


Content

Title :	Act Governing Issuance of Electronic Stored Value Cards 
Date :	2009.01.23
Legislative :	1.Promulgated on January, 23, 2009
Content :	<p>Chapter 1 General Provisions</p> <p>Article 1</p> <p>(Purpose of Legislation)In line with the development of electronic technology, this Act is enacted to facilitate the use of electronic stored value cards by the public for multiple purposes of payment by automatic deduction, ensure the sound operation of card issuers, protect the interests of consumers and uphold the credibility of electronic stored value cards.</p> <p>Article 2</p> <p>(Competent Authority)The term “Competent Authority” , as used in this Act, shall mean the Financial Supervisory Commission, Executive Yuan. For matters involving the authority of other government agencies, the Competent Authority will consult with the government agencies concerned.</p> <p>Article 3</p> <p>(Definitions)The terms as used in this Act are defined as follows:1. “Electronic stored value card” shall mean an IC chip, card, certificate or other forms of debt obligation that uses electronic, magnetic or optical means to store monetary value and performs the function of data storage or computing, and is used for multiple payment purposes. 2. “Issuer” shall mean an institution that has been approved by the Competent Authority to issue electronic stored value cards in accordance with this Act. 3. “Cardholder” shall mean a person holding an electronic stored value card for the purpose of using it. 4. “Use for multiple payment purposes” shall mean using an electronic stored value card to pay for products and services provided by third parties other than the issuer, or to pay for government fees and other fees as approved by the Competent Authority. If an electronic stored value card can only be used to pay for transportation services with the approval of the competent authority of transportation, it is not deemed “use for multiple payment purposes.” 5. “Contracted merchant” shall mean an entity having entered a written contract with an issuer, agreeing that a cardholder may use the electronic stored value card issued by the issuer to pay for products, services, government fees, and other fees as approved by the Competent Authority.</p> <p>Chapter 2 Issuance of Electronic Stored Value Cards</p> <p>Article 4</p> <p>(Approval System) No entity is allowed to issue electronic stored value cards or sign up contracted merchants unless with the approval of the Competent Authority.The security strength level of electronic stored value cards issued in accordance with this Act shall be prescribed by the Competent Authority.</p>

Article 5

(Scope of Business)An issuer may conduct the following businesses after obtaining the approval of the Competent Authority: 1. issuing electronic stored value cards;2. Signing up contracted merchants; and3. Other businesses as approved by the Competent Authority. Where any of the businesses mentioned in the preceding paragraph involves foreign exchange, the issuer shall obtain the permission of the Central Bank of the ROC and conduct the business in compliance with the rules and instructions of the Central Bank of the ROC. Unless with the approval of the Competent Authority, an issuer may not change all or part of the businesses mentioned in the preceding paragraph. An issuer may outsource part of its businesses to or issue electronic stored value cards with a third party capable of providing relevant functions.

Article 6

(Capital)The minimum paid-in capital of an issuer shall be NT\$300 million. The Competent Authority may adjust the minimum paid-in capital requirement in view of the social-economic circumstances and actual needs. The above minimum paid-in capital shall be subscribed in full by the promoters at the time of incorporation.

Article 7

(Application for Establishment)An issuer must be organized as a company limited by shares and specialize in the business of electronic stored value cards. Issuers already issuing electronic stored value cards prior to the promulgation and implementation of this Act are not subject to the restriction of specialized operation if so approved by the Competent Authority. To apply for establishment, the promoters of an issuer shall submit two copies of the following documents to the Competent Authority for approval: 1. Application form;2. The roster of the promoters and evidential documents;3. The promoters' meeting minutes;4. An explanation of the source of the promoters' 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 and risk/benefit analysis;7. Personal information of the designated general manager;8. Internal business guidelines and business procedures;9.

