

# **The Act Governing Electronic Payment Institutions**

**Date of promulgation: February 4, 2015**

## **Chapter 1 General Provisions**

Article 1 This Act is enacted to promote the sound operations and development of electronic payment institutions and to ensure safe and convenient funds transfer services.

Article 2 The competent authority under this Act shall be the Financial Supervisory Commission.

Article 3 The term "electronic payment institution" as used in this Act shall mean a company approved by the competent authority to accept, through a network or electronic payment platform, the registration and opening of an account by users that keeps track of their funds transfer and funds deposit records (referred to as "e-payment account" hereunder), and use electronic equipment to convey the receipt/payment information via connection to engage in the following businesses in the capacity of an intermediary between payers and recipients, excluding companies that engage only in business under the first subparagraph below and where the total balance of funds collected/paid and kept by them as an agent does not exceed a certain amount:

1. Collecting and making payments for real transactions as an agent.
2. Accepting deposits of funds as stored value funds.
3. Transferring funds between e-payment accounts.
4. Other businesses approved by the competent authority.

The method for calculating the total balance of funds collected/paid as an agent and the certain amount referred to in the proviso of the preceding paragraph shall be prescribed by the competent authority.

A company that is in a situation as provided in the proviso of Paragraph 1 hereof shall apply to the competent authority for approval to establish an electronic payment

institution within six (6) months from the date the total balance of funds collected/paid and kept by it as an agent exceeds a certain amount prescribed by the competent authority.

For the purpose of investigating the situation described in the preceding paragraph, the competent authority may ask a specific natural person, juristic person or organization to provide relevant data and explanations on the total balance of funds collected/paid and kept by it as an agent within a specified time period; where necessary, the competent authority may also require banks and other financial institutions to provide the deposits and other relevant data of the specific natural person, juristic person or organization.

Article 4 An electronic payment institution shall comply with the following provisions in its business operations:

1. Where the business involves foreign exchange, rules and regulations of the Central Bank of the Republic of China (Taiwan) ("Central Bank") shall be followed.
2. The "real transaction" referred to in Subparagraph 1, Paragraph 1 of the preceding paragraph may not involve financial products or services to which the competent authority has not approved receipts and payments processed by an agent and other transactions prohibited by law or according to the notices of central government authorities in charge of certain industry.
3. Only institutions that engage in the business under Subparagraph 1, Paragraph 1 of the preceding article may engage in the businesses under Subparagraphs 2 ~ 4, Paragraph 1 of the preceding article.

For business operation of an electronic payment institution under Subparagraph 1, Paragraph 1 of the preceding article, if the applicable provisions in the Act Governing Issuance of Electronic Stored Value Cards contradict the provisions in this Act, this Act shall prevail.

Article 5 An electronic payment institution must be organized as a company limited by

shares, and except for institutions that may engage concurrently in other businesses pursuant to Article 9 herein or as approved by the competent authority, shall engage exclusively in businesses provided under the subparagraphs of Paragraph 1, Article 3 herein.

Article 6 The scope of funds that an electronic payment institution may accept from users (collectively referred to as "funds received from users" hereunder) is as follows:

1. Funds collected/paid as an agent: Amounts of real transactions, funds for transfer between e-payment accounts, and payments already instructed by the user but not yet recorded and transferred into the e-payment account of the recipient; and
2. Stored value funds: Funds deposited in advance by users into their e-payment account for transfer to other users other than the electronic payment institution.

## Chapter 2 Application and Approval

Article 7 An electronic payment institution shall have a minimum paid-in capital of NT\$500 million, or NT\$100 million provided the institution engages in the business under Subparagraph 1, Paragraph 1, Article 3 herein only.

The competent authority may adjust the minimum paid-in capitals in the preceding paragraph in view of socioeconomic circumstances and actual needs.

The minimum paid-in capital in the first paragraph hereof shall be subscribed in full by the promoters at the time of incorporation.

Where the paid-in capital of an electronic payment institution is below the amount adjusted by the competent authority pursuant to the second paragraph hereof, the competent authority shall order the institution to undergo capital increase within a specified time period, and may order the institution to close down its business should the institution fail to undergo the required capital increase in a timely manner.

Article 8 An electronic payment institution may not engage in businesses not yet approved by the competent authority.

For electronic payment institutions that engage exclusively in related businesses

(referred to as "specialized electronic payment institutions" hereunder), the competent authority will state the business items they may engage in on their business license, and shall indicate so on the business license if any of the business items involves cross-border operation.

Article 9 Electronic payment institutions that have been approved by the competent authority in accordance with the Act Governing Issuance of Electronic Stored Value Cards may engage concurrently in electronic stored value card business.

