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Special Alert

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A Game Changer in Non-cash Payments

15 May 2024 marks a transformative day for Vietnam's financial landscape with the issuance of Decree No. 52/2024/ND-CP ("Decree 52"). This groundbreaking regulation is set to foster the development of payment products and services, addressing previous gaps and paving the way for a more robust, innovative financial ecosystem.

Electronic Money – A New Area

1. For the first time, the Vietnamese legal framework formally defines electronic money. Under Decree 52, electronic money is "*the value of Vietnamese currency co-stored on electronic means provided on a reciprocal basis with the amount prepaid by customers to banks, foreign bank branches, and intermediary payment service providers providing e-wallet services*". This definition establishes electronic money as a digital form of Vietnam's legal currency, the Vietnamese Dong (VND).

2. Decree 52 specifies two primary methods for storing electronic money: e-wallets and prepaid cards. The provision and use of these methods are governed by specific regulatory requirements outlined by the State Bank of Vietnam (SBV), covering various aspects such as eligible users, principles for providing and using the services, the scope of services, and obligations of the parties involved, including data protection and reporting.

3. Despite earlier drafts hinting at its inclusion, Decree 52 excludes mobile money as a storage method. The sandbox period for mobile money has been extended until 31 December 2024 by the Prime Minister's Resolution No. 192/NQ-CP. This extension likely explains why mobile money is not included in the current decree, as the final outcomes of the sandbox are still pending.

4. Entities authorized to provide electronic money under Decree 52 include banks, foreign bank branches (offering e-wallet and prepaid card services), and intermediary payment service providers (offering e-wallet services linked to customers' payment accounts at the payment service providers). Intermediary payment service providers must ensure that the total balance on all accounts guaranteeing payment for e-wallet services opened at banks and foreign bank branches is not lower than the total balance of all e-wallets issued to customers.

5. On a side note, as shared by a representative of the SBV with the press, with electronic money now defined as a digital form of Vietnam's legal currency, different legal terms are expected to be used for virtual currencies and digital assets. This distinction aims to help eliminate illegal payment methods by clearly separating legitimate electronic money from other digital assets.

International Payments – Redefining the Framework

6. To address the complexities of international payments, Decree 52 establishes a detailed framework aimed at enhancing competition and compliance. Current reliance on international payment gateways and card organizations has led to reduced competition and disparities. Additionally, cross-border money transfer services (e.g., Western Union, MoneyGram) lack specific legal regulations for licensing and commercial presence.

7. The introduced framework for banks and intermediary payment service providers outlines several key points:

    (a) Commercial banks and foreign bank branches: These entities can participate in international payment systems upon meeting specified conditions, subject to written approval by the SBV.

    (b) Foreign payment service providers: Foreign entities offering payment services to non-residents and foreign residents in Vietnam for goods and services transactions must do so through commercial banks or foreign bank branches approved by the SBV to join their international payment systems.

    (c) Intermediary payment service providers: Except for financial switching service providers, intermediary providers can offer payment services for international transactions. Payments and settlements for these transactions must be conducted through commercial banks or foreign bank branches authorized by the SBV for foreign exchange activities in international markets.

8. The new decree also emphasizes stringent compliance requirements for all international payments. Providers must adhere to regulations concerning foreign exchange management, user data protection, cybersecurity, tax management, anti-money laundering, and counter-

terrorism financing. Additionally, conformity with international agreements and treaties on payments that Vietnam participates in is mandatory.

Payment Accounts – Enhanced Regulations

9. Payment accounts are also under the spotlight, with enhanced regulations reflecting updated practices related to (i) opening and using payment accounts, (ii) authorization for account use, (iii) freezing payment accounts and post-unfreeze processing, and (iv) account closure. These updates ensure clearer guidelines, greater security, and more flexibility in managing accounts.

10. From a public perspective, one of the standout features may be the introduction of new rules for freezing payment accounts. The SBV mandates that payment service providers freeze accounts with evidence of fraud or legal violations. Additionally, in cases of mistaken fund transfers, freezing accounts enables customers to recover their misdirected funds, addressing a significant public concern.

Foreign Ownership in Intermediary Payment Services – No Defined Cap

11. Initially, it was proposed that foreign investors could hold a maximum ownership ratio of 49% (both directly and indirectly) in intermediary payment service providers. However, this provision was ultimately omitted from Decree 52.

12. Although the foreign ownership cap was not included in the decree, the initial proposal still highlights the cautious approach of state authorities. Intermediary payment services remain an uncommitted sector in Vietnam's commitments to the WTO and international treaties to which Vietnam is a member, such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). It is also classified as a conditional business investment sector. Thus, when seeking approval for the acquisition of shares or contributed capital by foreign investors in relevant intermediary payment service providers, it is common practice for application dossiers to be meticulously scrutinized by state authorities.

Final Thoughts

We anticipate that these changes will have far-reaching implications for all stakeholders in the payment industry. However, some public expectations remain unmet, particularly regarding the formal recognition of virtual currencies, virtual assets, and similar types of digital assets. Addressing these gaps will be crucial for fostering a comprehensive and modern financial ecosystem in Vietnam.

As always, staying informed and compliant with these new regulations will be essential for navigating this evolving landscape. Should you have any questions, please do not hesitate to contact us.

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