

Unofficial Translation

This translation is for the convenience of those unfamiliar with the Thai language.

Please refer to the Thai text for the official version

MINISTERIAL REGULATIONS NO. 27 (B.E. 2565)
ISSUED UNDER THE EXCHANGE CONTROL ACT B.E. 2485

By virtue of the power conferred upon him by Section 4 of the Exchange Control Act B.E. 2485 as amended by the Emergency Decree amending the Exchange Control Act B.E. 2485, B.E. 2486 and by the first paragraph of Section 9 of the Exchange Control Act B.E. 2485, the Minister of Finance hereby issues the Ministerial Regulations as follows:

Article 1. The Ministerial Regulations shall come into effect as from the following date of its publication in the Government Gazette.

Article 2. Article 2 of the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 as amended by the Ministerial Regulations No. 26 (B.E. 2551) issued under the Exchange Control Act B.E. 2485 shall be repealed and replaced by the following;

“Article 2. In these Ministerial Regulations;

“Foreign means of payment” means foreign currency and letters of credit;

“Letters of credit” includes authority to purchase and instructions or documents of similar nature only those payable abroad;

“Business relating to foreign means of payment” means a business relating to purchase, sale, deposit, withdrawal, exchange, transfer, lending, service or any other conduct involving foreign means of payment;

“Authorized juristic person” means a commercial bank, a specialized financial institution, and a finance company authorized to conduct businesses relating to foreign means of payment;

“Specialized financial institution” means a specialized financial institution under the financial institution business law authorized to conduct businesses relating to foreign means of payment;

“Branch” means a permanent office or service location of a business entity authorized to conduct businesses relating to foreign means of payment, which is separate from its headquarter;

“Service channel” means a service channel, as prescribed by the Competent Officer, in addition to a headquarter and a branch, through which a business entity authorized to conduct businesses relating to foreign means of payment provides its service or contact point to the customers, and also includes the service performed by an agent or sub-agent appointed by the authorized business entity to provide the service on its behalf;

“Major shareholder” means a person who holds or possesses shares of a business entity authorized to conduct businesses relating to foreign means of payment in excess of the number of shares which the Competent Officer prescribes in the notice for each type of the businesses, the number of which shall also aggregate the shares held by related persons;

“Related person” means a person who is related to the other person in any of the following manners:

- (1) spouse;
- (2) a child or adopted child who is under legal age; or
- (3) a principal or an agent.”

Article 3. Article 3 of the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 shall be repealed and replaced by the following;

“Article 3. No person shall conduct businesses relating to foreign means of payment unless permitted by the Minister or registered by the Competent Officer, as the case may be.

The types, scopes, rules, and conditions regarding the conduct of each business relating to foreign means of payment shall be specified in a notification by the Minister and the validity of each type of the permits may also be prescribed.

The Minister may entrust the Competent Officer to specify the scopes, rules, and conditions regarding the conduct of businesses relating to foreign means of payment under the second paragraph in a notice as deemed necessary and appropriate.”

Article 4. The following provision shall be added as Article 3/1, Article 3/2, Article 3/3 and Article 3/4 of the Ministerial Regulations issued under the Exchange Control Act B.E. 2485.

“Article 3/1 Any person wishing to conduct businesses relating to foreign means of payment shall seek permission from the Minister or register with the Competent Officer, as the case may be, through the Bank of Thailand.

The registration under the first paragraph shall be applied to the businesses relating to foreign means of payment with adoption of new innovation which are required to be registered with the Competent Officer in order to temporarily test their businesses. After meeting the pre-determined criteria and passing the test, the Competent Officer shall propose to the Minister for granting of permits.

The person which has been granted a permit or registered to conduct businesses relating to foreign means of payment shall conduct the businesses under the scope of each type of the businesses as permitted or registered. Where it is necessary for maintaining financial and exchange rate stability or regulating the businesses relating to foreign currency or any other conduct involving foreign currency, the Minister or the Competent Officer, as the case may be, may amend the scopes of the businesses on a case-by-case basis or specify rules or conditions on conduct of the businesses relating to foreign means of payment.

The application for and granting of a permit and the request for and effecting registration shall be in compliance with the rules, procedures, and conditions as prescribed in a notification by the Minister.