Agreements or specimens between relevant parties involved in the electronic stored value card business regarding their respective rights and obligations;10. Value adding mechanism of the electronic stored value card;11. Clearing and settlement mechanism of electronic stored value card transactions;12. Trust agreement signed with a trust enterprise or a specimen therefor; full performance guarantee agreement signed with a bank or a specimen therefor; and13. Other documents as required by the Competent Authority. The internal business guidelines mentioned in the preceding paragraph shall contain the following items: 1. Organization structure and responsibilities of departments;2. Personnel allocation, management and training; 3. Internal control systems and internal audit systems;4.

Accounting systems;5. Business principles and policies;6. Consumer dispute handling procedure;7. Operational manual and division of responsibilities; and 8. Other items as required by the Competent Authority. For issuers that have already issued electronic stored value cards prior to the promulgation and implementation of this Act, such cards may continue to be used and the

issuers may continue to issue their electronic stored value cards. Notwithstanding the foregoing, such issuers shall apply to the Competent Authority for approval within six (6) months following the promulgation and implementation of this Act by submitting two copies of the following documents:1. Documents described in Subparagraphs 1, 5, 6, and 8 ~ 13 of Paragraph 2 hereof;2. Personal information of its general manager;3. Roster of shareholders; and4. Rosters of directors and supervisors.

Article 8

(Approval Denied) Where the application for establishment or business approval submitted by an issuer has any of the following situations, the Competent Authority may reject such application:1. The planned minimum paid-in capital does not conform to the provision set forth in Article 6 herein. 2. The application documents contain false or untruthful information.3. The issuer fails to complete corrective actions required by the Competent Authority within the period of time specified by the Competent Authority. 4. The proposed business plan lacks specifics or is not feasible.5. There is likelihood that the applicant lacks the professional expertise for effective management of the business, or otherwise deemed necessary for the protection of public interest.

Article 9

(Issuance of Business License, Commencement of Business, and Issuance of New Business License)An issuer shall, within six (6) months after obtaining the approval of the Competent Authority for establishment, complete the registration of incorporation and submit the following documents to the Competent Authority to apply for issuance of business license:1. Application for business license;2. Documents evidencing registration of incorporation;3. Accountant' s 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; and7. Other documents as required by the Competent Authority.The time limit referred to in the preceding paragraph may be extended once, provided the issuer has justified reasons and submits an application for extension prior to the expiration of the time limit, and that such extension may not exceed three (3) months. The Competent Authority may repeal the approval of establishment if the application for extension is denied. Issuers that have already issued electronic stored value cards prior to the promulgation and implementation of this Act shall, within three (3) months after obtaining the approval of the Competent Authority, submit an application to the Competent Authority for issuance of business license. An issuer shall commence business operation no later than six (6) months after being granted the business license. Where an issuer wishes to amend its business license, it shall apply for the approval of Competent Authority and for the issuance of a new business license.

Article 10

(Extension of Time for Commencement of Business)If it is found after an issuer has obtained a business license that its application for business license contains false information of serious nature, or the issuer fails to commence business operations within the time prescribed, the Competent

Authority may revoke or repeal the approval for establishment or business, order the issuer to turn in its business license within a specified period of time, and notify the Ministry of Economic Affairs. However, the time limit for commencing business operations may be extended if justified reasons exist; provided, that such extension may not exceed six (6) months and is limited to once.

Article 11

(Standard Contract for Electronic Stored Value Card)The terms and conditions of the standard contract prepared by an issuer for its electronic stored value card shall comply with the Mandatory and Prohibitory Provisions To Be Included In Standard Contracts 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 standard contract specimen for electronic stored value card published by the Competent Authority.

Article 12

(Required Content of Contract with Contracted Institution)The contract entered between an issuer and a contracted merchant shall contain at least the following particulars:1. Name and address of parties to the contract;2. Method for automatic deduction of the electronic stored value card; 3. Installation of automatic deduction machine for electronic stored value card and sharing of cost; 4. Daily fixed-hour settlement of deductions made;5. Method for fund transfer and charge of service fees;6. Causes for change, rescission and termination of contract;7. Date of contract signing; and8. Other items as required by the Competent Authority.

Article 13

(Cap of Stored Value) The stored value in the electronic stored value card under this Act shall not exceed NT\$10,000.The maximum stored value in electronic stored value cards mentioned in the preceding paragraph may be adjusted by the order of the Competent Authority in view of the economic circumstances.

