

# **Regulations Governing the Dedicated Deposit Account of Electronic Payment Institutions**

## **Chapter 1 General Provisions**

Article 1 These Regulations are adopted pursuant to Paragraph 3, Article 14 of the Act Governing Electronic Payment Institutions (referred to as the “Act” hereunder) and Paragraph 3, Article 16 of the Act to which Article 14 of the Act applies *mutatis mutandis*.

Article 2 The terms as used in these Regulations are defined as follows:

1. "Electronic payment institution" shall mean specialized electronic payment institutions and electronic stored value card issuers engaging concurrently in electronic payment business.
2. "Electronic payment business" shall mean businesses under the subparagraphs of Paragraph 1, Article 3 of the Act.
3. "Dedicated deposit account bank" shall mean the following banks that sign a contract with an electronic payment institution or a trustee bank to accept the opening of a dedicated deposit account by it:
  - (1) Dedicated deposit account managing bank (referred to as "managing bank" hereunder) is a bank that accepts the opening of dedicated deposit management account.
  - (2) Dedicated deposit account cooperative bank (referred to as "cooperative bank" hereunder) is a bank that accepts the opening of dedicated deposit cooperative account.
4. "Dedicated deposit account" shall mean the following deposit accounts used by an electronic payment institution or a trustee bank exclusively for depositing funds received from users:
  - (1) "Dedicated deposit managed account" (referred to as "managed account") shall mean a current deposit account opened with a managing bank that accepts funds from users in cash and by account transfer and makes payment via interbank or intrabank account transfer.
  - (2) "Dedicated deposit cooperative account" (referred to as "cooperative account" hereunder) shall mean a current deposit account opened with a cooperative bank that accepts funds from users in cash and by account transfer and makes payment via intrabank account transfer.
5. "Income set-aside account" shall mean a deposit account opened by an electronic payment institution with a managing bank and used exclusively for depositing interest or other income earned from the utilization of funds received from users set aside as required under Paragraph 5, Article 21 of the

Act.

6. "Own fund account" shall mean a current deposit account opened by an electronic payment institution with a managing bank and used exclusively for depositing service fees, management fees and other fee income from users.
7. "Trustee bank" shall mean a bank to which an electronic payment institution declares trust funds received from users for management, utilization and disposal.

Article 3 For funds received from users deposited with a dedicated deposit account bank, an electronic payment institution shall carry out deposit, management, transfer, drawing and utilization operations in coordination with the dedicated deposit account bank according to these Regulations.

Article 4 A managing bank shall handle the following matters:

1. Manage the deposit, transfer, drawing and utilization of funds from users deposited by an electronic payment institution at the bank;
2. Check the deposit, transfer, drawing and utilization of all funds from users against the information and statements provided by the electronic payment institution and cooperative banks;
3. Regularly submit relevant data and information on all dedicated deposit accounts to the competent authority;
4. Arrange the allocation of funds in all dedicated deposit accounts;
5. Coordinate with and supervise cooperative banks to carry out management related to funds from users; and
6. Other matters required by the competent authority.

Article 5 A cooperative bank shall handle the following matters:

1. Manage the deposit, transfer, drawing and utilization of funds from users deposited by an electronic payment institution at the bank;
2. Regularly submit data and information on cooperative accounts to the managing bank;
3. Coordinate with managing bank to carry out management related to funds from users; and
4. Other matters required by the competent authority.

## **Chapter 2 Opening and Closing of Dedicated Deposit Account and Restrictions**

Article 6 An electronic payment institution or trustee bank shall open a dedicated deposit account with a bank organized and registered in accordance with the

Banking Act. However a cooperative account may be opened with Chunghwa Post Co., Ltd..

Article 7 An electronic payment institution may only choose one bank to be the managing bank and open only one managed account for each currency.

An electronic payment institution shall open income set-aside accounts and an own fund account with a managing bank, and may open only one such account for each currency.

Article 8 An electronic payment institution may, in view of business needs, choose cooperative banks, and open only one cooperative account for each currency at a cooperative bank.