Article 3/2 In the case where a business entity authorized to conduct businesses relating to foreign means of payment wishes to adopt new innovation for its businesses under the existing permitted scopes, the authorized business entity shall inform the Competent Officer of its intention to test the businesses in accordance with the rules, procedures, and conditions as prescribed by the Competent Officer.

Article 3/3 The permit to conduct businesses relating to foreign means of payment shall also cover any branch and service channel of the business entity authorized to conduct businesses relating to foreign means of payment unless the Minister specifies otherwise.

The registration for conduct of businesses relating to foreign means of payment shall only cover the headquarters, branches and service channels which have been registered.

Article 3/4 A business entity authorized to conduct businesses relating to foreign means of payment shall notify the information regarding the locations of its headquarter, branches and service channels, as well as submit transaction reports in accordance with the rules, procedures, and conditions as prescribed in a notice by the Competent Officer.”

Article 5 Article 4 of the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 as amended by the Ministerial Regulations No. 20 (B.E. 2534) issued under the Exchange Control Act B.E. 2485 shall be repealed and replaced by the following;

“Article 4 The permission or registration to conduct businesses relating to foreign means of payment shall not be deemed as a permission to conduct any act specified under Article 7 bis, Article 8 and Article 9.”

Article 6 Article 5 and Article 6 of the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 shall be repealed and replaced by the following;

“Article 5 The Minister or the Competent Officer, as the case may be, may revoke any permit or registration in the case where a business entity authorized to conduct businesses relating to foreign means of payment violates or fails to comply with the rules and conditions under the permit or registration, violates or fails to comply with the exchange control laws, or jeopardize the foreign exchange system or the public in economic matters.

Article 6 A business entity authorized to conduct businesses relating to foreign means of payment must not have the following characteristics.

(1) having been ordered by the court to be under receivership or bankrupt;

(2) having been sentenced by a judgment or order of the court that its properties shall be forfeited for the benefit of the state or having been sentenced by a final court judgment on grounds of committing offence relating to money laundering under the anti-money laundering law or having been designated for involvement in terrorism or proliferation of weapons of mass destruction or having been sentenced by a final court

judgment for offence relating to financing terrorism or proliferation of weapons of mass destruction under the law on counter-terrorism and proliferation of weapons of mass destruction financing;

(3) having been revoked the permission or registration to conduct businesses relating to foreign means of payment.”

Article 7. The following provision shall be added as Article 6/1 and Article 6/2 of the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485.

“Article 6/1 A business entity authorized to conduct businesses relating to foreign means of payment shall not appoint or allow any person with any of the following characteristics to be, or perform the duties of, a director or person with managerial power of such business entity:

(1) being under receivership or in a state of bankruptcy or has been in a state of bankruptcy and the period of two years has not yet lapsed from the date of order of termination or discharge of the bankruptcy;

(2) being an insane person, an incompetent person or a quasi-incompetent person;

(3) having been sentenced to imprisonment by a final court judgment for any offence relating to counterfeit and forgery, theft, snatching, extortion, blackmail, robbery, gang-robbery, defraud, cheating creditors, embezzlement, receiving stolen properties, whether there is a suspension of punishment;

(4) having been sentenced by a judgment or order of the court that its properties shall be forfeited for the benefit of the state or having been sentenced by a final court judgment on grounds of committing an offence relating to money laundering under anti-money laundering law or having been designated for involvement in terrorism or proliferation of weapons of mass destruction or having been sentenced by a final court judgment for offence relating to financing terrorism or proliferation of weapons of mass destruction under the law on counter-terrorism and proliferation of weapons of mass destruction financing;

(5) being a director or a person with managerial power of a business entity authorized to conduct businesses relating to foreign means of payment when its permit or registration was revoked;

(6) having been discharged from a director or an executive position of a public limited company, whose shares are held by public shareholders under the law on securities and exchange, for having the characteristics indicating a lack of appropriateness in respect of trustworthiness in managing the business;

(7) having been sentenced to imprisonment by a final court judgment for any offence relating to the exchange control laws.