Article 14

(Method of Transaction and Method of Storing Monetary Value) Transactions on the electronic stored value cards issued by an issuer may be on-line transactions or off-line transactions.The manner by which monetary value is stored on an electronic stored value card may be reloadable or non-reloadable.

Article 15

(Reporting Commencement of Card Issuance)An issuer shall file a report with the Competent Authority within five (5) business days after it has started to issue electronic stored value cards.

Article 16

(Cross-Border Issuance or Joint Issuance)An issuer that has been approved by the Competent Authority to issue electronic stored value cards may not issue international electronic stored value cards, or cooperate with a foreign institution in the issue of electronic stored value cards unless with approval from the Competent Authority. Regulations governing the review criteria for approving issuing international electronic stored value cards or cooperating with a foreign institution in the issue of electronic stored value cards as mentioned in the preceding paragraph and the

administration thereof shall be prescribed by the Competent Authority in consultation with the Central Bank of the ROC.

Chapter 3 Business and Management

Article 17

(Restriction on Concurrent Positions Held by Responsible Persons and Business Compliance) Regulations governing concurrent serving restrictions and matters for compliance by the responsible persons shall be prescribed by the Competent Authority. The administration rules governing the business operations and finance of issuers and other matters to be complied with shall be prescribed by the Competent Authority.

Article 18

(Payments Received by Non-Bank issuers) Non-bank issuers shall deposit a sufficient amount of reserve when the funds they receive from the electronic stored value cards issued reach a certain amount. Regulations governing the percentage for the reserve, method of deposit, adjustment, audit and other matters to be complied with shall be prescribed by the Central Bank of the ROC in compliance with the Competent Authority. Non-bank issuers shall declare trust in full or obtain full guarantee from a bank for the funds received as mentioned in the preceding paragraph less the required reserve. The certain amount mentioned in Paragraph 1 hereof shall be prescribed by the Central Bank of the ROC in consultation with the Competent Authority.

Article 19

(Declaration of Trust) “Declare trust” referred to in the preceding paragraph means the issuer entering a trust agreement with a trust enterprise and depositing the funds the cardholders store in the electronic stored value cards each day into a trust account under the trust agreement on the next business day. The funds declared trust may not be drawn unless for the following purposes: 1. To pay for the products or services provided by the contracted merchants, government fees or other fees approved by the Competent Authority. 2. To reimburse the balance in an electronic stored value card upon the request of the cardholder. 3. To make use of the trust property. 4. To dispense interest or other income earned from the trust property to the issuer. When a contracted merchant makes payment request, an issuer shall, based on the settlement results, instruct the trust enterprise to pay the contracted merchant without the act of stalling or deception. 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. The mandatory and prohibitory provisions to be included in the trust agreement shall be prescribed by the Competent Authority. 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 20

(Bank Guarantee of Performance) “Full guarantee from a bank” referred to in Article 18 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 stored by cardholders in the electronic stored value cards. An issuer shall complete the contract renewal or enter a new contract according to Article 18 herein at least one month before the expiration of the trust contract or the guarantee agreement. An issuer that fails to conform to the preceding paragraph is not allowed to issue new cards or accept more stored amount from the cardholders.

Article 21

(Obligation of Confidentiality) Issuers and contracted merchants shall keep the personal information of card applicants and the use records of cardholders confidential, unless it is otherwise required by law or the Competent Authority. Issuers shall not use the data of cardholders to engage in marketing activities on behalf of third parties.

Article 22

(Obligations to Provide and Retain Information) Issuers shall regularly file report on their electronic stored value card business to the Competent Authority and the Central Bank of the ROC according to the instructions of the Competent Authority. However, if the Central Bank of the ROC demands the reporting of more information on account of business needs, the issuers shall comply accordingly. Issuers of electronic stored value cards shall keep detailed transaction records of cardholders for at least five (5) years. The detailed records referred to in the preceding paragraph shall fully disclose the date of each transaction, the card number used, transaction item, transaction amount, transaction machine code and currency. An issuer shall appoint an accountant to conduct quarterly audit of the state of compliance with Paragraph 2 of Article 18 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 23

(Obligation to Provide Financial Information) An issuer shall prepare business report on the electronic stored value card business 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 by the board of directors and acknowledged by the supervisors. The provision in the preceding paragraph on acknowledgment by the supervisors does not apply to issuers that have an audit committee established in accordance with Article 14-4 of Securities and Exchange Act.

