

Content

Title : Rules Governing the Business of Electronic Stored Value Card Issuers 

Date : 2009.07.15

Content : Article 1

These rules are enacted pursuant to Paragraph 2, Article 17 of Act Governing Issuance of Electronic Stored Value Cards (referred to as “the Act” hereunder).

Article 2

An issuer shall verify the identity of a customer when the number or dollar amount of electronic stored value cards issued to the same customer at one time reaches a certain level specified by the Competent Authority.

The issuer shall, in accordance with the preceding paragraph, examine the identity document or passport presented by the customer to verify the customer’s identity and record the name of the individual or institution, date of birth, address, telephone, ID document number or unified business number of the institution, the number or dollar amount of the electronic stored value cards purchased, and the serial numbers of the electronic stored value cards.

The funds accepted by the issuer for storing value in the electronic stored value card shall be equivalent to the value stored in the card.

Article 3

The issuer shall provide on the electronic stored value card its contact information and the way to inquire about the rights and obligations of the cardholders, and note on the electronic stored value card or inform the card applicants in writing of the following particulars:

1. The method of using the stored value card, causes for termination and means of refund; and
2. Other matters as required by the Competent Authority.

Issuers issuing registered electronic stored value cards shall also inform the applicants of the following particulars in writing:

1. Fee charges and all possible expenses borne by the cardholder explained in plain language and supplemented with examples;
2. The procedure for handling lost, stolen, or destroyed electronic stored value cards;
3. The relevant rights and obligations when the electronic stored value card is misappropriated and used by a person other than the cardholder, altered, or counterfeited;
4. The procedures in the event of a discrepancy regarding the transaction amount of electronic stored value card;
5. Other matters concerning the rights and obligations of cardholders; and
6. Other matters as required by the Competent Authority.

The notification as referred to in the preceding paragraph shall be made in clear and easy-to-read language, and the important terms contained therein which will affect card holders’ interests should be highlighted.

The fees charged to cardholders by the issuer should reasonably reflect its

costs.

Article 4

An issuer shall not set an expiration date for using the monetary value stored in the electronic stored value cards. However, the preceding provision does not apply to electronic stored value cards that have no limit in terms of number of uses. In such cases, the issuer shall note the expiration date of the card and the handling method when the card expires.

Article 5

The transactions of electronic stored value cards do not include fund transfer between the cards.

An issuer shall not provide credit line or overdraft service to cardholders of the electronic stored value cards. However, the preceding provision does not include one-time advance when the card is used to pay the fee of public transportation service or parking service referred to in the Mass Transportation Development Act.

Issuers shall provide the service that allows cardholders to inquire the transaction amount and the stored balance in the electronic stored value card.

Issuers bear the burden of proof in the event a dispute arises out of an unauthorized transaction of the electronic stored value card and bear the loss from such transaction if the cardholder is found not at fault.

Article 6

Where the electronic stored value cards issued by an issuer are to be used in Internet transactions, the issuer shall submit a business plan for the prior approval of the Competent Authority.

Where a cardholder who uses the electronic stored value card for an Internet transaction has a dispute with the contracted merchant over a product or service not provided, the contracted merchant and the issuer that has signed a contract with the contracted merchant shall bear the burden of proof.

Article 7

When a cardholder terminates the use of an electronic stored value card, he or she may ask the issuer to refund the balance in the card and the amount collected in advance and promised to be refunded by the issuer within a reasonable of time.

For bearer electronic stored value cards, the issuers should not refund the balance in the card in part or in whole, except in the case of termination of card use referred to in the preceding paragraph.

Article 8

An issuers shall include the materials produced for the advertising or other marketing activities of its electronic stored value card business under the management of its internal control systems and ensure that such materials are free of improper content, false representation, misleading information or violation of relevant laws or regulations, and have been reviewed by its chief compliance or auditing officer before being released for external use.

