

Unofficial Translation

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

Please refer to the Thai text for official version.

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**BANK OF THAILAND**

7 December 2023

To Manager

All Commercial Banks

All Specialized Financial Institutions

Non-financial institution electronic money service providers

Non-financial institution electronic funds transfer service providers

No. ForNorChor. (08) Wor. 43/2566 Re: Submission of the Notification of the Bank of Thailand Regarding Regulation on the Management of the Money Received in Advance in the Case of Designated Payment Service Business Provider Has Been Under a Receivership Ordered by the Court Under Section 21 and Notification of the Incident Under Section 22.

The Bank of Thailand (BOT) hereby submits the Notification of the Bank of Thailand No. SorKorChor. 6/2566 regarding Regulation on the management of the money received in advance in the case of designated payment service business provider has been under a receivership ordered by the court under Section 21 and notification of the incident under Section 22 dated 23 November 2023, which was published in the Government Gazette, edition on General Notifications, Vol. 140 Special Section 305 Ngor dated 4 December 2023, which would be enforceable from 5 December 2023 on.

The main point for issuing this Notification is to provide principles regarding the management of the money received in advance of the payment service business provider in the case of such business provider has been under a receivership ordered by the court under the bankruptcy law, and to safeguard the interest of the service users by establishing guidelines for business providers to promptly inform the BOT if their operations are suspended either in whole or in part due to bankruptcy, business rehabilitation proceedings, or under a receivership ordered by the court.

Bank of Thailand therefore hereby circulated this Notification for acknowledgement and compliancy.

Yours sincerely,  
[Signed]  
(Mrs. Budsakorn Teerapunyachai)  
Senior Director  
Payment Systems and Financial  
Technology Policy Department  
Governor<sup>For</sup>

Enclosure: Notification of the Bank of Thailand No. SorKorChor. 6/2566 Regarding Regulation on the management of the money received in advance in the case of designated payment service business provider has been under a receivership ordered by the Court under Section 21 and notification of the incident under Section 22

Payment Systems and Financial Technology Policy Department

Tel: 0 2283 5096, 0 2283 5137, 0 2283 6713

Fax: 0 2282 7717

Note:  The Bank of Thailand shall arrange clarification meeting on ... at ...

No clarification meeting shall be arranged.

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**Notification of the Bank of Thailand**

**No. SorKorChor. 6/2566**

**Re: Regulation on the management of the money received in advance in the case of designated payment service business provider has been under a receivership ordered by the court under Section 21 and notification of the incident under Section 22**

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**1. Rationale for the Notification**

Whereas Section 21 of the Payment System Act B.E. 2560 (2017) stipulates that the money received in advance shall be protected and shall not be regarded as properties that may be allocated to creditors in the bankruptcy case when the designated payment service business provider which receive money in advance from service users (business provider) has been under a receivership ordered by the court, the official receivers and the Bank of Thailand are designated as the administrators of the money received in advance and shall have the power to manage such money held by the business provider in accordance with the guideline set forth by the Bank of Thailand, which is a procedure beyond the scope of bankruptcy law's debtor asset management. Furthermore, according to Section 22 of the Payment System Act B.E. 2560 (2017), it specifies that business providers shall promptly inform the Bank of Thailand if their operations are partially or fully suspended due to bankruptcy, business rehabilitation proceedings, or under a receivership ordered by the court.

To ensure that the management of the money received in advance aligns with the law's objective of protecting service user interests, the Bank of Thailand, as a regulator, sought advice from the Legal Execution Department as the Department oversees and supervises official receivers in bankruptcy proceedings to determine regulation on the management of the money received in advance in the case of business provider has been under a receivership ordered by the court. Both organizations agreed on a shared legal framework for such management of the advance-received fund. The official of the Legal Execution Department receiver will inform the Bank of Thailand about the receivership ordered by the court and proceed to seize or freeze the money received in advance occupied by the business providers and deliver it to the Bank of Thailand to finalize the

management of such money and will additionally assist or continue further actions as agreed upon during the implementation of this Notification.

In addition, to specify a protocol for reporting incidents to the Bank of Thailand in accordance with Section 22, including providing the relevant information regarding such incidents, the Bank of Thailand consequently outlines the protocol in this Notification that the business providers are required to comply with.

## **2. Statutory power**

By virtue of the provisions in Section 21, Section 22 and Section 26 of the Payment System Act B.E. 2560 (2017), the Bank of Thailand hereby establishes the regulations on the management of the money received in advanced in the case of designated payment service business-provider has been under a receivership ordered by the court under Section 21 and notification of the incident under Section 22, and providing the relevant information to the Bank of Thailand.

## **3. Scope of enforcement**

This Notification shall be enforced on the designated payment service business providers according to the Payment System Law, who receive money in advance from service users.

