

# Thailand

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## Approaches and developments

With high levels of digital and mobile penetration and regulatory transparency and advancement, Thailand is fast becoming a FinTech hub in the ASEAN region.<sup>1</sup> The COVID-19 pandemic has been a key driving force in spurring the adoption of FinTech throughout the country, with Thailand's internet penetration rate and the number of mobile connections now standing at 69.5% and 129.7% of the total population, respectively, as of January 2021.<sup>2</sup> Additionally, Thailand's key FinTech regulators – the Bank of Thailand (BOT), the Securities and Exchange Commission (SEC), and the Office of Insurance Commission (OIC) – have been receptive to technological innovation in the financial sector.<sup>3</sup>

Indeed, there has been a big push since the mid-2010s to promote the adoption of FinTech by the relevant parties in Thailand. The Thai FinTech Association was established in July 2016 with the aim of facilitating ecosystem collaboration to drive the growth of the FinTech industry in Thailand.<sup>4</sup> The Government of Thailand established the Digital Economy Promotion Agency (DEPA) in January 2017 to support the development of the digital industry, and a cabinet resolution providing guidelines for the promotion of FinTech in Thailand was issued on 17 April 2018.<sup>5</sup> The National Innovation Agency (NIA, established in 2003) meanwhile continues to provide training, including in FinTech, and the Electronic Transactions Development Agency (ETDA, established in 2011) has continued to push strongly for the adoption of electronic transaction facilities. The E-Commerce Association of Thailand (THECA, established in 2005) provides important connections and support to players in the e-marketplace, e-travel and e-payment sectors.

Regulations governing digital transactions have been in place in Thailand since the 2000s, with the Electronic Transaction Act of 2001 recognising the effectiveness of electronic transactions and the Electronic Payment Services Business Act of 2008 regulating electronic payment formats and procedures, which was replaced by the Payment Systems Act of 2017. The Electronic Transaction Act of 2001 may soon be amended to include greater protections for online consumers. The launch of a National E-Payment Plan in 2015 and the successful implementation of the national PromptPay electronic fund transfer system in 2017 with links to ASEAN networks have contributed to the elimination of most bank transfer fees in Thailand and encouraged a less cash-based economy.<sup>6</sup> Finally, the BOT, SEC, and MOT have recently announced in January 2022 that they will jointly set guidelines on the usage of digital assets as a means of payment for good and services.<sup>7</sup>

With Board of Investment privileges for FinTech digital services companies, including exemption from corporate income tax and other non-tax incentives,<sup>8</sup> and Smart City investment programmes in digital technology innovations,<sup>9</sup> Thailand is now home to at least 96 FinTech start-ups and is one of the fastest-growing digital asset markets in the world.<sup>10</sup>

## FinTech offerings in Thailand

FinTech offerings in Thailand include:

- Digital payments, including mobile wallets and remittance.
- Retail investment platforms.
- Digital assets, including cryptocurrencies and digital tokens.
- Personal finance solutions.
- Peer-to-peer lending and alternative credit.
- Crowdfunding.
- Financial education.
- InsurTech.
- Financial and insurance comparison tools.
- Robo-advisors.
- Business tools (B2B).
- Financial infrastructure, including electronic know your customer (e-KYC) and the Scripless Bond Project.<sup>11</sup>

Thailand's top digital sectors include E-Commerce, TravelTech, InsurTech, HealthTech, FoodTech, and Telecommunications.

## Regulatory and insurance technology

### Regulatory Technology (RegTech)

Key examples of RegTech in Thailand include e-KYC, digital banking and mobile banking with biometrics, alternative credit, peer-to-peer lending, and Virtual Bank and Open Banking:

- The e-KYC process and the use of biometrics for digital and mobile banking are possible under Notification of the Bank of Thailand No. FPG. 19/2562 Re: Regulations on Know Your Customer (KYC) for deposit account opening at financial institutions, which was announced on 23 August 2019.<sup>12</sup> A KYC process is required for the opening of savings accounts in person or through internet or mobile banking. Financial institutions are responsible for obtaining identification data and documents that verify the customer's identity, but such data and documents may also be in electronic form for the e-KYC process. They may also adopt biometric comparison technology to enhance the efficiency of customer verification. For non-face-to-face verification, financial institutions must take a photo of the customer and use liveness detection and biometric comparison technology to verify the identity of the customer.
- On 15 September 2020, the BOT issued a circular permitting the use of alternative data for credit analysis in loan approval processes.<sup>13</sup> Under the Circular Re: Rules, Procedures and Conditions for the Undertaking of Digital Personal Loan Business, lenders may apply for a digital personal loan business licence, which requires the lenders to digitise the lending process and use alternative data, including utility and mobile phone bill payment behaviours or earning and spending behaviours on e-commerce platforms, in assessing the borrower's ability or willingness to repay the loan. Lenders may grant a digital personal loan with the maximum credit amount of 20,000 baht, and a maximum repayment period of six months. Effective rates of interest charged with the fees must not exceed 25% *per annum*.
- On 30 July 2020, the BOT issued Notification of the Bank of Thailand No. FPG. 14/2563 Re: Prescription of Rules, Procedures and Conditions for Operating an Electronic System or Network Business for Peer-to-Peer Lending (Peer-to-Peer Lending Platform).<sup>14</sup> The rules prescribed allow platform providers to operate a peer-

to-peer lending platform using their business as a channel or intermediary for credit financing through an electronic system or network. As of 28 September 2020, three peer-to-peer lending platform providers have been accepted into the BOT regulatory sandbox as test projects.<sup>15</sup>

- On 25 March 2022, the BOT announced that it is planning new policy guidelines for the banking sector on virtual banks and open banking for the second and third quarter of 2022, respectively.<sup>16</sup>

### Insurance Technology (InsurTech)

Products in the InsurTech sector in Thailand are highly diversified, ranging from distribution channels and sales support to claim handling.<sup>17</sup> Three key recent developments in InsurTech in Thailand include: the sale and issuance of insurance policies, including claim management through electronic channels; personalisation of insurance products with Big Data and AI; and regulatory and tools-based support from the OIC.

- The sale, issuance, and claim management of insurance policies can be made through electronic channels according to OIC Notification Re: Rules and Procedures For Insurance Policy Issuance, Insurance Policy Offering and Reimbursement of Money under Life Insurance Contracts using Electronic Methods B.E. 2560 (2017)<sup>18</sup> and OIC Notification Re: Rules and Procedures For Insurance Policy Issuance, Insurance Policy Offering and Reimbursement or Indemnity Under an Insurance Contract using Electronic Methods B.E. 2560 (2017),<sup>19</sup> both announced on 22 February 2017. Under these notifications, the sale and offering of both life and non-life insurance, the procedures accompanying such sales, the issuance of insurance policies, and reimbursement or indemnity thereunder can be made through online platforms in accordance with the Electronic Transaction Act of 2001. Note that insurance companies, brokers, and financial institutions must still comply with the OIC's various announcements on operating an insurance business.
- Big Data and AI have been used by some InsurTech companies in Thailand to offer personalised insurance packages. For instance, Sunday, a Bangkok-based InsurTech start-up that uses AI to offer personalised insurance packages and develop risk prediction engines that help companies recommend and price health and motor coverage, has recently raised USD 9 million in a pre-series B bridge round as it is preparing for expansion to Indonesia. There are no specific regulations concerning the use of Big Data and AI in InsurTech in Thailand.
- The OIC offers regulatory and tools-based support for InsurTech companies in Thailand. With the OIC's announcement on the Procedures to Participate in Insurance Regulatory Sandbox on 27 December 2019 to enforce its Guidelines for participating in an innovative testing project that brings technology to support services for insurance businesses (Insurance Regulatory Sandbox), previously announced on 24 May 2017, the OIC has opened the door for InsurTech companies to participate in an insurance regulatory sandbox with the OIC to test new insurance products, new ways of offering insurance products, new methodologies for claims management, smart contracts, and any other transactions approved by the OIC. The OIC itself has been developing digital tools for data analysis to track down fraudulent activities in the insurance system in an attempt to protect both the insured and insurer and has approved cybersecurity insurance policies to serve as risk management tools for FinTech companies.