Article 10 To apply for approval to engage exclusively in businesses under the subparagraphs of Paragraph 1, Article 3 herein, the promoters or responsible persons shall submit the following documents to the competent authority:

1. Application form.
2. The roster of the promoters or directors and supervisors, and evidential documents;
3. The minutes of promoters' meeting or board of directors meeting;
4. An explanation of the sources of funds;
5. The articles of incorporation;
6. A business plan describing the scope of business, principles and direction of business operations and actual implementation methods, market prospects, risk and benefit analysis, and a CPA-certified assessment of budget sufficient to meet the needs of information system and proper business operations in the next five years;
7. Personal information of general manager or the designated general manager;
8. Internal business guidelines and business procedures;
9. Agreements or templates therefor between relevant parties involved in the electronic payment business regarding their respective rights and obligations;
10. Description of information system and security management operations to be adopted for the electronic payment business;
11. Description of CPA-certified clearing and settlement mechanism for the business

transactions of electronic payment institution;

12. Description of CPA-certified safeguard mechanism for funds received from users and trust agreement, performance guarantee agreement or templates therefor; and
13. Other documents as required by the competent authority.

The internal business guidelines referred to in Subparagraph 8 of the preceding paragraph shall contain the following items:

1. Organization structure and responsibilities of departments;
2. Personnel allocation, management and training;
3. Internal control system and internal audit system;
4. Anti-money laundering procedures;
5. User identify verification mechanism;
6. Accounting systems;
7. Business principles and policies;
8. Consumer protection measures and dispute handling procedure;
9. Operational manual and division of responsibilities; and
10. Other items as required by the competent authority.

Banks and Chunghwa Post Co., Ltd. (referred to as "Chunghwa Post" hereunder) that apply for approval to engage concurrently in the businesses under the subparagraphs of Paragraph 1, Article 3 herein shall submit documents required under Subparagraphs 1, 5, 6, 8 ~ 11, and 13 of Paragraph 1 hereof and the meeting minutes of their board of directors to the competent authority.

Electronic stored value card issuers that apply for approval to engage concurrently in the businesses under the subparagraphs of Paragraph 1, Article 3 herein shall submit documents required under Subparagraphs 1, 5, 6, 8 ~ 13 of Paragraph 1 hereof and the meeting minutes of their board of directors to the competent authority.

The competent authority may ask relevant trade association or other suitable institutions to assist in the examination of documents provided according to Subparagraph 10 of Paragraph 1 hereof and to make review suggestions.

The competent authority should consult the Central Bank before granting

approval under Paragraphs 1, 3 and 4 hereof.

Banks and Chunghwa Post that have been approved by the competent authority to provide collection and payment service for online transactions before this Act becomes effective shall be deemed to have been granted approval under Paragraph 3 hereof.

Article 11 Where an applicant that applies for approval pursuant to Paragraph 1, 3 or 4 of the preceding article has any of the following situations, the competent authority may reject such an application:

1. The planned minimum paid-in capital does not conform to the provision set forth in Article 7 herein.
2. The application documents contain false or untruthful information.
3. The applicant fails to provide supplemental documents or complete corrective actions required within the time period specified by the competent authority.
4. The proposed business plan lacks specifics or its implementation is apparently difficult.
5. The applicant lacks the professional expertise for managing the business that will make business operations difficult.
6. There is a national security concern.
7. There are other concerns that the applicant will not be able to operate its business soundly.

Article 12 A specialized electronic payment institution shall, within six (6) months after obtaining approval from the competent authority, submit the following documents to the competent authority to apply for issuance of business license:

1. An application for business license;
2. Documents evidencing company registration;
3. CPA audit report certifying that the capital has been paid in full;
4. Roster of shareholders;
5. Roster of directors and minutes of the board of directors' meeting; roster of

- managing directors and minutes of managing directors' meeting, if applicable;
6. Roster of supervisors and the minutes of supervisors' meeting; and
  7. Other documents as required by the competent authority.

The time limit referred to in the preceding paragraph may be extended once, provided the institution has justified reasons, an application for extension is submitted prior to the expiration of the time limit, and that such extension may not exceed three (3) months.

If a specialized electronic payment institution fails to apply for business license within the time period provided in Paragraph 1 or the preceding paragraph hereof, the competent authority may revoke its approval.

If it is found after a specialized electronic payment institution has obtained a business license that its application for business license contains false information of a serious nature, the competent authority should revoke the granted approval and business license, and order the institution to turn in its business license within a specified time period, or cancel its business license if the institution fails to turn in the license within the specific time period.

A specialized electronic payment institution shall commence business operation within six (6) months after being granted a business license by the competent authority. However the time limit for commencing business operation may be extended once, provided the request for extension has justified reasons and is approved by the competent authority, and that such extension may not exceed six (6) months.

Where a specialized electronic payment institution fails to commence business operations within the specified time period provided in the preceding paragraph, the competent authority may revoke the granted approval and its business license, order the institution to turn in its business license within a specified time period, or cancel its business license if the institution fails to turn in the license within the specific time period.

Where a specialized electronic payment institution wishes to change the information stated on its business license, it shall apply for the approval of the

competent authority and for the issuance of a new business license.

Article 13 An electronic payment institution shall notify the competent authority in writing within five (5) business days from the date it commences operation.