Article 9

If an issuer collects certain amount in advance from the cardholders and promises to refund it later, except for money stored in the electronic stored value card which shall be handled in accordance with Articles 18 ~ 20 of the Act, the remainder of collected amount shall be declared trust in full or fully guaranteed by a bank.

For amount other than the stored value collected by an issuer as mentioned in the preceding paragraph prior to the implementation of these Rules, the issuer shall, at the time of making an application pursuant to Paragraph 4, Article 7 of the Act, submit a document evidencing that at least 40% of such amount has been declared trust or guaranteed in full by a bank. For the remainder of such amount, the issuer shall propose an improvement and adjustment plan after discussion by its board of directors and submit the plan to the Competent Authority for approval.

Article 10

Issuers shall declare trust in accordance with the preceding article by depositing the amount collected from the cardholders each day into a trust account under the trust agreement on the next business day.

The amount declared trust may not be drawn unless for the following purposes:

1. To reimburse the cardholders upon request.
2. To make use of the trust property.
3. To dispense interest or other income earned from the trust property to the issuer.

A trust enterprise may make use of the trust property only in any of the following manners:

1. Deposit it in banks.
2. Purchase government bonds or bank debentures.
3. Purchase treasury bills or negotiable certificates of deposit.
4. Purchase other financial products approved by the Competent Authority.

A trust enterprise shall dispense the interest or other income earned from the trust property, less costs, necessary expenses and loss, to the issuer in the year of income occurred according to the trust agreement.

Except for the drawing of the trust property, the mandatory and prohibitory provisions to be included in the trust agreement shall conform to the provisions in the Mandatory and Prohibitory Provisions To Be Included In Trust Contract for the Stored Value of Electronic Stored Value Cards.

The claims of the cardholders arising from the electronic stored value cards they hold over the trust property deposited with a trust enterprise shall have precedence over the claims of other creditors of the issuer and the right to compensation of the issuer's shareholders.

Article 11

"Full guarantee from a bank" referred to in Article 9 herein means that the issuer shall enter a full performance guarantee agreement with a bank where the bank assumes the guarantee responsibility for the balance of funds received by the issuer.

An issuer shall complete the contract renewal or enter a new contract according to Article 9 herein at least one month before the expiration of the trust contract or the guarantee agreement, and report the same to the Competent Authority in writing.

An issuer that fails to conform to the preceding paragraph is not allowed to issue new cards.

An issuer shall appoint an accountant to conduct quarterly audit of the state of compliance with Article 9 herein, and submit the accountant's audit report to the Competent Authority for reference in one (1) month after the end of each quarter.

Article 12

The trust declared by issuers in accordance with Article 9 herein and Article 18 of the Act shall be handled according to the following rules:

1. Where the balance of the trust property as regularly settled by the trust enterprises does not reach the level required of the issuer to declare trust, the issuer shall, as notified by the trust enterprise, deposit the shortfall in cash into the trust account.
2. The trust enterprise shall comply with the specific conditions set forth by the Competent Authority when making use of the trust property to make bank deposits, purchase bank debentures or purchase negotiable certificates of deposit.

Article 13

Where an issuer acquires full performance guarantee from a bank in accordance with Article 9 herein and Article 18 of the Act, the bank that signs the performance guarantee agreement with the issuer shall conform to the specific conditions set forth by the Competent Authority.

The amount collected by an issuer that acquires full performance guarantee from a bank as mentioned in the preceding paragraph shall be used only in the following manners:

1. Deposit it in banks.
2. Purchase government bonds or bank debentures.
3. Purchase treasury bills or negotiable certificates of deposit.
4. Other manners as approved by the Competent Authority.

The bank deposits, bank debentures and negotiable certificates of deposit shall meet the specific conditions set forth by the Competent Authority.

Article 14

Issuers shall not invest in other enterprises, unless it is a subsidiary that the investment in which has been approved by the Competent Authority, the business of the subsidiary is closely related to that of the issuer, and in which the issuer holds more than fifty percent (50%) of the issued shares of the subsidiary.

