

SOME NEW REGULATIONS ON NON-CASH PAYMENT

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On May 15, 2024, the Government issued Decree 52/2024/NĐ-CP regulating non-cash payment (**Decree 52**), replacing Decree 101/2012/NĐ-CP, which was amended and supplemented by Decree 80/2016/NĐ-CP and Article 3, Decree 16/2019/NĐ-CP. Decree 52 takes effect from July 1, 2024, with several notable contents as follows:

Firstly, supplementing regulations on electronic money. For the first time, the concept of "electronic money" is recognized in an official legal document in Viet Nam. Decree 52 stipulates: "*Electronic money means the value of Viet Nam Dong stored in electronic means provided based on the corresponding amount prepaid by customers to banks, foreign bank branches, or intermediary payment service providers of electronic wallet service.*" Electronic money is stored in two means: electronic wallets and prepaid cards. Electronic wallets and prepaid cards are issued and provided by banks, and foreign bank branches. Meanwhile, for electronic wallet services offered by intermediary payment (**IP**) service providers, only electronic wallets linked with customers' payment accounts or debit cards are accepted for the use of services. In short, the provision, issuance, and use of electronic wallets and prepaid cards must comply with the regulations of the State Bank of Viet Nam.

Secondly, amending and supplementing cases for account freezing. Accordingly, payment accounts shall have their balances partly or wholly frozen under the following circumstances:

- (i)** As per the prior agreement between the payment account holder and the payment service provider or upon the account holder's request;
- (ii)** When there is a decision or written request from a competent authority in accordance with the law;
- (iii)** When the payment service provider detects any error or mistake in crediting the customer's payment account or carries out a refund order of the money transfer service provider due to errors or mistakes compared to the payment order of the transferring party after the amount has been credited to the customer's payment account. The amount frozen in the payment account must not exceed the erroneous or



mistaken amount;

- (iv)** When one of the joint payment account holders requests for freezing the account except for cases with a prior written agreement between the payment service provider and the joint payment account holders.

Thirdly, amending and supplementing conditions for IP service provision. Accordingly, to be licensed by the State Bank of Viet Nam to provide IP services, an organization other than commercial banks or foreign bank branches must fully meet and maintain the following new conditions during the provision of IP services:

(i) Charter capital: The actual or allocated charter capital must be at least 50 billion Viet Nam Dong for electronic wallet services, collection and payment support services, and electronic payment gateway services; 300 billion Viet Nam Dong for financial switching services, international financial switching services, and electronic clearing services. The organization must bear full responsibility for the legality of the contributed or allocated capital sources.

(ii) Personnel: The legal representative and General Director/Director of the organization must hold at least a university degree concerning economics, business administration, law, or information technology, and at least five years of experience as the manager or operator of an organization in financial and banking area and must not be among the banned subjects as prescribed by the law. At least one legal representative of the organization must reside in Viet Nam. The Deputy General Director/Deputy Director and the key personnel involved in the implementation of the IP service provision plan (including department heads or equivalents and technical staff) must hold at least an associate degree concerning economics, business administration, law, information technology, or specialized field related to their responsibilities.

(iii) Technical requirements: The organization must

have a presentation of technical measures to serve IP service provision requested to be licensed, which is approved by the competent authorities according to the Charter of the approving organization with supplemented satisfaction of the requirements for assurance of information system safety at grade 3 as prescribed by the law.

(iv) The organization must also meet specific conditions for particular services, such as electronic wallet services and collection/payment support services for customers with accounts at various foreign bank branches (Article 22, clause 2, point e); financial switching services and electronic clearing services (Article 22, clause 2, point g); international financial switching services (Article 22, clause 2, point h).

COMMENTS AND RECOMMENDATIONS

It can be seen that Decree 52 has legislated the concept and legal nature of electronic money, creating a legal basis to distinguish it from digital currencies, virtual money, or other illegal payment instruments issued by unauthorized organizations. This establishes a legal foundation to manage and develop the electronic money market, ensuring safety and transparency in electronic transactions. The regulations on account freezing cases help minimize disputes, complaints, or misuse of account freezing that could affect customers' legitimate rights and interests. Particularly, allowing joint account holders to request account freezing is seen as practical, ensuring the fulfillment of civil obligations in business cooperation transactions, which are common in the market. Regarding the conditions for operating IP services, Decree 52 imposes stricter requirements on charter capital, personnel, and technical standards for IP service providers. This aims to enhance service quality, ensure information security, and strictly manage related activities, thus fostering a healthy and transparent competitive environment in the IP sector.

Related individuals and organizations need to proactively grasp new regulations and update the guidelines issued by the State Bank of Viet Nam in the upcoming period to ensure their legal interests. Additionally, payment and IP service providers should review and adjust their operations to meet the new licensing requirements under Decree 52 and pay attention to the transitional provisions in Article 36 of Decree 52 for compliance.