## **Regulatory bodies**

### BOT

As the central bank of Thailand, the BOT has a variety of roles and responsibilities as

determined by the Financial Institution Business Act of 2008 (FIBA). Those most relevant to FinTech include establishing or supporting the establishment of payment systems and electronic clearing systems, and administering such systems for safety and efficiency, including the activities of non-banking institutions, and extend to areas such as e-payments, personal loans, and nano finance businesses, as well as the supervision, examination, and analysis of the financial status and performance and risk management systems of financial institutions in order to promote stability, including the typical services such as loans and deposits as well as regulations for e-banking and FinTech used by banks and non-banking institutions.<sup>20</sup>

### SEC

The SEC was established by the Securities and Exchange Act of 1992 as an independent state agency with the power and duty to promote and develop, as well as to supervise, matters concerning securities, securities businesses, the securities markets, the issuance or offering of securities for sale to the public, the acquisition of securities for business takeovers, and prevention of unfair securities trading practices.<sup>21</sup> Of particular relevance to FinTech is that the SEC also regulates crowdfunding, digital asset business, and initial coin offerings (ICOs).

### OIC

The OIC was established by the Insurance Commission Act of 2007 as an independent state agency with the power to lay down the policies for, and regulate, promote, and develop the undertaking of, insurance businesses.<sup>22</sup> The OIC regulates the electronic means for issuing insurance, thereby facilitating the growth in the use of electronic platforms for digital insurers.

## **Key regulations and regulatory approaches**

There is currently no FinTech-specific legislation in Thailand. Instead, the regulatory approach to FinTech is divided amongst the relevant regulators.

### BOT

#### *Mobile and internet banking*

The BOT's SorNorSor 3/2561 Re: Rules Regarding Service Channels of Commercial Banks governs the offering of products and services of banks through digital channels.<sup>23</sup> In addition to compliance with general governance standards, banks offering products and services through digital channels and mobile banking applications must follow the governance standards for digital channels, which include risk management and consumer protection measures.

#### *Payment systems*

The Payment Systems Act of 2017 regulates electronic payment systems and services in Thailand.<sup>24</sup> Electronic payment systems and services are divided into three areas:<sup>25</sup>

- Highly Important Payment Systems, which deal with the principal payment infrastructure of the country, such as the inter-bank large value funds transfer system (BAHTNET) and Imaged Cheque Clearing and Archive System (ICAS);
- Designated Payment Systems, which deal with payment systems that form the hub or network linking system users for the transfer, clearance or settlement of funds, such as retail funds transfer systems, payment card networks, and settlement systems; and
- Designated Payment Services, which deal with designated payment services for which business providers are required to either obtain a licence from the Ministry of Finance

(MOF) (with advice from the BOT) or obtain registration directly from the BOT.<sup>26</sup> These services include the provision of credit cards, debit cards, or ATM card services, provision of electronic money services, provision of services for receiving electronic payments for and on behalf of third parties, provision of services for transferring money by electronic means, and other provisions of payment services which may affect the financial system or public interest. According to the Notification of the Ministry of Finance Re: Stipulation on Designated Payment Services, business providers whose six-month average monthly balance of money received in advance is equal to 50 million baht or more and those who have passed the BOT regulatory sandbox and intend to provide services within the scope specified during the sandbox testing may obtain registration directly from the BOT instead of proceeding with the licensing requirements of the MOF.<sup>27</sup>

### *Regulatory sandbox for RegTech*

According to the Notification on Guidelines for Participation in Testing and Developing Innovations that Bring New Technology to Support Financial Services (Regulatory Sandbox) dated 15 March 2019,<sup>28</sup> the BOT permits financial institutions, financial business group companies, and non-banking institutions under the supervision of the BOT as well as interested FinTech and technology firms to offer trial financial services within the scope of the BOT's regulatory sandbox for a period not exceeding one year.

The trial financial services to be offered in the regulatory sandbox must be (1) under the supervision of the BOT, (2) innovative, and (3) of the kind that can support the development of the infrastructure or overall standard of Thailand's financial sector and on which the service provider needed to conduct joint testing, or when relevant laws require the testing of the services in the regulatory sandbox prior to usage by the public.

Financial services providers who are not required by the above criteria to conduct or submit to testing may consult directly with the BOT to enter the regulatory sandbox or may arrange for a test in their own sandbox, subject to the financial services provider's own supervision and risk management under the relevant laws.

