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Decree No. 52/2024/ND-CP on Non-Cash Payments

Introduction

On 15 May 2024, the Government issued Decree No. 52/2024/ND-CP ("**Decree 52/2024**") on non-cash payments, replacing the former Decree 101/2012/ND-CP on the same subject ("**Decree 101/2012**"). The decree came into effect from 1 July 2024.

Decree 52/2024 does not significantly overhaul the regulations in its predecessor (Decree 101/2012) (e.g. maintaining much of the rules and principles surrounding the use of non-cash payments and engagement of intermediary payment services). However, it introduces some new concepts such as electronic money, and tightens the conditions for providing intermediary payment services ("**IPS**").

This Update provides a high-level summary of the key provisions of Decree 52/2024.

Intermediary Payment Services – Tightened Conditions

Decree 52/2024 imposes stricter conditions for those that wish to conduct IPS. For example:

- (a) For IPS in the form of financial switching or electronic clearing services, the minimum paid-up capital is now VND300 billion (compared to VND50 billion under the former decree).
- (b) IPS providers that provide financial switching or electronic clearing services must not engage in business activities other than IPS.
- (c) The legal representative and the General Director/Director must have (i) a university degree or higher in one of the fields of economics, business administration, law, or information technology, and (ii) at least five years of experience as a manager or operator of an organisation in the field of finance and banking. This is more stringent than the three-year requirement under Decree 101/2012.

Notably, the business of "support services in electronic money transfer" is no longer captured as a form of IPS. This was considered as form of IPS under Decree 101/2012, and its vague scoping had created some challenges for certain software companies looking to service the banking sector.

Technology, Media & Telecommunications

"International switch services" are also regulated as a form of IPS, which is defined as the connection with international payment system to transmit and process electronic data of international payment transactions.

International Payments

Decree 52/2024 provides additional rules surrounding international payments, including connection by commercial banks and foreign bank branches to international payment systems. These institutions are now subject to additional requirements if they wish to participate in international payment systems, including the following:

- (a) they must be permitted to carry out basic foreign exchange operations on the domestic and international markets;
- (b) they must have risk management policies and procedures for money laundering, terrorist financing, and financing the proliferation of weapons of mass destruction; and
- (c) they must have information systems that meet the requirements for administration, safety and security according to Vietnamese law, as well as internal regulations on standards for selecting connections to international payment systems.

Companies that operate the international payment system must be legally established and operating overseas.

Foreign payment service providers that provide services to customers who are non-residents and foreigners residing in Vietnam to conduct payment transactions for goods and services in Vietnam must be done through commercial banks or foreign bank branches that have been approved by the State Bank of Vietnam for participation in such international payment system. Therefore, it contemplates an approval requirement for these commercial banks or foreign bank branches.

Decree 52/2024 also provides a general obligation for parties involved in international payments to provide complete, accurate, timely information and meet the requirements of the state agencies under Vietnamese law.

Electronic Money and Electronic Wallets

Decree 52/2024 introduces the concept of "electronic money", which is Vietnamese currency stored electronically and provided based on an equivalent amount prepaid by customers to banks, foreign bank branches or IPS providers offering e-wallet services. Electronic wallets are recognised as means of storing such "electronic money".

Technology, Media & Telecommunications

Despite this "new" definition in the decree, however, it does not appear to materially change the landscape for non-cash payments as we currently see it.

Prohibited Acts

Decree 52/2024 expands the scope of prohibited acts in the field of non-cash payments. For example, the following are expressly prohibited:

- (a) buying, selling, renting, leasing, borrowing, or lending payment accounts and electronic wallets;
- (b) renting, leasing, buying, selling, or opening bank cards on behalf of others (other than anonymous prepaid cards);
- (c) illegal disclosure of information about the balance of payment accounts, bank card balances, electronic wallet balances, and payment transactions of customers at payment service providers and IPS providers; and
- (d) providing payment services despite not being a payment service provider, or providing IPS without an IPS licence from the State Bank of Vietnam.

Further Information

Please feel free to reach out to our contact partners should you have queries on the above development.

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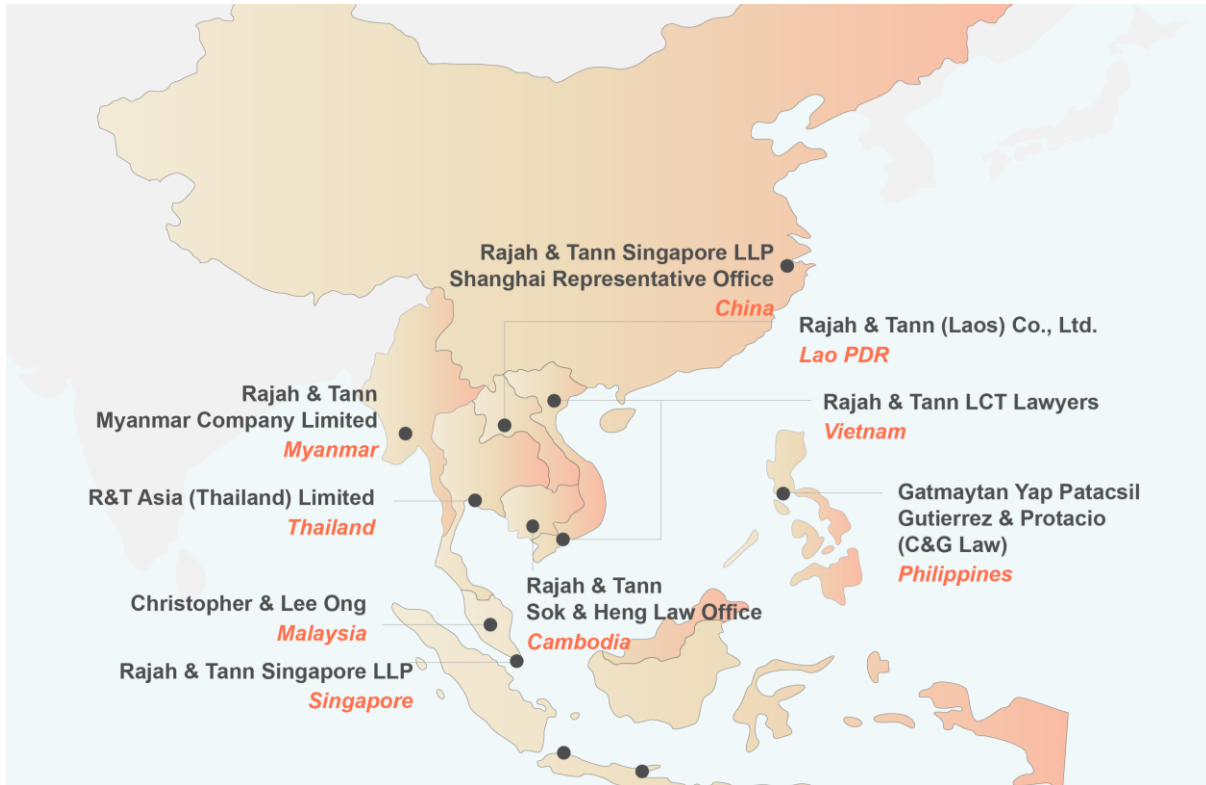
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