

Newsletter

FOREIGN CURRENCY (FX) E-MONEY BUSINESS PERMITTED FOR NON-BANKS

Non-banks are now permitted to operate foreign currency electronic money ("FX e-money") businesses by obtaining a new license under the supervision of the Ministry of Finance ("MOF") and the Bank of Thailand ("BOT").

The Notification of the Exchange Control Officer Re Rules and Practices Pertaining to Authorized Electronic Money Businesses ("Officer Notification") became effective on 26 June 2020, and implements the measures contained in the Notification of the MOF Re Directions of the Minister to Authorized Electronic Money Operators ("MOF Notification"), issued earlier in March 2020.

Key takeaways from the MOF Notification and the Officer Notification are as follows:

What is FX e-money?

The MOF Notification and the Officer Notification provide a definition for "FX e-money" as a named or unnamed electronic card that an FX e-money operator issues to a customer whereby an advance is paid to the FX e-money operator for payment in lieu of cash for goods, services or others as prescribed by the official, and the value or amount of such advance is stored in foreign currency.

Framework for FX e-money businesses

FX e-money operators are eligible to conduct the following business activities:

1. buy, sell, exchange, transfer or accept transfers of a foreign currency with a customer who pays an FX e-money operator an advance for the FX e-money service;
2. provide FX e-money services for payment of goods, services or others to a recipient outside of Thailand or for the acceptance of payment for goods, services or others in foreign currency from outside of Thailand;
3. provide other services relating to the FX e-money business as approved under the laws governing payment systems within the scope prescribed by the relevant official.

An FX e-money operator is also qualified to buy or sell foreign currency from a customer using e-money stored in THB under laws governing payment systems in the event that the FX e-money operator is paid an advance in a foreign currency.

The above are subject to conditions and limitations specified in the MOF Notification and the Officer Notification.

FX e-money operators can conduct FX e-money businesses and provide services only to the extent permitted by the Minister of Finance or the relevant official.

Licensing requirement and validity

Non-banks that wish to operate FX e-money businesses must obtain a license from the Minister of Finance by submitting an application to the BOT. The license is valid for one year with a continuing automatic one-year renewal.

Key qualifications required for an FX e-money operator

An FX e-money operator must be licensed to undertake e-money business activities under laws governing payment systems and must be established as one of the following:

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1. limited company or public limited company incorporated in Thailand with:
 - (a) minimum paid-up registered capital of THB 100 million
 - (b) sound financial stability, e.g. by having shareholders' equity of not less than THB 100 million (shareholders' equity of not less than THB 100 million must be maintained during business operations unless permitted otherwise by the relevant official.)
 - (c) at least one director having Thai nationality and domiciled in Thailand
 - (d) at least one authorized director with a minimum of one year of knowledge and experience regarding financial management at a manager level or higher
2. state enterprise established under specific laws.

The MOF Notification and the Officer Notification are silent on foreign shareholding restrictions; however, foreign shareholding restrictions under the Foreign Business Operations Act will still apply to FX e-money businesses.

Outsourcing, subcontracting and agent appointment

Outsourcing, subcontracting and agent appointment with respect to FX e-money businesses and the provision of services are subject to prior approval from the relevant official.

In the case of subcontracting, reasons necessitating subcontracting and a relevant risk management scheme must be provided to support a request for approval.

An FX e-money operator is prohibited from allowing an agent to appoint a sub-agent.

If you would like to discuss the issues raised in this article further or related issues, please contact the authors listed in the right-hand column.