Examples of projects that have been trialed in the BOT's regulatory sandbox include standardised QR codes for payments, biometrics – facial recognition for KYC and iris recognition, blockchain – letter of guarantee and cross-border transfer, machine learning – alternative credit-based lending, and standardised API to exchange information.<sup>29</sup>

QR code payments are now covered under the Policy Guidelines: Standardized Thai QR Code for Payment Transactions dated 17 April 2019.<sup>30</sup> Usage of alternative data for credit analysis in the loan approval process is permitted under the Circular Re: Rules, Procedures and Conditions for the Undertaking of Digital Personal Loan Business dated 15 September 2020.<sup>31</sup> Under the Guidelines for the Use of Biometric Technology for Financial Services dated 22 July 2020, financial services providers whose biometrics technology have passed the BOT's regulatory sandbox test may use the biometric technology for the opening of personal deposit accounts, electronic financial services, and other similar transactions.<sup>32</sup> However, the financial services providers must consult with the BOT prior to using other types of biometric technology.

### *Peer-to-Peer lending platforms*

According to SorNorSor 4/2562 Re: Rules, Procedures and Conditions for Undertaking Peer to Peer (P2P) Lending Platform Business, financial services providers looking to provide a peer-to-peer lending platform service must first be part of the BOT's regulatory sandbox

before applying for a licence from the BOT.<sup>33</sup> Peer-to-peer lending is defined as lending between lenders and borrowers through electronic systems or networks. The notification does not apply to financial institutions, including banks, although subsidiaries of banks that otherwise qualify under the notification can participate in the regulatory sandbox and apply for licensing. According to the notification, a peer-to-peer platform service provider must be a private or public company incorporated in Thailand, have paid-up capital of at least 5 million baht, have at least 75% of its total shares held by Thai citizens, and have qualified directors in terms of reputation, ability, and financial soundness. The notification also provides various qualifications for borrowers, who must be natural persons, and lenders participating in the peer-to-peer lending platform.

### SEC

The Emergency Decree on Digital Asset Businesses B.E. 2561 (2018) (Digital Asset Decree) and relevant notifications govern digital asset businesses and the public offering of digital tokens in Thailand.

#### *Digital Asset Decree*

The Digital Asset Decree covers two types of digital assets: cryptocurrencies; and digital tokens.

A digital asset business refers to any of the following businesses: (1) digital asset exchange; (2) digital asset broker; (3) digital asset dealer; and (4) other businesses relating to digital assets as prescribed by the MOF on the recommendation of the SEC (including digital asset fund manager and digital asset advisor pursuant to the announcement on 19 October 2020).<sup>34</sup> The decree also covers regulations concerning digital token portal services.

Both digital asset business operators and digital token portal service providers are regarded as financial institutions and regulated under anti-money laundering laws.

The Digital Asset Decree includes various provisions preventing unfair digital asset trading practices, with criminal and civil penalties.

#### *Digital business operators and digital token portal service (ICO Portal)*

Digital business operators, digital asset exchanges, digital asset brokers and digital asset dealers are subject to the licensing requirements of the MOF on the recommendation of the SEC.<sup>35</sup> According to the Notification of the Ministry of Finance Re: Licensing of Digital Asset Businesses B.E 2561, a licence holder must be a company registered under Thai law and have paid-up registered capital in the amount designated by the SEC, which depends on the type of digital asset business, amongst other qualifications.

Similarly, a digital token portal service provider (ICO Portal) is subject to the licensing requirements of the SEC.<sup>36</sup> According to the Notification of the Securities and Exchange Commission No. KorJor. 16/2561 Re: Rules, Conditions and Approval Methods Digital Token Offering System Provider (Codified Edition) dated 3 July 2018, an ICO Portal licence holder must be a company registered under Thai law and have paid-up registered capital in the amount of 5 million baht, amongst other requirements.

Digital business operators and ICO Portals are required to follow the rules, conditions, and procedures as notified by the SEC.<sup>37</sup>

As of 3 May 2022, the following cryptocurrencies are approved for business transactions conducted by digital business operators and ICO Portals: Bitcoin; Ethereum; Ripple; and Stellar.<sup>38</sup>

Notification of the Securities and Exchange Commission No. Kor Thor. 18/2564 Re: Rules, Conditions and Procedures for Undertaking Digital Asset Businesses (No. 11), however,

prohibits the exchanges from providing services related to utility tokens or cryptocurrencies that have any of the following characteristics: meme token; fan token; Non-Fungible Token (NFT); and digital token which are utilised in a blockchain transaction and issued by digital asset exchanges or related persons.<sup>39</sup>

A current list of companies operating digital asset exchanges, digital asset brokers, digital asset dealers, and ICO Portals can be found on the SEC website.