Article 9 When an electronic payment institution declares trust funds received from users pursuant to Paragraphs 1 and 3, Article 20 of the Act, it shall appoint its managing bank as the trustee bank and designate the dedicated deposit account as a trust account, and the managing bank will open cooperative accounts on behalf of the electronic payment institution in the name of trustee bank in accordance with the trust agreement entered.

With respect to the cooperative accounts opened by a managing bank at respective cooperative banks in the name of trustee bank pursuant to the preceding paragraph, the managing bank will handle the responsibilities of a cooperative bank as well as the management and operations of cooperative accounts in accordance with the provisions of these Regulations.

Article 10 The managing bank selected by an electronic payment institution shall meet the following requirements:

1. The bank's ratio of regulatory capital to risk-weighted assets in the most recent quarter as reported to the competent authority complies with Article 5 of the Regulations Governing the Capital Adequacy and Capital Category of Banks;
2. The bank's average non-performing loan ratio in the past three months is below 2%; and
3. The bank does not have consecutive accumulated deficit in the past two years as audited and certified by an accountant.

When a managing bank signs an agreement with an electronic payment institution, the bank shall present a statement, undertaking that it complies with the requirements under the subparagraphs of the preceding paragraph.

If a managing bank becomes non-complying with any requirement under the

subparagraphs of Paragraph 1 hereof after signing an agreement with an electronic payment institution, the managing bank shall notify the electronic payment institution; if the managing bank has not remedied the situation two months before the agreement expires, the electronic payment institution should replace its managing bank.

Article 11 An electronic payment institution or trustee bank shall prepare the following documents when applying to a managing bank to open a managed account:

1. Business license issued to the electronic payment institution by the competent authority; and
2. Other necessary documents required by the managing bank for opening an account.

An electronic payment institution or trustee bank shall prepare the following documents when applying to a cooperative bank to open a cooperative account:

1. Business license issued to the electronic payment institution by the competent authority;
2. A document evidencing the signing of agreement between the electronic payment institution and a managing bank; and
3. Other necessary documents required by the cooperative bank for opening an account.

The document referred to Subparagraph 2 of the preceding paragraph shall be issued by the managing bank, which shall contain a clause on situations constituting a material breach.

Article 12 An electronic payment institution or trustee bank shall enter an agreement with the dedicated deposit account bank to agree on the rights, obligations and responsibilities of the parties.

The agreement entered between an electronic payment institution and a managing bank shall cover at least the following matters:

1. The rights and obligations of the parties that do not contradict the protected rights and interests of users.
2. Handling of dispute between the parties.
3. That the electronic payment institution shall be responsible for verifying the veracity and accuracy of user's payment instructions and carrying out fund transfer according to user instruction without delay.
4. The information or content of statements that the electronic payment institution should provide;
5. Managing bank's fee schedule for the electronic payment institution; and
6. That the electronic payment institution shall comply with relevant rules and

regulations and the agreement entered with the managing bank in business operations, and in case of major violation, the managing bank may restrict or suspend the transfer, drawing or utilization of all funds in the dedicated deposit accounts and report to the competent authority.

The agreement entered between an electronic payment institution or trustee bank and a cooperative bank shall contain at least the following clauses:

1. Clauses mentioned in Subparagraphs 1 ~ 3 of the preceding paragraph;
2. Cooperative bank's fee schedule for the electronic payment institution or trustee bank;
3. Content of data and information that the cooperative bank should report to the managing bank;
4. That the electronic payment institution shall comply with relevant rules and regulations and the agreements entered with the managing bank and the cooperative bank in business operations, and in case of major violation, the cooperative bank should report to the managing bank and take actions as provided under Subparagraph 6 of the preceding paragraph according to the instruction of the managing bank.

Subparagraphs 3 and 4 of the preceding paragraph do not apply when the managing bank opens a cooperative account in the name of trustee bank.

Article 13 The name of a dedicated deposit account should contain the wording "dedicated deposit managed account", "dedicated deposit cooperative account", "trust property dedicated deposit managed account" or "trust property dedicated deposit cooperative account", and includes the name of the electronic payment institution.

Article 14 An electronic payment institution shall, within 5 business days after opening a managed account, income set-aside account or own fund account, submit information on the managing bank and account type, name and number to the competent authority for reference; the preceding provision applies when an electronic payment institution adds, closes or changes an account mentioned above.