## **4. Contents**

### **4.1 Definitions**

In this Notification,

“Business provider” refers to the licensed payment service business providers or registered payment service business providers according to the Payment System Law, who receive money in advance from service users.

“Money received in advance” refers to the money which a designated payment service business provider has received from its service user which consist of the outstanding value which the service user has paid in advance to the business provider and the money which a money transfer business provider has received in advance from its service user.

“Service user” refers to a user who has paid or transferred money in advance to the business provider.

“Service user with beneficial interest related to the business provider” refers to a service user who has the following characteristics:

(1) A director or a person with management authority of the business provider.

(2) A shareholder holding more than 10% of the total issued shares of the business provider.

(3) The spouse and minor children of the persons mentioned in (1) or (2).

"Person with management authority" refers to:

(1) A manager, deputy manager, or a person with an equivalent position called by another name.

(2) A person who, by circumstances, has the power to control or dominate the manager or director, or the management of the business provider, to follow their orders in determining the policy or operation of the business provider.

"Person with operational authority" means the official receiver and the Bank of Thailand.

"Receivership" refers to a temporary or absolute receivership under bankruptcy law.

"Official receiver" refers to the official receiver under bankruptcy law.

“BOT” refers to the Bank of Thailand under the law governing the Bank of Thailand.

## **4.2 Notification of the incident according to Section 22**

When the business provider has been ordered to suspend its business either in whole or in part under the payment systems law or other laws, has been filed a petition for business reorganization, has been filed for bankruptcy or has been under a receivership ordered by the court, the business provider must immediately notify the BOT verbally or by other means and submit a report on the next business day following the occurrence of such incident, in accordance with the form and method specified in the annex to this Notification.

## **4.3 The protocol on money received in advance management according to Section 21**

### **4.3.1 Terms of reference**

(1) For the benefit of managing the money received in advance to be refunded to service users when the business provider is ordered by the court to be under receivership, the person with operational authority will manage the money received in advance in the possession of the business provider as follows:

(1.1) The official receiver will notify the BOT about the court order placing the business provider under receivership and will seize or freeze the money received in advance in the possession of the business provider to deliver them to the BOT or take other actions as coordinated.

(1.2) Once the BOT receives the money received in advance or is notified of the official receiver's actions under clause 4.3.1 (1.1), the BOT will manage the money received in advance, including gathering the money received in advance and allocating such money in order to return it to the service users, transferring accounts and the money received in advance to other business providers, and taking other actions to complete the management of the money received in advance.

The person with operational authority will coordinate to support or take any actions to successfully manage the money received in advance; for instance, the BOT will request the official receiver to deliver accounts of money received in advance for each service user prepared by the business provider, including related documents, to the BOT.

(2) In managing the money received in advance under clause 4.3.1 (1), the person with operational authority may delegate the task to others as deemed appropriate.

The delegation and procedures according to the first paragraph establishes that the person with operational authority shall monitor and ensure that the delegate manages and handles the money received in advance of the service users as assigned according to the law and the criteria set forth in this Notification.

#### **4.3.2 The management of money received in advance**

(1) In managing the money received in advance under clause 4.3.1 (1.2), the BOT will proceed as follows:

(1.1) Verify and gather the money received in advance of the service users in the possession of the business provider according to the documents prepared by the business provider for calculation and allocation of refunds to the service users.

(1.2) Verify the outstanding balance of the money received in advance of each service user and calculate the money received in advance gathered under clause 4.3.2 (1.1) according to the criteria and methods specified by the BOT to allocate such money directly to each service user or transfer the accounts and money received in advance to other business providers as the case may be. In cases where the BOT transfers the

accounts and the money received in advance to other business providers, the receiving business provider must allow the service users who do not wish to use their services to request a refund, which must be processed within 15 days from the date the service user requests a refund according to the criteria and conditions set by the receiving business provider.

In calculating the money received in advance of service users of foreign currency electronic money to allocate refunds directly to each service user, the BOT will consider the money received in advance of the service users in the possession of the business provider and the outstanding balance of the money received in advance of the service users using the exchange rate on the date the business provider is placed under receivership as determined by the BOT.

In transferring the accounts and the money received in advance from the business provider providing foreign currency electronic money services to other business providers, the receiving business provider must allow the service users to use the foreign currency electronic money services according to the original outstanding balance of the service users and if the service users wish to request a refund as mentioned above, the business provider must refund the money using the exchange rate on the date the service user requests a refund.

(2) In allocating the money received in advance directly to each service user, the BOT will calculate such money and allocate refunds by notifying the service users of their right to receive the money received in advance, specifying the amount to be refunded within 60 days from the date the business provider is placed under receivership, unless there is a reasonable cause, which must not affect the service users' right to file a claim for the remaining money received in advance in the business provider's bankruptcy case.

In cases where the court cancels or revokes the temporary receivership order and the BOT has not yet completed the allocation of the money received in advance to the service users as mentioned above, the BOT may continue to allocate the money received in advance to the service users until completion or consider terminating the process and returning the remaining money received in advance to the business provider for the benefit of continuing the business.