The total investment made by an issuer shall not exceed ten percent (10%) of the balance of its paid-in capital at the time of investment less the minimum paid-in capital as stipulated under the Act and accumulated loss.

Issuers shall draw up internal operating guidelines for the utilization of own funds and submit the guidelines and any subsequent revisions thereto to the board of directors for approval.

Issuers may not provide guarantees for others.

If deemed necessary, the Competent Authority may prescribe requirement for the debt ratios of issuers.

Article 15

Issuers that engage in the electronic stored value card business without being subject to the restriction of specialized operation as approved by the Competent Authority in accordance with Paragraph 1, Article 7 of the Act shall allocate at least a working capital of NT\$300,000,000 earmarked for the electronic stored value business and set up independent business operations and accounting.

Article 16

Issuers that set up new business outlets shall, within five (5) working days from the date of setup, report the date of setup, address, and scope of business of the new outlet to the Competent Authority for reference. The

preceding provision applies to the relocation or closing of business outlets.

Article 17

Issuers that apply for approval to conduct other businesses pursuant to Article 5 of the Act shall submit a business plan to the Competent Authority for the application.

The business plan in the preceding paragraph shall contain the following particulars:

1. Purpose for conducting such business;
2. Agreements among relevant parties to such business regarding their respective rights and obligations;
3. Business rules, business procedures and risk management; and
4. Market prospects, and risk/benefit evaluation.

Article 18

Where an issuer plans to terminate part of its business, it shall apply to the Competent Authority for approval by submitting a plan.

The plan in the preceding paragraph shall contain the following particulars:

1. The reason for the planned termination or not being able to continue; and
2. A concrete explanation of the handling of existing customers' rights and obligations or alternative methods for providing services.

An issuer that plans to suspend part of its business shall apply to the Competent Authority for approval by submitting a plan and information on the duration of planned suspension. When such issuer plans to resume business, it shall report in writing to the Competent Authority for reference in advance.

Article 19

An issuer entering into contracts with merchants shall conduct an actual investigation of such merchants and strengthen such merchants' education, training, auditing and administration, and inspect such merchants periodically to safeguard the interests of the cardholders. Issuers shall ask their contracted merchants to offer a transaction receipt that shows the amount deducted and the balance of stored value in the card when a cardholder uses an electronic stored value card to complete a transaction. However, the preceding provision does not apply to transportation service providers or parking garage operators referred to in the Mass Transportation Development Act that are able to display the amount deducted and the balance of stored value in the card while the cardholder carries out a transaction.

Issuers shall demand that contracted merchants may not refuse to accept electronic stored value cards for transaction unless with justified reason.

Article 20

Issuers shall file periodic reports on their electronic stored value card business with an institution designated by the Competent Authority.

The institution designated by the Competent Authority under the preceding paragraph shall determine the scope of information to be reported and rules for the filing operations, and submit the same to the Competent Authority for reference.

Article 21

Issuers shall establish internal control and audit systems and implement them diligently and effectively.

The internal control systems of an issuer regarding management and business rules of organization charter, overall business strategy, major policies, material risks, shall be passed by its board of directors, whereas the rest

of the operations shall be carried out in accordance with the internal division of responsibility and authorization rules passed by the board of directors. If any of the directors voices opposition or reservation in a board of directors' meeting, such opinions and reasons held shall be documented in the meeting minutes, which, together with the internal control systems passed by the board of directors, shall be submitted to the supervisors or the audit committee of the issuer. The preceding provision applies to any revision to the internal control systems.

Issuers shall set up an internal audit unit directly under the board of directors, and assign an appropriate number of qualified and full-time internal auditors, including the computer auditor.

The internal audit unit shall, based on the results of risk assessment, draft annual audit plan and seek the approval of the board of directors. The preceding provision applies to any revision to the annual audit plan.