Article 14 A foreign institution may not engage in any business under the subparagraphs of Paragraph 1, Article 3 herein within the Republic of China, unless it has applied and obtained approval to establish an electronic payment institution according to this Act.

Unless with approval from the competent authority, nobody may cooperate with foreign institutions or assisting them to engage in activities inside the Republic of China associated with any business under the subparagraphs of Paragraph 1, Article 3 herein.

Regulations governing individuals and entities that the competent authority will grant approval to as described in the preceding paragraph, their qualifications, required documentation, scope and modes of cooperating with or assisting foreign institutions to engage in activities inside the Republic of China associated with any business under the subparagraphs of Paragraph 1, Article 3 herein, operations management and other compliance matters shall be prescribed by the competent authority in consultation with the Central Bank.

A Mainland Area institution applying for approval to establish an electronic payment institution and anybody cooperating with or assisting a payment institution in Mainland Area to engage in activities inside the Republic of China associated with any business under the subparagraphs of Paragraph 1, Article 3 herein shall follow the provisions in Article 72 and Article 73 of the Act Governing Relations between the People of the Taiwan Area and the Mainland Area.

The competent authority should assist domestic electronic payment institutions in developing offshore business in collaboration with foreign entities.

### **Chapter 3 Supervision and Administration**

#### **Section 1 Specialized Electronic Payment Institutions**

Article 15 The balance of stored value funds in NTD and/or foreign currencies deposited by each user with a specialized electronic payment institution shall not exceed an equivalent of NT\$50,000.

The amount of funds in NTD and/or foreign currencies that a specialized electronic payment institution may transfer between the e-payment accounts of users shall not exceed an equivalent of NT\$50,000 for each transaction.

The limits provided in the preceding paragraph may be adjusted by the competent authority in consultation with the Central Bank in view of economic development.

If deemed necessary, the competent authority may limit the amount of transaction for the businesses of specialized electronic payment institutions under the subparagraphs of Paragraph 1, Article 3 herein, and the amounts of limit will be determined by the competent authority in consultation with the Central Bank.

Article 16 A specialized electronic payment institution shall deposit the funds it receives from users into a dedicated deposit account in the same currency opened by it with a bank and accurately record the amounts of payment and transfer of funds in e-payment accounts.

The bank provided in the preceding paragraph shall manage the deposit, transfer, drawing and utilization of funds deposited by a specialized electronic payment institution and periodically file the relevant data of the institution's dedicated deposit account with the competent authority.

Regulations governing restrictions on the opening of dedicated deposit account provided in the first paragraph hereof, its management, operating mode and other compliance matters shall be prescribed by the competent authority.

Article 17 A specialized electronic payment institution shall carry out transfer of funds according to the payment instructions of the users without any delay.

Upon receiving a payment instruction from a user, a specialized electronic payment institution shall notify the user in a manner agreed by the user for reconfirmation.

Article 18 When a user intends to withdraw funds in his/her e-payment account, a specialized electronic payment institution may not allow cash withdrawal, but shall transfer the withdrawn funds into a same-currency bank deposit account of the user.

When a user deposits foreign currency funds into his/her e-payment account, a specialized electronic payment institution may not accept such deposit unless the funds are transferred from the user's foreign currency deposit account in the same currency at a bank.

Article 19 Specialized electronic payment institutions shall deposit a sufficient amount of reserve when the combined NTD and foreign currency funds they receive from users reach a certain amount. Regulations governing the certain amount, percentage for the reserve, method of deposit, adjustment, audit and other compliance matters shall be prescribed by the Central Bank in consultation with the competent authority

Article 20 Specialized electronic payment institutions shall declare trust in full or obtain full guarantee from a bank for the stored funds deposited by users less the required reserve and for the amount of funds collected/paid as an agent

A specialized electronic payment institution shall appoint an accountant to conduct quarterly audit of the state of compliance with the preceding paragraph, and submit the accountant's audit report to the competent authority for record in one (1) month after the end of each quarter.

The term "declare trust" referred to in Paragraph 1 hereof means the specialized electronic payment institution entering into a trust agreement with the bank at where it opens its dedicated deposit account to designate the dedicated deposit account as a trust account.

The mandatory and prohibitory provisions to be included in the trust agreement shall be prescribed by the competent authority.

The trust agreement referred to in Paragraph 3 hereof shall be deemed invalid, provided its clauses violate the mandatory and prohibitory provisions to be included

as announced by the competent authority. Mandatory provisions as announced by the competent authority that are not included in the trust agreement shall still constitute a part of the agreement.

The term “full guarantee from a bank” referred to in Paragraph 1 hereof means that the specialized electronic payment institution shall enter a full performance guarantee agreement with a bank where the bank guarantees the performance responsibility of the specialized electronic payment institution towards its users.

A specialized electronic payment institution shall complete the contract renewal or enter a new contract at least two (2) months before the expiration of the trust agreement or the guarantee agreement, and report the situation by letter to the competent authority for record.

A specialized electronic payment institution that fails to conform to the preceding paragraph will not be allowed to accept new user registration or accept more funds from existing users.