#### *Public offering of digital tokens (ICO issuers)*

According to the Digital Asset Decree, an issuer of digital tokens which intends to offer digital tokens to the public must be a limited company or a public limited company. The issuer must obtain the approval of the SEC Office and file a registration statement for the offering of digital tokens and a draft prospectus with the SEC.<sup>40</sup>

Offering of digital tokens may only be made through the SEC-approved ICO Portal,<sup>41</sup> and offerors of digital tokens are required to submit reports concerning their business operations and financial condition, as well as any other information that may affect the rights of digital token holders or their investment decisions, to the SEC.<sup>42</sup>

#### *Public fundraising and ESOP*

There are many public fundraising options available for FinTech businesses in Thailand, including equity and debenture crowdfunding, ICOs, PP-SME offerings, public offerings through the Market for Alternative Investment (MAI), and public offerings through the Stock Exchange of Thailand (SET) – all of which are governed by the SEC. The SEC has also recently announced the creation of a LiVE Exchange market especially for Startups and SMEs, anticipated for the third financial quarter of 2022.

Equity and debenture crowdfunding are available for FinTech companies through crowdfunding portals.<sup>43</sup> A FinTech company interested in offering securities through crowdfunding must be registered in Thailand, have clear business objectives and intend to use the money received from the offering to operate its business or pay off debts the company has incurred in order to conduct its business, and have no shares listed as securities on the SET. A FinTech company can raise funds through this crowdfunding channel from institutional investors with no limitation. However, a FinTech company can raise a maximum of 20 million baht from retail investors through this crowdfunding channel in a 12-month period after the initial offering and another 20 million baht (taking the total to 40 million baht) from investments thereafter. The SEC notes that 69 SMEs and start-ups are likely to access the crowdfunding platform in 2021, after the successful trial of three pilot projects.<sup>44</sup>

The SEC also permits the offering of Employee Stock Option Plans (ESOP) without the need to apply for an offer for sale of newly issued shares from the SEC. However, companies wishing to issue ESOPs must comply with the SEC's ESPO Criteria, seek approval from their shareholders' meetings for the transaction (the sale of securities must be completed within one year after the approval is granted), and submit an ESOP Checklist with the results of the sale to the SEC within 15 days from the transaction date.<sup>45</sup>

#### *SEC regulatory sandbox*

The SEC issued an announcement that came into effect on 16 August 2020, adding business types that can be included in its regulatory sandbox programme:

- Intermediary group: securities business in the category of investment advisory and private fund management, mutual fund management and Securities Borrowing and Lending (SBL), and derivatives business in the category of brokerage, trading, advisory and derivatives fund management (brokerage, stock trading, underwriting).

- KYC process group.
- After-sales service group, i.e., securities clearing house, securities depository, securities registrar and derivatives clearing house.
- Product trading system service group, i.e., electronic trading platform (ETP) services and securities trading centre and derivatives trading centre.<sup>46</sup>

## OIC

### *Electronic offering of insurance policies*

The OIC issued two notifications in 2017 to recognise and regulate the electronic means of issuing insurance policies, offering insurance policies, and reimbursement of money under life and non-life insurance contracts.<sup>47</sup> The offering of insurance policies by electronic means can only be conducted by licensed insurance companies, insurance brokers, or banks which must continue to also follow applicable laws on insurance offerings, including the format for forms and insurance policies offered for sale by electronic means.<sup>48</sup>

In addition to following specific criteria under the legislation on electronic means for issuing insurance policies, offering insurance policies, reimbursement of money under a life and non-life insurance contract, and maintaining information security, the electronic means for issuing insurance policies, offering insurance policies and reimbursement of money under life and non-life insurance contracts must follow the Electronic Transaction Act (2001) and must not contravene anti-money laundering laws and other similar laws.

### *Regulatory sandbox for InsurTech*

The OIC issued a notification on the criteria, methods, and conditions for participating in its regulatory sandbox programme on 17 May 2021,<sup>49</sup> which replaces notifications issued in 2019 and 2017.