Article 6/2 A business entity authorized to conduct businesses relating to foreign means of payment shall not allow any person with any of the following characteristics to be a major shareholder:

(1) having been sentenced by a judgment or order of the court that its properties shall be forfeited for the benefit of the state or having been sentenced by a final court judgment on grounds of committing an offence relating to money laundering under anti-money laundering law or having been designated for involvement in terrorism or proliferation of weapons of mass destruction or having been sentenced by a final court judgment for offence relating to financing terrorism or proliferation of weapons of mass destruction under the law on counter-terrorism and proliferation of weapons of mass destruction financing;

(2) having been sentenced to imprisonment by a final court judgment for any offence relating to the provision of the exchange control laws.”

Article 8 Article 7 of the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 as amended by the Ministerial Regulations No. 20 (B.E. 2534) issued under the Exchange Control Act B.E. 2485 shall be repealed and replaced by the following;

“Article 7 No person shall purchase, sell, lend, exchange, or transfer any foreign means of payment unless the Competent Officer orders otherwise.

The provision in the first paragraph shall not apply to business entities authorized to conduct businesses relating to foreign means of payment and the persons who purchase, sell, lend, exchange, or transfer any foreign means of payment with the authorized business entities.”

Article 9 Article 16 of the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 as amended by the Ministerial Regulations No. 26 (B.E. 2551) issued under the Exchange Control Act B.E. 2485 shall be repealed and replaced by the following;

“Article 16 Any person who exports goods shall acquire foreign currency from exports within 360 days from the date of exportation.

Upon receiving such foreign currency according to the first paragraph, the person shall immediately bring the proceeds into Thailand and comply with the following within the period prescribed by the Minister in a notification published in the Government Gazette.

(1) Sell or deposit the foreign currency or transact with an authorized juristic person located in Thailand, or

(2) Sell the foreign currency or transact with a business entity authorized to conduct businesses relating to foreign means of payment located in Thailand.

The Minister may grant general exemption from complying with the first and second paragraph or where an exporter fails to comply with those paragraphs due to a reasonable cause, the Competent Officer may grant a case-by-case exemption. In such cases, the Minister or the Competent Officer, as the case may be, may specify certain conditions together with the exemption.

In depositing the foreign currency under (1) or withdrawing such foreign currency, the exporter and the authorized juristic person shall comply with the rules, procedures and conditions as prescribed by the Competent Officer.”

Article 10 Article 20 of the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 as amended by the Ministerial Regulations No. 26 (B.E. 2551) issued under the Exchange Control Act B.E. 2485 shall be repealed and replaced by the following;

“Article 20 Any person who acquires foreign currency from abroad by means other than that prescribed in Article 16 shall immediately bring such proceeds into Thailand and comply with the following within the period prescribed by the Minister in a notification published in the Government Gazette.

(1) Sell or deposit the foreign currency or transact with an authorized juristic person located in Thailand, or

(2) Sell the foreign currency or transact with a business entity authorized to conduct businesses relating to foreign means of payment located in Thailand.

In the case where foreign currency is obtained from engaging in any transaction, such person shall acquire the foreign currency within 360 days from the transaction date and comply with the provision specified in the first paragraph when the foreign currency is obtained.

In complying with the first and second paragraph, the Competent Officer may grant exemption and may also specify conditions for the exemption.

In depositing the foreign currency under (1) or withdrawing such foreign currency, the person acquiring the foreign currency and the authorized juristic person shall comply with the rules, procedures and conditions as prescribed by the Competent Officer.”

Article 11 Article 25 of the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 as amended by the Ministerial Regulations No. 21 (B.E. 2539) issued under the Exchange Control Act B.E. 2485 shall be repealed and replaced by the following;

“Article 25 For the purposes of regulating and monitoring any conduct relating to foreign currency, the Minister may issue orders as follows:

(1) An importer or exporter shall declare, in the form as prescribed by the Competent Officer, imported or exported goods, prices of goods, methods of payment, and foreign currency or currency paid or to be paid, or other descriptions to the Competent Officer through the Customs Officer upon submitting the Imports or Exports Entry to the Customs.

(2) A person who purchases foreign means of payment from or sells it to a commercial bank or finance company who is granted a permit to conduct businesses relating to foreign means of payment shall declare in the form as prescribed by the Competent Officer, information relating to the foreign means of payment, details on uses or sources, purpose of the purchase, or other descriptions to the Competent Officer through the commercial bank or finance company on purchasing or selling the foreign means of payment.