Article 21 A specialized electronic payment institution may not draw or instruct the bank at which it opens its dedicated deposit account to draw on the funds received from users, except for any of the following circumstances:

1. Transfer of funds according to the payment instruction of a user.
2. Users withdrawing funds from their e-payment account.
3. To utilize funds received from users in accordance with Paragraphs 2 ~ 4 hereof and to dispense or collect interest or other income earned thereof.

For funds collected/paid as an agent, a specialized electronic payment institution may only deposit and safekeep the funds in a dedicated deposit account without making use of it by any other means or instructing the bank at which it opens its dedicated deposit account to make use of it by any other means.

For stored funds, a specialized electronic payment institution may utilize it or instruct the bank at which it opens its dedicated deposit account to make utilize it up to a certain percentage in any of the following manners:

1. Deposit it in banks.

2. Purchase government bonds.
3. Purchase treasury bills or negotiable certificates of deposit.
4. Purchase other financial products approved by the competent authority.

The bank at which the dedicated deposit account is opened shall dispense the interest or other income earned from the trust property, less costs, necessary expenses and loss, to the specialized electronic payment institution in the year of income occurred according to the trust agreement.

A specialized electronic payment institution shall set aside a certain percentage of the interest or other income earned from the utilization of funds received from users and deposit it in a dedicated account opened with a bank at which the dedicated deposit account is opened to pay back to the users or use it for other purposes prescribed by the competent authority.

The certain percentage referred to in Paragraph 3 hereof and the preceding paragraph shall be prescribed by the competent authority.

When the total value of funds received from users and utilized by a specialized electronic payment institution in accordance with Paragraph 2 and Paragraph 3 hereof falls below the original amount of investment as assessed according to the generally accepted accounting principles, the institution shall forthwith make up the shortfall.

A specialized electronic payment institution shall appoint an accountant to conduct audit of the state of compliance with Paragraphs 1 ~ 3, Paragraph 5 hereof and the preceding paragraph, and submit the accountant's audit report to the competent authority for record in two (2) months after the end of every half fiscal year.

The claims of the users over their funds arising from the businesses under the subparagraphs of Paragraph 1, Article 3 herein engaged in by a specialized electronic payment institution shall have precedence over the claims of other creditors.

Article 22 For onshore businesses conducted by specialized electronic payment institutions, funds received from or paid to onshore users shall be settled and cleared in NTD.

For cross-border businesses conducted by specialized electronic payment institutions, funds received from or paid to onshore users may be settled and cleared in NTD or foreign currency, whereas funds received from or paid to offshore users should be settled in foreign currency.

Specialized electronic payment institutions that conduct cross-border businesses shall post on their website the exchange rates offered by the bank which they use as reference and the names of banks they work with.

**Article 23** If deemed necessary, the competent authority may limit the total balance of funds received by specialized electronic payment institutions from users as a multiple of the institution's paid-in capital or networth.

When the total balance of funds received by a specialized electronic payment institution from users as a multiple of the institution's paid-in capital or networth does not meet the limits set forth by the competent authority pursuant to the preceding paragraph, the competent authority may order the institution to increase capital or reduce the total balance of funds received from users within a specified time period, and mete out other disciplinary actions or restrictions.

**Article 24** Specialized electronic payment institutions shall establish a user identity verification mechanism to verify the identity of users when they register and retain the data obtained in the user identification process. The preceding provision applies when a user changes his/her identity information.

The retention period for data obtained in user identification process referred to in the preceding paragraph shall be at least five (5) years after the termination or closing of the user's e-payment account.

Regulations governing the manner of establishment and process for user identity verification mechanism referred to in Paragraph 1 hereof, its management, scope of data to be obtained in the user identification process, and other related matters shall be prescribed by the competent authority in consultation with the Ministry of Justice and the Central Bank.

The competent authority may, by itself or through a suitable institution appointed by it, establish a mechanism for inquiring, matching, authenticating or verifying identity information to facilitate the verification of user identity by specialized electronic payment institutions.

The fee schedule and administration rules for using the mechanism referred to in the preceding paragraph shall be prescribed by the competent authority.

Article 25 Specialized electronic payment institutions shall retain necessary transaction records, including the e-payment account numbers of users, transaction items, dates, amounts and currencies, as well as records on any uncompleted transactions.

The necessary transaction records referred to in the preceding paragraph shall be retained for at least five (5) years after the termination or completion of transaction, or longer, provided longer period of retention is required according to other regulations.

The scope and method of retaining necessary transaction records shall be prescribed by the competent authority in consultation with the Ministry of Justice, the Ministry of Finance, and the Central Bank.

When the tax authority, the customs or the Central Bank ask, out of business needs, a specialized electronic payment institution to provide necessary transaction records provided in Paragraph 1 hereof and/or data obtained in the user identification process provided in Paragraph 1 of the preceding article, the specialized electronic payment institution may not refuse.

Article 26 Specialized electronic payment institutions shall establish a mechanism for handling customer complaints and dispute settlement.