Article 24

(Examination by Competent Authority) The Competent Authority may at any time dispatch officers or appoint a suitable agency to examine the business, finance or other relevant items of the issuer, its contracted merchants or other related parties, or order the issuer, its contracted merchants or other related parties to submit accurate financial report, inventory of property, or other relevant information and reports within a specified period of time. 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 entity being inspected.

Article 25

(Competent Authority's Act of Disposition) If an issuer 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 period of time, and may, depending on the severity of the circumstances, take the following disciplinary actions: 1. Revoke the resolutions made by the shareholders' meetings or board of directors' meetings; 2. Repeal the approval for part or all of the issuer's businesses; 3. Order the issuer 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. Other necessary disciplinary actions. If directors or supervisors of an issuer are dismissed pursuant to Subparagraph 4 of the preceding paragraph, the Competent Authority shall notify the Ministry of Economic Affairs to cancel the registration of its directors and supervisors. The Competent Authority may inform the relevant authorities or institutions to prohibit an issuer, its responsible persons, or any of its employees suspected of violating the law from transferring, delivering, or otherwise encumbering their properties, and may also request by letter that immigration authority forbids such persons from exiting the country.

Article 26

(Security of Transaction Data) An issuer shall ensure the privacy and security of the transaction data and be responsible for the accuracy of data transfer, exchange or processing.

Article 27

(Capital Replenishment) Where an issuer's accumulated loss exceeds one third ($1/3$) of its paid-in capital, the issuer shall promptly report to the Competent Authority in writing its financial statements and reasons for the loss. The Competent Authority may require an issuer 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 issuer fails to replenish its capital as required within the specified period of time.

Article 28

(Exit Mechanism) If the business or financial conditions of an issuer deteriorate so significantly that it might not be unable to pay its debts or that the interests of cardholders might be adversely affected, the Competent Authority may order the issuer to transfer its electronic stored value card business to another issuer designated by the Competent Authority. When an issuer is dissolved, closes down business, or suspends business, or has its permit revoked or repealed so that it becomes unable to continue the electronic stored value card business, the issuer shall contact other issuer(s) to take over its electronic stored value card business, subject to the approval of the Competent Authority. Where such issuer fails to follow the provisions in the preceding paragraph, the Competent Authority will designate other issuer(s) to assume its business.

Article 29

(Provisions for Banks) Banks whose ratio of equity capital to risk assets meets the provision set forth in Article 44 of Banking Act and planning to engage in the electronic stored value card business shall apply to the Competent Authority for approval by submitting documentation required in Subparagraphs 1, 5, 6, 8 ~ 11, and 13 of Paragraph 2, Article 7 herein as well as the meeting minutes of their board of directors. The provisions in Paragraph 2 of Article 4, Article 5, Articles 11 ~ 16, Paragraph 2 of Article 17, Article 21, Paragraphs 1 ~ 3 of Article 22, and Article 26 herein apply mutatis mutandis to the bank issuers. Bank issuers shall set aside reserve in accordance with the Banking Act for money received in advance in connection with the electronic stored value cards and such money is an insured object referred to in the Deposit Insurance Act.