Examples of projects in the regulatory sandbox programme include: Prakan Kubdee, a vehicle insurance company in Thailand launched by MSIG and AIG Insurance Services that calculates premiums from information on real driving behaviour;<sup>50</sup> and Fairdee, a digital insurance platform launched by Singapore-based Vouch Insurtech in partnership with six Thai insurers which seeks to promote safer driving and reduce insurance fraud.<sup>51</sup>

## ETDA

### *Regulatory sandbox for Digital Service*

ETDA is responsible for supervising service providers who provide electronic transaction services in accordance with the Electronic Transaction Act.

ETDA issued a notification on the criteria, methods, and conditions for participating in its regulatory Digital Service Sandbox programme on 29 May 2021<sup>52</sup> with subsequent amendment on 15 May 2022<sup>53</sup>

Projects in the regulatory sandbox programme include solutions with regards to e-Document, Digital ID, and e-meeting,<sup>54</sup> including the National Digital ID Platform (NDID), which has successfully passed the sandbox programme.<sup>55</sup>

## **Data protection requirements**

The Personal Data Protection Act of Thailand 2019 (PDPA) was promulgated to protect natural persons from the unauthorised or unlawful collection, use or disclosure of their personal data. The COVID-19 pandemic led the Thai Government to postpone the enforcement of most of the PDPA's provisions to 1 June 2022, but the minimum security standards under the PDPA already apply, whereby data controllers must inform their staff

and relevant parties of the importance of personal data protection, and certain data access safeguards must be implemented.

Chief amongst the requirements of the PDPA is that any collection, usage, or disclosure of personal data must be conducted with either the data subject's consent or on a lawful basis, and the Personal Data Protection Committee of Thailand must be notified of any data breach within 72 hours of the data controller having become aware of it.

The PDPA applies to the collection, usage, or disclosure of personal data by any company that is either based in Thailand and/or based outside Thailand but is offering goods and services to data subjects who are in Thailand and/or monitoring data subjects' behaviour that occurs in Thailand. A company that is based outside Thailand but falls within the jurisdiction of the PDPA is also required to appoint a representative in Thailand who is authorised to act on its behalf in respect of the collection, usage, or disclosure of personal data.

Cross-border transfer of personal data requires a data controller to either obtain the consent of the data subject or ensure that the destination country or international organisation that receives the data has adequate data protection standards as determined by the committee (currently unspecified).

Penalties for non-compliance with the PDPA include criminal and civil penalties.

FinTech companies are also required to comply with the personal data protection rules issued by their respective regulatory authorities.

## Patents

The Patent Act (1979) authorises the Department of Intellectual Property to issue a patent for an invention that is new, involves the use of inventive technology, and is capable of industrial application. An invention patent has a term of 20 years from the date of filing of the application, and grants the patentee(s) the exclusive right to produce, use, sell or have in their possession for sale the patented products or import the patented product(s) produced by the patented process into the country.<sup>56</sup> Additionally, patentees are permitted to grant licences for their inventions to third parties and receive royalties therefrom.

## Restrictions

Restrictions on the various types of FinTech businesses will depend on the licence or registration requirements involved, as discussed in the "Key regulations and regulatory approaches" section above. However, no types of FinTech products are prohibited outright in Thailand.

There are strict controls on business operations by foreign entities in Thailand. Under the Foreign Business Act (1999), foreigners looking to start a FinTech business in Thailand must generally apply for a Foreign Business Licence from the Department of Business Development. Depending on the type of FinTech business involved, there may also be specific restrictions on the foreign shareholding of the licensees. For example, one of the BOT's requirements for peer-to-peer lending platform providers is that at least 75% of the platform provider's total shares must be held by Thai nationals.<sup>57</sup> Foreign companies interested in participating in the BOT's regulatory sandbox programme typically do so in partnership with local counterparts.

Additionally, participation in the digital asset business by financial institutions is strictly monitored by the BOT under Guidelines on the Undertaking of Digital Asset Business by Financial Institutions and Companies Within the Financial Business Group of Financial Institutions (2018). While companies within financial business groups may engage in

digital asset businesses, they are not allowed to be an ICO issuer or ICO Portal, undertake digital asset businesses (exchange, broker, or dealer), and cannot act as an advisor or solicit investment in digital assets from clients who are not institutional investors, ultra-high-net-worth investors or high-net-worth investors.<sup>58</sup> Investment in and issuance of digital assets by commercial banks are only permitted by participating in the BOT's regulatory sandbox programme with the objective of developing financial innovations to enhance the efficiency or quality of financial services for their customers.