Article 27 The terms and conditions of the standard contract prepared by a specialized electronic payment institution for its electronic payment business shall comply with the mandatory and prohibitory provisions to be included in standard form contract for the business announced by the competent authority. The protections for consumer rights and interests provided in the standard contract shall not be less than those

contained in template of standard form contract for electronic payment business prescribed by the competent authority.

Article 28 Specialized electronic payment institutions shall keep the transaction data and other related information of the users confidential, unless it is otherwise required by law or the competent authority.

Specialized electronic payment institutions shall not use the personal data of users to engage in marketing activities on behalf of third parties.

Article 29 A specialized electronic payment institution shall ensure the privacy and security of the transaction data and be responsible for the accuracy of data transfer, exchange or .

A specialized electronic payment institution shall establish an information system that meets certain requirements. The standards for information system and security management of its businesses, and subsequent amendments thereto shall be prescribed by the competent authority.

When a specialized electronic payment institution uses mobile phone or other portable devices in providing services at physical channels in connection with its businesses under the subparagraphs of Paragraph 1, Article 3 herein, the operation shall comply with the security management standards referred to in the preceding paragraph, and must be approved by the competent authority before it starts using such devices.

Article 30 A specialized electronic payment institution shall establish an internal control and audit system; regulations governing the objectives, principles, policies, operating procedures, qualification requirements for internal auditors, scope of internal control audits undertaken by appointed certified public accountant, and other compliance matters shall be prescribed by the competent authority.

Article 31 Specialized electronic payment institutions shall file business related reports in

accordance with the rules of the competent authority and the Central Bank.

Specialized electronic payment institutions shall periodically deliver detailed schedule of their account operations to the bank at which they open their dedicated deposit account for the bank to check the deposit, transfer, drawing and utilization of funds received from users.

Article 32 A specialized electronic payment institution shall prepare business report and CPA-certified financial report or other financial documents designated by the competent authority within four (4) months after the end of a fiscal year, and submit the same to the competent authority and make public announcement in fifteen (15) days after those reports have been passed in shareholders' meeting.

Article 33 Rules governing the business management and operating mode of specialized electronic payment institutions, user management, ways for users to give payment instruction, business outlets, outsourcing operation, restrictions on investment, approval of significant financial businesses and operations, reporting and other compliance matters shall be prescribed by the competent authority in consultation with the Central Bank.

Article 34 The competent authority may at any time dispatch officers or appoint a suitable agency to examine the business, finance or other relevant items of a specialized electronic payment institution, or order the specialized electronic payment institution to submit financial report, inventory of property, or other relevant information and reports within a specified time period.

If deemed necessary, the competent authority may designate a professional expert or technical personnel to inspect the items, reports or information subject to examination according to the preceding paragraph, and submit an inspection report to the competent authority. The expenses thus incurred shall be borne by the institution being inspected.

Article 35 If a specialized electronic payment institution violates laws or regulations, or its articles of incorporation, or is suspected of improper management, the competent authority may issue an official reprimand or order it to take corrective action within a specified time period, and may, depending on the severity of the circumstances, take the following disciplinary actions:

1. Revoke the resolutions adopted at the shareholders' meetings, board of directors' meetings or other statutory meetings;
2. Repeal the approval for part or all of the businesses of the specialized electronic payment institution;
3. Order the specialized electronic payment institution to relieve its managers or employees of their offices;
4. Dismiss its directors or supervisors, or suspend them from their duties for a certain period of time; and
5. Take other necessary disciplinary actions.

If a director or supervisor of a specialized electronic payment institution is dismissed pursuant to Subparagraph 4 of the preceding paragraph, the competent authority shall notify the Ministry of Economic Affairs to cancel the registration of such director or supervisor.

Article 36 Where the accumulated loss of a specialized electronic payment institution exceeds one half (1/2) of its paid-in capital, the institution shall promptly report to the competent authority in writing its financial statements and reasons for the loss

The competent authority may require a specialized electronic payment institution in the situation as described in the preceding paragraph to replenish its capital or restrict its business operations, and order the closedown of business if the specialized electronic payment institution fails to replenish its capital as required within the specified time period

Article 37 If the business or financial conditions of a specialized electronic payment institution deteriorate so significantly that it might not be able to pay its debts or that

the interests of users might be adversely affected, the competent authority may inform the relevant authorities or agencies to prohibit the specialized electronic payment institution, its responsible persons, or any of its employees from transferring, delivering, hypothecating or exercising other rights, or may also request by letter that immigration authority forbids such persons from leaving the country, or order the specialized electronic payment institution to transfer its businesses to another electronic payment institution.

When a specialized electronic payment institution is dissolved, closes down business, or suspends business, or has its permit revoked or repealed, or is ordered to dissolve so that it becomes unable to continue its business, the institution shall contact other electronic payment institution(s) to take over its business, subject to the approval of the competent authority.

Where such specialized electronic payment institution fails to follow the provisions in the preceding paragraph, the competent authority will designate other electronic payment institution(s) to assume its business

Article 38 To prevent electronic payment institutions from damaging the interests of consumers by failing to deliver trust or obtain full performance guarantee from a bank, electronic payment institutions shall set aside funds to the establishment of a sinking fund.

