilty, it shall dismiss the charge. In contrast, if the accused is found guilty, the panel shall impose the administrative sanction and issue an order to impose the administrative sanction respectively.

The panel shall notify the accused of its verdict promptly.

Article 10, With regard to the performance under the authorities and duties of the panel apart from adjudication mentioned in Article 9, the panel may appoint any person who is the member of the panel or the secretary, as the case may be, to perform duties or proceed operations on behalf of the panel, including the following duties and operations:

- (1) Signing on the notifications of the charge, appointment, or verdict
- (2) Signing on an invitation letter to any person to explain facts, offer recommendations, or submit document or evidence
- (3) Investigating and recording the explanations or opinions of the accused, witnesses, or experts

Article 11 At every meeting of the panel, the presence of not less than one half of the total number of its members shall be required to constitute a quorum.

The resolution of meeting shall be by majority of votes. Each panel member, including the Chairperson, is entitled to one vote. In case of an equality of votes, the Chairperson may have an additional vote as casting vote.

Part 2

Imposing Administrative Sanction

Article 12 When considering imposing administrative sanction on the accused, the panel must take into account the following factors:

- (1) Offences caused by deliberation, or gross negligence, or lack of due care
- (2) Interests obtained or to be obtained by the accused, or persons related to the offences, or other persons from such offences
- (3) Damages caused by the offence
- (4) The gravity of administrative fine previously imposed on the other fined persons for similar offences
- (5) The accused's administrative sanction history; or in case that the accused is a juristic person, the aforementioned history shall include that of directors, managers, or any person responsible for the operations of such juristic person, or where such person has a duty to order or take action but fails to do so and thereby caused the juristic person to have committed the offence
- (6) Other related facts

Part 3

Order to Impose Administrative Sanction

Article 13 A written order to impose administrative sanction shall specify date of its issuing, and the name of the panel Chairperson, and shall bear his or her signature.

Article 14 A written order to impose administrative sanction must also contain reasons, and such reasons shall at least consist of the following:

- (1) The material facts
- (2) The legal grounds referred to
- (3) The grounds and justification for exercising the discretion

The provision of paragraph one shall not apply to the following cases:

- (1) Where the reason for issuing the order is so generally known that it is not necessary to specify it.
- (2) Where the documents are required to be kept undisclosed.
- (3) Where it is an urgent case; provided that a written reason shall be given in due time upon the request of the fined person

The order to impose administrative sanction shall be in accordance with the form attached herewith.

Article 15 The order to impose administrative sanction shall become effective against the fined person when he or she is notified thereof.

Part 4

Appeal against an Order to Impose Administrative Sanction

Article 16 For an appeal against an order to impose administrative sanction in accordance with section 40, section 41, section 42, and section 43 under the Payment System Act B.E. 2560, the appellant shall file an appeal to the Administrative Court.

Part 5

Enforcement of Administrative Sanction

Article 17 If the fined person does not comply with the prescription to pay a sum of money on due date, the BOT shall issue a written notice requiring a payment within a specified period of not less than seven days.

If the due date as specified in the written notice is reached but the fined person fails to pay or is able to pay the administrative fine only partially, the BOT shall file the lawsuit to the Administrative Court in order to execute administrative fine payment.

Article 18 This Notification shall come into force as from the day following the date of its publication in the Government Gazette.

Announced on 12th January 2021

(Mr. Arkhom Termpittayapaisith)
Minister of Finance

Order of Administrative Panel

No. /

Re: Order to Impose Administrative Fine

.....

It is evidential that.....has committed
 which is/are offence(s) under Section of the Payment System Act B.E. 2560 and the
 Notification of the Bank of Thailand (Re:)

Hence, by virtue of Section 37 and Section 38 of the Payment System Act
 B.E. 2560 and Section of the Notification of the Ministry of Finance Re: Rules for
 Consideration and Issuance of an Order to Impose Administrative Sanction under the Law
 on the Payment System dated, the administrative
 panel thus issues an order to impose an administrative fine amount of
 Baht (.....). In this regard, the fine payment shall be made at
 within days from the date that this order is notified.

In case that the fined person does not concur with the order, he or she is
 entitled to appeal against such order to the Administrative Court within 90 days from the
 date that this order is notified.

Ordered on (Date and Month).... B.E. (.... A.D.)

(Signature)

(.....)

Chair of the Administrative Panel

Remark: for the convenience when making administrative fine payment, the fined person
 shall produce this order to the concerning officer.