An electronic payment institution shall, within 5 business days after opening a cooperative account, submit information on the cooperative bank and account type, name and number to the competent authority for reference with a copy of same sent to the managing bank; the preceding provision applies when an electronic payment institution adds, closes or changes an account mentioned above.

Article 15 When an electronic payment institution or trustee bank has any of the following situations, it should close its dedicated deposit account:

1. Ordered, approved or designated by the competent authority to transfer its business or have its business assumed by another electronic payment institution pursuant to Article 37 of the Act.
2. The electronic payment institution replaces its dedicated deposit account bank or its contractual relationship with its dedicated deposit account bank ceases to exist.

When an electronic payment institution or trustee bank closes a dedicated deposit account pursuant to Subparagraph 1 of the preceding paragraph, it shall present the written order, approval or designation of the competent authority.

When an electronic payment institution or trustee bank closes a managed account, it shall close its income set-aside account simultaneously.

### **Chapter 3 Management and Operation of Dedicated Deposit Account**

**Article 16** When an electronic payment institution receives funds from a user, it shall accurately record the amount in the user's e-payment account and deposit the funds into its dedicated deposit account of the same currency opened with a dedicated deposit account bank by distinguishing between funds received as an agent and stored value funds.

An electronic payment institution shall separate the deposits and management of funds received from users from its own funds and income set-aside funds.

**Article 17** Electronic payment institutions shall deposit funds received from users by account transfer, remittance or cash deposit over the counter directly into the dedicated deposit account.

**Article 18** Electronic payment institutions shall deposit funds collected as an agent that are recorded daily in users' e-payment accounts into the dedicated deposit account no later than the next banking day.

The daily balance of funds collected by an electronic payment institution as an agent and deposited with a managing bank shall not be less than 50% of the total balance of funds collected as an agent in all dedicated deposit accounts in the previous banking day; if there is any shortfall, the electronic payment institution shall make up the shortfall on the same day.

**Article 19** Electronic payment institutions shall deposit all stored value funds that are recorded daily in users' e-payment accounts into the managed account on the next banking day.

**Article 20** For funds received from users that are declared trust in accordance with

Paragraph 1, Article 20 of the Act, electronic payment institutions shall instruct their managing bank to utilize the stored funds according to the subparagraphs of Paragraph 3, Article 21 of the Act.

Article 21 Funds made up by an electronic payment institution in accordance with Paragraph 7, Article 21 of the Act shall be deposited into the managed account.

When an electronic payment institution settles the stored funds utilized for investment in accordance with the subparagraphs of Paragraph 3, Article 21 of the Act, the institution should deposit the balance of originally invested stored funds less the make-up amount provided in the preceding paragraph into the managed account.

Article 22 For interest or other income earned from the utilization of funds received from users in accordance with Paragraphs 2 ~ 4, Article 21 of the Act, an electronic payment institution or trustee bank shall, in 5 business days after receiving the income, deposit the amount set aside in accordance with Paragraph 5, Article 21 of the Act into the income set-aside account.

Article 23 For service fees, management fees and other fee income deducted from funds received from a user as agreed between an electronic payment institution and an user, the electronic payment institution should instruct the managing bank to deposit such income into its own fund account via the managed account.

Article 24 An electronic payment institution may instruct its managing bank to make payment via intrabank or interbank account transfer through the managed account, or by transferring funds from the managed account into a cooperative account.

An electronic payment institution may instruct its cooperative bank to make payment via intrabank account transfer through the cooperative account, or by transferring funds from the cooperative account into the managed account.

Article 25 Where an electronic payment institution draws on funds received from users in accordance with Subparagraphs 1 and 2, Paragraph 1, Article 21 of the Act that it is necessary to make fund transfer, the funds should be transferred from the managed account into respective cooperative accounts and may not be transferred into bank accounts other than cooperative accounts.

Electronic payment institutions shall not ask users to bear expenses incurred from fund transfer carried out in accordance with the preceding paragraph.

Article 26 Except for situations provided under Article 28 herein, an electronic payment

institution shall not transfer funds in a dedicated deposit account to other electronic payment institutions.