In cases where the BOT returns the remaining money received in advance to the business provider, the business provider must allow the service users who do not wish to continue using their services to request a refund within 15 days from the date

the service user requests a refund according to the criteria and conditions set by the business provider. In cases of an advance-received foreign currency, the business provider must refund the money using the exchange rate on the date the service user requests a refund.

(3) The BOT will allocate the money received in advance to the service users who are not a service user with beneficial interest related to the business provider placed under receivership first.

(4) In cases where the money received in advance are insufficient to allocate refunds to the service users in full, the BOT will proportionally allocate the money received in advance to the service users according to the amount in each service user's money received in advance account.

(5) Service users who receive partial refunds have the right to file a claim for the remaining amount in the business provider's bankruptcy case within the legal timeframe for filing bankruptcy claims.

(6) In delivering the money received in advance from the allocation to refund the service users, the BOT will deliver the money received in advance according to the amount notified to the service users of their right to receive the money received in advance under clause 4.3.2 (2), either in Thai Baht or foreign currency, according to the criteria set by the BOT, considering the primary objective of protecting the service users' money received in advance.

(7) In delivering the money received in advance from the allocation to refund the service users under clause 4.3.2 (6), if the service users do not collect the money received in advance within the period specified by the BOT or if the BOT cannot contact or refund the money received in advance to the service users, the person with operational authority may take any other actions deemed appropriate to complete the management of the money received in advance.

(8) In cases where the BOT has doubts about whether the managed money is the money received in advance of the service users, the BOT may deliver such money to the official receiver to manage the assets of the business provider placed under receivership according to bankruptcy law.

(9) Once the BOT has completed the actions under this Notification or has determined the expenses for such actions, the BOT will notify the official receiver in writing of the actions taken and the expenses (if any) so that the official receiver can consider



paying the expenses from the business provider's asset pool to the BOT in accordance with Section 130 of the Bankruptcy Act B.E. 2483 (1940).

#### **5. Enforcement date**

This Notification is enforceable as from the day following the date of its publication in the Government Gazette.

Announced on 23 November 2023

[Signed]

Sethaput Suthiwartnarueput

Governor

Bank of Thailand

Payment Systems and Financial Technology Policy Department

Tel : 0 2283 5036, 0 2283 6713

Notification form to the Bank of Thailand (BOT)

in case the business provider has been ordered to suspend its business either in whole or in part, has been filed a petition for business reorganization, has been filed for bankruptcy, or has been placed under receivership by the court.

Date: \_\_\_\_\_

To Governor of the Bank of Thailand,

I, \_\_\_\_\_ office located at \_\_\_\_\_

Tel: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Is a licensed payment service provider or a registered payment service provider according to the Payment System Law, who receive money in advance from service users, as follows:

(Please mark ✓ in the  in front of the designated payment services)

- Electronic money services
  - Licensed
  - Registered
- Electronic funds transfer services

I would like to inform you of the following information:

1. I am currently

- Ordered to suspend whole or part of the business
  - Under the law that the Bank of Thailand is overseeing  
(Please specify) \_\_\_\_\_
  - Under other laws  
(Please specify) \_\_\_\_\_
- Filing a petition for business rehabilitation
- A petition for business rehabilitation has been filed
- Sued for bankruptcy
- Temporarily placed under receivership by the court
- Permanently placed under receivership by the court



2.3 Spouses and minor children of individuals as specified in 2.1 or 2.2

No.	Name and surname	Cell number/Contact number	e-mail address	E-money service		Electronic funds transfer service	
				Amount (THB)	Amount (Foreign currency)	Amount (THB)	Amount (Foreign currency)

3. Information on deposit accounts for the money received in advance that business providers have deposited with the Bank of Thailand, financial institutions, or specialized financial institutions as of the date of this notification submission, as follows:

No.	Bank	Branch	Account no.	E-money service		Electronic funds transfer service	
				Amount (THB)	Amount (Foreign currency)	Amount (THB)	Amount (Foreign currency)

4. I consent to disclose other relevant information to the Bank of Thailand for any actions related to the management of the money received in advance promptly, such as the money received in advance account information of each service user and other information as requested by the Bank of Thailand.

This is to inform you and to certify that the above statements are entirely true.

Signature: \_\_\_\_\_

( \_\_\_\_\_ )

Authorized signatory person

(seal, if any)

Method of notifying and sending documents to the Bank of Thailand

Scan the notification form and immediately send it to the Bank of Thailand via electronic channels or e-mail as specified by the Bank of Thailand.

Bank of Thailand

Payment Systems Policy Department

e-mail: [payment-sup@bot.or.th](mailto:payment-sup@bot.or.th)

Tel: 0 2283 6719

Fax: 0 2282 7717