The internal audit unit of an issuer shall conduct at least one general audit and one special audit a year of the business, assets safekeeping and information technology units, and shall conduct at least one special audit of other management units a year. The internal audit reports shall be submitted to the supervisors as well as independent director(s) or the audit committee, if applicable, for review. The internal audit reports shall also be filed with the Competent Authority in two (2) months from the completion of the audit.

Article 22

Where an issuer plans to outsource part of its business to a third party capable of providing relevant functions pursuant to Article 5 of the Act, it shall obtain the prior approval of the Competent Authority.

For business items stated in its business license or operations involving customer information, an issuer may only outsource the following operations:

1. Sales and return of bearer electronic stored value cards;
2. Value adding operation of electronic stored value cards;
3. Development and maintenance of information technology system;
4. Customer service;
5. Transport of cash and electronic stored value cards; and
6. Other operations approved for outsourcing by the Competent Authority.

Issuers shall comply with the following rules when outsourcing their operations:

1. The issuer shall adopt internal operating systems and procedures covering the scope of matters that can be outsourced, protection of customer rights and interests, risk management, and internal control principles, and those operating systems and procedures and any subsequent revisions thereto shall be passed by the board of directors.
2. The issuer shall make sure the outsourcing service providers meet its requirements for operational security and risk management.
3. The issuer shall ask the outsourcing service providers to comply with the mandatory or prohibitory provisions of laws.
4. The issuer shall demand that the outsourcing service providers agree to give the Competent Authority and the Central Bank of the ROC access to data or reports relating to the outsourced operation and allow them to conduct financial examination.
5. The issuer shall be held jointly liable as provided by law for customers

whose interests are damaged by the international act or negligence of an outsourcing service provider or its employees.

Banks engaging in electronic stored value business shall comply with the provisions in Paragraph 2 hereof with respect to the outsourcing of business items stated in their business license or operations involving customer information, and in addition, comply with the Regulations Governing Internal Operating Systems and Procedures for the Outsourcing of Financial Institution Operation.

Article 23

An issuer having any of the situations below shall report to the Competent Authority for prior approval:

1. Change of articles of incorporation.
2. Undergoing merger or acquisition.
3. Transferring all or major part of operations or assets to others.
4. Receiving the transfer of all or major part of operations or assets from others.
5. Change of capital.
6. Change of business place.
7. Others matters that require prior approval as prescribed by the Competent Authority.

Article 24

An issuer having any of the following events shall promptly report to the Competent Authority by stating the particulars of the event and providing related information, and send a copy of the same to the Central Bank of the ROC:

1. Transfer of equity or change of equity structure involving more than ten percent (10%) of its ownership.
2. Having the incidence of bounced check due to insufficient funds, being denied services by banks, or having other events that cause loss of good credit standings.
3. Having a litigious or non-litigious event, or an administrative disposition or administrative lawsuit that has material impact on the finance or business of the institution.
4. Having a situation provided in Subparagraph 1, Paragraph 1, Article 185 of the Company Law.
5. Having a fraud or material deficiency in internal controls.
6. Having an information security breach that results in damage to the interests of customers or affects the sound operation of the institution.
7. Other significant events that are sufficient to affect the operation or the interests of shareholders.

Article 25

Where an institution that applies for approval to issue electronic stored value cards pursuant to Paragraph 4, Article 7 of the Act does not conform to Paragraph 3 of Article 10, Subparagraph 2 of Article 12, Article 13, Paragraph 1 or 2 of Article 14, or Paragraph 2 of Article 19 herein, it shall submit an adjustment plan when applying for approval by the Competent Authority.

Article 26

The provisions in Articles 9 ~ 14, Article 16, Article 21, Article 23 and Article 24 herein do not apply to banks engaging in electronic stored value

card business.

Article 27

These Rules are implemented on the date of promulgation.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System