Chapter 4 Penal Provisions

Article 30

(Criminal Liability)The responsible actor(s) for counterfeiting, altering or issuing without the approval of the Competent Authority electronic stored value cards provided in this Act shall be punishable by imprisonment for not less than one (1) year and not more than ten (10) years, and in addition thereto, a fine of not less than NT\$1,000,000 and not more than NT\$200,000,000. Where the proceeds of crime therefrom reach more than NT\$100,000,000, the offenders shall be punishable by imprisonment for more than seven (7) years, and in addition thereto, a fine of not less than NT\$25,000,000 and not more than NT\$500,000,000. The responsible actor(s) for violation of Paragraph 2 of Article 18, Paragraph 2 of Article 19, or signing up contracted merchants as provided in this Act without the approval of the Competent Authority shall be punishable by imprisonment of not more than seven (7) years, and in addition thereto, a fine of not more than NT\$100,000,000. Where the proceeds of crime therefrom reach more than NT\$100,000,000, the offenders shall be punishable by imprisonment for more than seven (7) years, and in addition thereto, a fine of not less than NT\$25,000,000 and not more than NT\$500,000,000.

Article 31

(Administrative Liability)Commission of any of the following acts shall be punishable by a fine of not less than NT\$600,000 and not more than NT\$3,000,000:1. Violation of Article 5 or Article 29 herein to which Article 5 applies mutatis mutandis by engaging in business not approved by the Competent Authority.2. The responsible person violates the regulations governing the restrictions on concurrent positions held set forth in accordance with Paragraph 1 of Article 17 herein.3. Violation of Paragraph 2 of Article 18, Paragraphs 2 ~ 4 of Article 19 or Article 20 herein. 4. Violation of Article 21 or Article 29 herein to which Article 21 applies mutatis mutandis.5. Violation of Article 22 or Article 29 herein to which Paragraphs 1 ~ 3 of Article 22 applies mutatis mutandis.6. Violation of Paragraph 1 of Article 23 herein. 7. Violation of the order given in accordance with Paragraph 1 of Article 24 herein. 8. Violation of Article 26 or Article 29 herein to which Article 26 applies mutatis mutandis.

Article 32

(Penalty for Insufficient Reserve) For issuers that fail to deposit reserve in full in compliance with Paragraph 1 of Article 18 herein, the Central

Bank of the ROC may charge interest on the shortfall according to the lowest accommodation rate it publishes, which however shall be below 5% per annum. Where the shortfall is significant, the Central Bank of the ROC may impose a fine of not less than NT\$200,000 and not more than NT\$1,000,000.

Article 33

(Administrative Liability) Violation of the mandatory or prohibitory provisions in this Act or in orders authorized under this Act, or failure to perform obligations ordered to be performed shall be punishable by a fine of not less than NT\$200,000 and not more than NT\$1,000,000.

Article 34

(Competent Authority's Authority to Impose Penalty and Relief Procedure) The amount of fines set forth in this Act shall be decided ex officio by the Competent Authority. In the event that the penalized party disagrees with the decision, he may appeal such decision in accordance with the procedures for administrative appeal and administrative litigation. During the period of administrative appeal and administrative proceedings, the Competent Authority may hold the execution of fines by ordering the appellant to furnish appropriate amount of bond. In the event a fine is not paid within the specified period of time, a surcharge at the rate of one percent (1%) of the amount of the fine in arrears shall be levied for each day of delay. If the payment of fine is in arrears for more than thirty (30) days, the case shall be referred to the court for compulsory execution and the Competent Authority may, in addition, suspend the business of the penalized party.

Article 35

(Consecutive Penalties) For issuers or banks that have been penalized in accordance with this Act and fail to take corrective actions within the specified period of time as ordered, the Competent Authority may mete out consecutive penalties on the same fact or same act based on the original fines imposed until corrective actions are taken. Where the violation is of a serious nature, the Competent Authority may order the issuer or bank to replace its responsible person within a specified period of time or revoke its approval.

Article 36

(Disposition of Proceeds of Crime) The gains or property interests obtained from the commission of a crime 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 5 Supplemental Provisions

Article 37

(Adjustment and Grace Period) Where issuers and banks that are currently issuing electronic stored value cards and have been approved to engage in the electronic stored value card business prior to the promulgation and implementation of this Act do not comply with the provisions set forth in this Act, the Competent Authority shall order such issuers and banks to make adjustment within a specified period of time in accordance with the

relevant provisions of the Act.

Article 38

(Date of Implementation) This Act shall take effect on the date of promulgation.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System