When an electronic payment institution runs into financial difficulty, thereby becoming insolvent and breaching its contract, the sinking fund may, in the capacity of a third person, repay the consumers, and from the time of making repayment, assume the rights of the consumers within the extent of repayment.

Regulations governing the organization, management and repayment operation of the sinking fund shall be prescribed by the competent authority.

Respective electronic payment institution shall allocate a certain percentage of its business income to the sinking fund; the certain percentage will be determined by the competent authority in consideration of the economic and business conditions and the affordability of respective electronic payment institution.

## Section 2 Dual-status Electronic Payment Institutions

Article 39 Articles 15, 17, 18, Paragraph 9 of Article 21, Paragraphs 1 and 2 of Article 22, Articles 24 ~ 29, Paragraph 1 of Article 31, Articles 33 ~ 35, Articles 37 and 38 shall apply *mutatis mutandis* to banks and Chunghwa Post that engage concurrently in the businesses under the subparagraphs of Paragraph 1, Article 3 herein.

Article 40 Articles 15 ~ 35, Articles 37 and 38 shall apply *mutatis mutandis* to electronic stored value card issuers that engage concurrently in the businesses under the subparagraphs of Paragraph 1, Article 3 herein.

Article 41 The stored funds received by banks and Chunghwa Post in connection with the business under Subparagraph 2, Paragraph 1 of Article 3 herein that they engage concurrently in as well as reserves set aside by them in accordance with the Banking Act or other relevant regulations are insured subjects under the Deposit Insurance Act.

## **Chapter 4 Trade Association**

Article 42 An electronic payment institutions shall join a trade association designated by the competent authority or the Electronic Payment Committee of the Bankers Association of the Republic of China ("Bankers Association") before commencing operation.

The charter of the trade association designated by the competent authority and bylaws as well as rules governing the conduct of meetings of the Electronic Payment Committee of the Bankers Association referred to in the preceding paragraph, and subsequent amendments thereto shall be submitted to the competent authority for approval.

The businesses of the trade association designated by the competent authority referred to in Paragraph 1 hereof shall be subject to the guidance and supervision of the competent authority.

Where any directors or supervisors of the trade association referred to in the preceding paragraph is found to have violated rules and regulations, its charter, was

derelict in performing his/her duties, misused his/her authority, or acted against the principle of good faith, the competent authority may issue corrective orders or order the trade association to discharge such director or supervisor.

Article 43 The trade association designated by the competent authority or the Electronic Payment Committee of the Bankers Association shall undertake the following activities to help promote the sound operations of members and uphold the reputation of the industry:

1. Assist the competent authority in promoting and studying policies and regulations related to electronic payment business;

2. Draw up and periodically review common business rules or self-disciplinary rules and report such rules and subsequent changes thereto to the competent authority for record;

3. Provide necessary guidance to members with respect to the electronic payment business they engage in or mediate disputes therebetween; and

4. Undertake other matters as designated by the competent authority.

Electronic payment institutions shall observe the business rules and self-disciplinary rules referred to in Subparagraph 2 of the preceding paragraph.

## **Chapter 5 Penal Provisions**

Article 44 Those that are not an electronic payment institution but engage in any business under Subparagraphs 2~4, Paragraph 1 of Article 3 herein shall be punishable by imprisonment for not less than three (3) year and not more than ten (10) years, and in addition thereto, a fine of not less than NT\$20,000,000 and not more than NT\$500,000,000.

Those that fail to apply to the competent authority for approval in accordance with Paragraph 3 of Article 3 or Article 45 herein or have applied for approval according to rules but were rejected by the competent authority and still engage in the business under Subparagraph 1, Paragraph 1 of Article 3 herein shall be punishable by imprisonment for not more than five (5) years, and in addition thereto, a fine of not

more than NT\$100,000,000.

Should a juristic person commit the offenses prescribed in the preceding two paragraphs, its responsible actor(s) shall be punished, and in addition, the juristic person shall be subject to the fines set out in the preceding two paragraphs.

Article 45 When a specialized electronic payment institution violates Paragraph 1 of Article 20 or Paragraph 1 of Article 21 herein, its responsible actor(s) shall be punishable by imprisonment for not more than seven (7) years, and in addition thereto, a fine of not more than NT\$500,000,000.

When an electronic stored value card issuer engaging concurrently in any business under the subparagraphs of Paragraph 1, Article 3 herein violates Article 40 herein to which Paragraph 1 of Article 20 or Paragraph 1 of Article 21 herein applies *mutatis mutandis*, its responsible actor(s) shall be punishable in accordance with the preceding paragraph.

In case of a situation described in either of the preceding two paragraphs, its responsible actor(s) shall be punished, and in addition, the specialized electronic payment institution or the electronic stored value card issuer shall be subject to the fine set out in Paragraph 1 hereof.