Finally, FinTech companies must also comply with anti-money laundering<sup>59</sup> laws as well as laws countering the financing of terrorism,<sup>60</sup> which may impose restrictions on the transfer of money and the handling of some financial accounts.

## **Cross-border business**

### Cross-border payments

Various cross-border payment mechanisms were launched in the ASEAN region in 2020 and 2021.<sup>61</sup>

- The Monetary Authority of Singapore (MAS) and the BOT launched the linkage of Singapore's PayNow and Thailand's PromptPay real-time retail payment systems on 29 April 2021.
- Bank Negara Malaysia (BNM) has extended the cross-border link between Singapore's PayNow and Thailand's PromptPay to Malaysia's DuitNow.<sup>62</sup>
- The State Bank of Vietnam (SBV) and the BOT jointly launched the first cross-border interoperable QR code payment linkage in early 2021<sup>63</sup> with at least one local Thai bank now offering cross-border QR payments between Thailand and Vietnam.<sup>64</sup>
- The National Bank of Cambodia and the BOT jointly launched the first cross-border interoperable QR code payment linkage between the two nations on 18 February 2020.<sup>65</sup>
- Additionally, the BOT has signed separate MOUs with the Bank of Lao PDR<sup>66</sup> and the Central Bank of Myanmar<sup>67</sup> with similar goals of enhancing the collaboration on financial innovation and payment services to promote more efficient and secure domestic and cross-border payments. The BOT and Bank of Lao PDR are working together to develop interoperable QR codes for payments and innovative real-time remittance to facilitate cross-border retail payment services between Lao PDR and Thailand.<sup>68</sup>

Various commercial banks in Thailand already accept payments by Alipay and WeChatPay,<sup>69</sup> a popular initiative amongst Chinese shoppers in Thailand, and the first cross-border QR payment system with Japan was launched in 2019.<sup>70</sup>

### E-Money services in foreign currencies

Non-bank operators of FinTech and digital money services have been able to apply for an FX e-Money licence from the BOT, permitting them to issue e-money in foreign currencies for customers to pay for cross-border goods and services, since 26 June 2020.<sup>71</sup> Any non-bank operator wishing to apply for an FX e-Money licence must be a Thai entity with a minimum registered paid-up capital of 100 million baht and have an Electronic Money Service Business licence under the Payment Systems Act.

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## **Endnotes**

1. [https://www.researchgate.net/publication/337971279\\_Thailand\\_FinTech\\_Landscape\\_Report\\_Sanitized\\_by\\_Global\\_Markets\\_EY\\_Knowledge](https://www.researchgate.net/publication/337971279_Thailand_FinTech_Landscape_Report_Sanitized_by_Global_Markets_EY_Knowledge).