(3) A person who deposits foreign currency with a commercial bank or finance company under Article 16 or Article 20 shall declare, in the form as prescribed by

the Competent Officer, information relating to deposits or withdrawals of foreign currency from the account, details of sources or withdrawals, purpose of deposits or withdrawals or other descriptions to the Competent Officer through the commercial bank or finance company on deposit or withdrawal of foreign currency.”

Article 12 Article 27 of the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 shall be repealed.

Article 13 The applications for the permits to conduct businesses relating to foreign means of payment which are under consideration on the effective date of this Ministerial Regulations shall be deemed as those submitted under the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 as amended by this Ministerial Regulations.

Article 14 The permits to conduct businesses relating to foreign means of payment which exist prior to the effective date of this Ministerial Regulations shall further remain in force until the expiration date.

A business entity authorized to conduct businesses relating to foreign means of payment under the first paragraph which has been granted the permits for each branch prior to the effective date of this Ministerial Regulations shall comply with the following;

(1) Notify the number and list of the permits granted as well as the permit it wishes to use for the headquarter to the Competent Officer in the form as prescribed in the notice of the Competent Officer within 120 days from the effective date of the Ministerial Regulations;

(2) Upon receiving the information specified in (1), the Competent Officer shall examine and provide a letter to acknowledge the permit to be used for the authorized business entity under the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 as amended by this Ministerial Regulations. The permit for the authorized business entity shall cover all of its branches and service channels until the expiration date of the permit and those permits that have been issued for each branch shall immediately expire from the date of receipt of the letter from the Competent Officer. In such case, the Competent Officer may impose additional rules for the business entity

authorized to conduct businesses relating to foreign means of payment to comply with as deemed appropriate.

(3) The business entity authorized to conduct businesses relating to foreign means of payment shall return the expired permits to the Competent Officer within 90 days from the date of receipt of the letter. In the case where the authorized business entity is unable to return the permit within the specified time or fail to return it, the Competent Officer may proceed as deemed appropriate.

Article 15 The permits of authorized money changers issued for natural persons which have been in effect prior to the date this Ministerial Regulations comes into force shall continue to take effect for 3 years from the effective date of this Ministerial Regulations and the Minister may extend the period as deemed appropriate.

Any notifications, circulars, orders or regulations relating to the authorized money changers who are natural persons shall continue to take effect until the specified time as prescribed in the first paragraph. Where necessary, the Competent Officer may impose additional rules or conditions for such authorized money changers to comply with during the specified period.

When the permits expire after the period specified in the first paragraph, the authorized money changers shall return the permits to the Competent Officer within 30 days from the expiration date. In the case where the authorized money changers are unable to return the permits within the specified time or fail to return them, the Competent Officer may proceed as deemed appropriate and may require the authorized money changers to perform any act for customer protection.

Article 16 In the case where a director, person with managerial power, or major shareholder of a business entity authorized to conduct businesses relating to foreign means of payment possesses any of the prohibited characteristics as prescribed in the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 as amended by this Ministerial Regulations, the authorized business entity shall make rectification within 180 days from the effective date of this Ministerial Regulations and notify the Competent Officer of the change within 30 days from the date of such change. The Competent Officer may extend the specified periods as deemed appropriate.

In the case where the authorized business entity fails to make rectification within the specified time as prescribed in the first paragraph, the Minister, upon the recommendation of the Competent Officer, may revoke the permit. In such case, the Competent Officer has authority to impose rules, procedures or any conditions requiring the authorized business entity to comply with or perform any act for customer protection.

Article 17 Any notification, circular, order or regulation relating to the conduct of businesses relating to foreign means of payment, repatriation requirement, as well as foreign currency under the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 which has been effective prior to the date this Ministerial Regulations comes into force shall continue to take effect to the extent where it is not contrary to or inconsistent with the provisions of this Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 as amended by this Ministerial Regulations until the notifications, circulars, orders or regulations under the Ministerial Regulations No. 13 (B.E. 2497) issued under the Exchange Control Act B.E. 2485 as amended by this Ministerial Regulations are issued.

Given on 4th November B.E. 2565

Mr. Arkhom Termpittayapaisith

Minister of Finance