Article 46 Violation of Paragraph 2 of Article 14 herein by cooperating with or assisting foreign institutions to engage in activities inside the Republic of China associated with any business under the subparagraphs of Paragraph 1, Article 3 herein without the approval of the competent authority, or failing to apply to the competent authority for approval in accordance with Article 56 herein, or having applied for approval according to rules but engaging in activities associated with the aforementioned business after being denied approval by the competent authority shall be punishable by imprisonment for not more than three (3) years, detention or in lieu thereof, or in addition thereto, a fine of not more than NT\$5,000,000.

Should a juristic person commit the offense prescribed in the preceding paragraph, its responsible actor(s) shall be punished, and in addition, the juristic person shall be

subject to the fine set out in the preceding paragraph.

Article 47 Where the offences prescribed in Article 44 or 45 herein constitutes a serious crime as defined under Paragraph 1, Article 3 of the Money Laundering Control Act, relevant provisions of the Money Laundering Control Act shall apply.

Article 48 Commission of any of the following offences shall be subject to a fine of not less than NT\$600,000 and not more than NT\$3,000,000:

1. Violation of Subparagraph 2 or 3, Paragraph 1 of Article 4 herein.
2. Violation of Article 5 by not engaging exclusively in businesses under the subparagraphs of Paragraph 1, Article 3 herein.
3. Violation of Paragraph 1 of Article 8 herein.
4. Violation of regulations governing modes of cooperating with or assisting foreign institutions to engage in activities inside the Republic of China associated with any business under the subparagraphs of Paragraph 1, Article 3 herein or governing operations management prescribed pursuant to Paragraph 3 of Article 14 herein.
5. Violation of limits set out in Paragraph 1 or 2 of Article 15, or Article 39 or 40 herein to which Paragraphs 1 and 2 of Article 15 apply *mutatis mutandis*, or violation of limits set out in Paragraph 4 of Article 15, or Article 39 or 40 herein to which Paragraphs 4 of Article 15 apply *mutatis mutandis*.
6. Violation of Paragraph 1 of Article 16, or Article 40 herein to which Paragraph 1 of Article 16 applies *mutatis mutandis*, or violation of provisions on restriction, management or operating mode on dedicated deposit account in regulations prescribed pursuant to Paragraph 3 of Article 16 or Article 40 herein, to which Paragraph 3 of Article 16 applies *mutatis mutandis*.
7. Violation of Article 17, Article 39 or Article 40 herein to which Article 17 applies *mutatis mutandis* by delaying the transfer of funds or failing to notify users in an agreed manner for reconfirmation.
8. Violation of Article 18, Article 39 or Article 40 herein to which Article 18 applies

*mutatis mutandis.*

9. Violation of Paragraph 7 or 8 of Article 20 or Article 40 herein to which Paragraphs 7 and 8 of Article 20 apply *mutatis mutandis* by not completing contract renewal or entering a new contract during the specified time period, or reporting the situation by letter to the competent authority for record, or by accepting the registration of new users or accepting more funds from existing users.
10. Violation of Paragraph 5 or 7 of Article 21, or Article 40 herein to which Paragraphs 5 and 7 of Article 21 apply *mutatis mutandis.*
11. Violation of Paragraph 1 of Article 22, Article 39 or Article 40 herein to which Paragraph 1 of Article 22 applies *mutatis mutandis*, or violation of Paragraph 2 of Article 22, Article 39 or Article 40 herein to which Paragraph 2 of Article 22 applies *mutatis mutandis* by not accepting or paying funds from offshore users and, settling and clearing the funds in foreign currency.
12. Violation of Paragraph 1 or 2 of Article 24, Article 39 or Article 40 herein to which Paragraphs 1 and 2 of Article 24 apply *mutatis mutandis*, or violation of the regulations on manner of establishment, process and management for user identity verification mechanism prescribed pursuant to Paragraph 3 of Article 24, or Article 39 or Article 40 herein to which Paragraph 3 of Article 24 apply *mutatis mutandis.*
13. Violation of Paragraph 1 or 2 of Article 25, Article 39 or Article 40 herein to which Paragraphs 1 and 2 of Article 25 apply *mutatis mutandis.*
14. Violation of Article 28, Article 39 or Article 40 herein to which Article 28 applies *mutatis mutandis.*
15. Violation of Paragraph 1 or 3 of Article 29, Article 39 or Article 40 herein to which Paragraphs 1 and 3 of Article 29 apply *mutatis mutandis.*
16. Violation of Article 30 or Article 40 herein to which Article 30 applies *mutatis mutandis* by not establishing an internal control and audit system, or not implementing it vigorously.
17. Violation of Article 31, Article 39 to which Paragraph 1 of Article 31 applies

*mutatis mutandis*, or Article 40 herein to which Article 31 applies *mutatis mutandis*.