Article 27 Electronic payment institutions should establish an account reconciliation mechanism with their managing bank via online inquiry or system linkup, and check the balance of funds received from users, balance in each cooperative account, and balance of payments in transit with the managing bank every banking day by distinguishing funds received/paid as an agent and stored value funds, and retain the reconciliation records for at least 5 years.

The time of the balances provided in the preceding paragraph shall be at 23:59:59 every day.

Electronic payment institution shall compile the balance of each dedicated deposit account and data required of reporting by the competent authority every month, and report same to the managing bank within the first 5 banking days of the following month.

Where an electronic payment institution is unable to provide reasonable explanation or show proof for the results of reconciliation conducted by the managing bank according to Paragraph 1 hereof, the electronic payment institution shall, within the next banking day following the receipt of a notice from the managing bank, make up the shortfall as requested by the managing bank.

Article 28 When an electronic payment institution or trustee bank closes the managed account, the funds in the original managed account shall be deposited entirely into a newly opened managed account or the managed account of another electronic payment institution that is assigned to assume its business.

When an electronic payment institution or trustee bank closes a cooperative account, the funds in the original cooperative account shall be deposited entirely into the managed account.

When an electronic payment institution closes its income set-aside account, the funds in the original income set-aside account shall be deposited entirely into a newly opened income set-aside account or the income set-aside account of another electronic payment institution that is assigned to assume its business.

#### **Chapter 4 Matters of Compliance for Dedicated Deposit Account Bank**

Article 29 A managing bank shall manage the deposit, transfer, drawing and utilization of funds received from users according to the following provisions:

1. On every banking day, check the consistency and reasonableness of balance of all dedicated deposit accounts and total balance of funds received from



users and retain the checking records; if any abnormality is found, conduct necessary investigation and take necessary actions;

2. On every banking day, check to see whether the balance of funds collected/paid as an agent and that of stored value funds comply with the provisions of Article 18 and Article 19 herein;
3. Check the document presented by the electronic payment institution that it has declared trust funds received from users in full or obtained full performance guarantee therefor from a bank in accordance with Paragraph 1, Article 20 of the Act;
4. Check to see whether the electronic payment institution utilizes the stored funds in accordance with Paragraph 3, Article 21 of the Act and by the percentages stipulated by the competent authority;
5. Check to see whether the electronic payment institution has made up the shortfall in accordance with Article 21 herein;
6. Check to see whether the deposit of interest or other income earned from the utilization of funds received from users into the income set-aside account by the electronic payment institution complies with Article 22 herein; and
7. Compile and check the balance and relevant data of all dedicated deposit accounts every quarter, and submit a report thereon to the competent authority for reference within 15 days after the end of every quarter.

Article 30 A cooperative bank shall manage the deposit, transfer, drawing and utilization of funds received from users according to the following provisions:

1. On each banking day, provide the balance of cooperative account at 23:59:59 to the managing bank;
2. Provide detailed information on deposits in the cooperative account to the managing bank if so requested by the managing bank; and
3. Provide information on the interest or fees associated with the cooperative account to the managing bank.

Article 31 Dedicated deposit account banks shall retain information provided in the preceding two articles for at least 5 years.

Article 32 A dedicated deposit account bank should promptly inform the competent authority upon discovering a violation of these Regulations by an electronic payment institution.

## **Chapter 5 Supplemental Provisions**

Article 33 These Regulations shall apply *mutatis mutandis* to the restrictions on opening

of dedicated deposit account, management and operations, and other matter of compliance for specialized electronic payment institutions as well as electronic stored value card issuers and data processing service providers engaging concurrently in electronic payment business that have been approved by the competent authority to cooperate with or assist foreign institutions to engage in activities associated with electronic payment business within the territory of the ROC in accordance with the regulations set forth pursuant to Paragraph 3, Article 14 of the Act.

Dedicated deposit accounts opened by a specialized electronic payment institution or an electronic stored value card issuer engaging concurrently in electronic payment business for purposes according to the preceding paragraph shall be separated and independent from its dedicated deposit accounts opened for other electronic payment businesses it engages in.

Article 34    These Regulations shall be in force on May 3, 2015.