18. Violation of Article 32 or Article 40 herein to which Article 32 applies *mutatis mutandis*.
19. Violation of rules governing the business management and operating mode, user management, ways for users to give payment instruction, business outlets, outsourcing operation, restrictions on investment, approval of significant financial businesses and operations, and reporting prescribed pursuant to Article 33, or Article 39 or Article 40 herein to which Article 33 applies *mutatis mutandis*.
20. Violation of Paragraph 1 of Article 38, Article 39 or Article 40 herein to which Paragraph 1 of Article 38 applies *mutatis mutandis* by not allocating funds.

Article 49 If the responsible person or staff member of an electronic payment institution commits any of the following acts when the competent authority dispatch officers or appoint a suitable agency, or designate a professional expert or technical personnel to examine or inspect its business, finance or other relevant items, or order the electronic payment institution to submit financial report, inventory of property, or other relevant information and reports within a specified time period, the responsible person or staff member shall be subject to a fine of not less than NT\$600,000 and not more than NT\$3,000,000:

1. Refusing to be examined or inspected;
2. Concealing or destroying account books and documents related to business or financial conditions;
3. Refusing to reply or providing false information to inquiries made by the examiner or inspector without justifiable reasons; or
4. Failure to provide financial reports, inventory of property or other relevant information in a timely manner or failure to provide accurate and complete information, or failure to pay inspection fees within the prescribed period of time.

Article 50 Commission of any of the following offences shall be subject to a fine of not less

than NT\$200,000 and not more than NT\$1,000,000:

1. Violation of Paragraph 4 of Article 3 herein.
2. Violation of Paragraph 7 of Article 12 herein.
3. Violation of Article 13 herein.
4. Violation of Paragraph 2, Article 20 or Article 40 herein to which Paragraph 2 of Article 20 applies *mutatis mutandis*.
5. Violation of Paragraph 8 of Article 21 or Article 40 herein to which Paragraph 8 of Article 21 applies *mutatis mutandis*.
6. Violation of Paragraph 3 of Article 22 or Article 40 herein to which Paragraph 3 of Article 22 applies *mutatis mutandis*.
7. Violation of Paragraph 4 of Article 25, Article 30 or Article 40 herein to which Paragraph 4 of Article 25 applies *mutatis mutandis* by refusing to provide records or data.
8. Violation of Article 27, Article 39 or Article 40 to which Article 27 applies *mutatis mutandis* by providing protections for user rights and interests in the standard contract that are less than those contained in template of standard form contract for electronic payment business prescribed by the competent authority.
9. Violation of Paragraph 1 of Article 36 herein.
10. Violation of Paragraph 1 of Article 42 by operating without joining a trade association.

Article 51 When an electronic payment institution violates Article 19 or Article 40 herein to which Article 19 applies *mutatis mutandis* by not depositing sufficient amount of reserve as required, the Central Bank may charge the institution, on the portion of the shortfall, a penalty interest at the lowest rate on accommodations without collateral as announced by the Central Bank plus 5% per annum; where the violation is of serious nature, the Central Bank may impose a fine of not less than NT\$200,000 and not more than NT\$1,000,000.

Article 52 For electronic payment institutions that have been penalized in accordance with

this Act and fail to take corrective actions within the specified time period as ordered by the competent authority, the competent authority may mete out penalties each time a violation occurs. Where the violation is of a serious nature, the competent authority may order the electronic payment institution to replace its responsible person within a specified time period, close down its business, or revoke its approval.

Article 53 The gains or property interests obtained from the commission of an offence provided in this Act, other than that which should be returned to the victims of crime or/and person(s) with a claim for compensation due to harm, shall be confiscated, provided the remaining gains belong to the offender. Where the above gains or property interests cannot be confiscated in whole or in part, the value thereof shall be indemnified by either seeking recourse against the offender or offsetting such value with the property of the offender.

## **Chapter 6 Supplementary Provisions**

Article 54 For an entity that is already engaging in the business under Subparagraph 1, Paragraph 1 of Article 3 before this Act becomes effective, and that the total balance of funds collected/paid and kept by it as an agent already exceeds a certain amount set by the competent authority pursuant to Paragraph 2 of the same article, the responsible person of the entity shall, within six (6) months from the date on which this Act becomes effective, submit documentation required under Paragraph 1, Article 10 herein to the competent authority to apply for approval.

Article 55 Banks and Chunghwa Post under Paragraph 7, Article 10 herein shall, within four (4) months from the date this Act becomes effective, submit a modified business plan that meets the relevant provisions of this Act and a self-evaluation report to the competent authority for record.

Article 56 For an entity that is already cooperating with or assisting foreign institutions to engage in activities inside the Republic of China associated with any business under

the subparagraphs of Paragraph 1, Article 3 herein before this Act becomes effective shall, within six (6) months from the date on which this Act becomes effective, apply to the competent authority for approval in accordance with the regulations prescribed pursuant to Paragraph 3, Article 14 herein.

Article 57 When the competent authority receives application for approval or documentation for record under Article 54 or Article 55 herein and finds that the applicant's business management or operating mode does not meet the provisions stipulated in this Act, the competent authority may order the applicant to make adjustment within a specified time period.

Article 58 The date on which this Act becomes effective will be determined by the Executive Yuan.