2. <https://datareportal.com/reports/digital-2021-thailand#:~:text=The%20number%20of%20internet%20users,at%2069.5%25%20in%20January%202021.>
3. World Bank's Global Covid-19 FinTech Market Rapid Assessment Study.
4. <https://thaifintech.org/about>.
5. <https://www.depa.or.th/en/about-depa/background>.
6. <https://www.bangkokpost.com/thailand/general/1011321/e-payment-will-eliminate-most-bank-transfer-fees>; <https://www.globaldata.com/thailands-national-e-payment-master-plan-has-opened-door-to-less-cash-economy-says-globaldata>.
7. [https://www.bot.or.th/English/AboutBOT/Activities/Pages/JointPress\\_25012022.aspx](https://www.bot.or.th/English/AboutBOT/Activities/Pages/JointPress_25012022.aspx).
8. <https://www.boi.go.th/index.php?page=incentive>. [https://www.boi.go.th/upload/content/BOI-A%20Guide\\_EN.pdf](https://www.boi.go.th/upload/content/BOI-A%20Guide_EN.pdf).
9. <https://www.depa.or.th/en/smart-city-plan>; <https://opengovasia.com/thailand-to-collaborate-internationally-for-smart-city-tech>.
10. <https://www.crowdfundinsider.com/2020/11/169654-thailand-is-now-home-to-96-fintech-startups-including-crowdfunding-insurtech-remittance-payments-services-report>; <https://www.crowdfundinsider.com/2020/08/165542-digital-banking-competition-in-southeast-asia-should-intensify-as-theres-been-a-boom-in-fintech-investments-report>; <https://www.crowdfundinsider.com/2020/09/166880-asian-countries-like-india-indonesia-vietnam-thailand-have-one-of-the-fastest-growing-digital-asset-markets-report>.
11. <https://www.bot.or.th/Thai/DebtSecurities/Documents/DLT%20Scripless%20Bond.pdf>; <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n5963.aspx>.
12. <https://www.bot.or.th/Thai/FIPCS/Documents/FPG/2562/EngPDF/25620191.pdf>.
13. <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n6463.aspx>.
14. <https://www.bot.or.th/Thai/FIPCS/Documents/FPG/2563/EngPDF/25630186.pdf>.
15. <https://www.bot.or.th/English/PaymentSystems/FinTech/Pages/P2PLendingSandbox.aspx>.
16. <https://www.bot.or.th/English/PressandSpeeches/Press/2022/Pages/n1565.aspx>.
17. <https://www.oic.or.th/sites/default/files/content/87698/3-thailand-insurance.pdf>.
18. [http://oiceservice.oic.or.th/document/Law/file/05079/05079\\_a4896511fce69a40b015c81dd7eb02b7.pdf](http://oiceservice.oic.or.th/document/Law/file/05079/05079_a4896511fce69a40b015c81dd7eb02b7.pdf).
19. [http://oiceservice.oic.or.th/document/Law/file/05090/05090\\_914ba349ca43c3969d51649e52e82c52.pdf](http://oiceservice.oic.or.th/document/Law/file/05090/05090_914ba349ca43c3969d51649e52e82c52.pdf).
20. <https://www.bot.or.th/English/AboutBOT/RolesAndHistory/pages/rolesandresponsibility.aspx>.
21. Section 14 of the Securities and Exchange Act of 1992.
22. Section 12 of the Insurance Commission Act of 2007.
23. <https://www.bot.or.th/Thai/FIPCS/Documents/FPG/2561/EngPDF/25610086.pdf>.
24. [https://www.bot.or.th/English/PaymentSystems/PSA\\_Oversight/Pages/default.aspx](https://www.bot.or.th/English/PaymentSystems/PSA_Oversight/Pages/default.aspx).
25. [https://www.bot.or.th/English/PaymentSystems/PSA\\_Oversight/Pages/RelatedLaws.aspx](https://www.bot.or.th/English/PaymentSystems/PSA_Oversight/Pages/RelatedLaws.aspx).
26. Notification of the Ministry of Finance Re: Stipulation on Designated Payment Services, <https://www.bot.or.th/Thai/FIPCS/Documents/FPG/2561/EngPDF/25610194.pdf>.
27. <https://www.bot.or.th/Thai/FIPCS/Documents/FPG/2561/EngPDF/25610194.pdf>.
28. <https://www.bot.or.th/Thai/FIPCS/Documents/FPG/2562/ThaiPDF/25620036.pdf>.
29. <https://www.bot.or.th/Thai/AboutBOT/Activities/Documents/MediaBriefing/RegulatorySandbox.pdf>.
30. <https://www.bot.or.th/Thai/FIPCS/Documents/FPG/2562/ThaiPDF/25620084.pdf>.
31. <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n6463.aspx>.

32. <https://www.bot.or.th/Thai/FIPCS/Documents/FOG/2563/ThaiPDF/25630177.pdf>.
33. [http://www.ratchakitcha.soc.go.th/DATA/PDF/2562/E/106/T\\_0016.PDF](http://www.ratchakitcha.soc.go.th/DATA/PDF/2562/E/106/T_0016.PDF).
34. Notification of the Ministry of Finance Re: Prescribing Other Businesses Related to Digital Assets to become an additional digital asset business. 19 October 2020.
35. Emergency Decree on Digital Asset Businesses B.E. 2561 (2018) Section 27. The Notification of the Ministry of Finance regarding licensing of digital asset businesses B.E 2561.
36. <https://www.sec.or.th/th/pages/lawandregulations/icoportal.aspx>.
37. The Notification of the Securities and Exchange Commission No. GorThor. 19/2561 Re: Rules, Conditions and Procedures for Undertaking Digital Asset Businesses.
38. Announcement of the SEC Office No. SorJor. 12/2562 regarding the list of cryptocurrencies announced by the SEC Office (No. 2), <https://publish.sec.or.th/nrs/7998s.pdf>.
39. [https://www.sec.or.th/EN/Pages/News\\_Detail.aspx?SECID=8994](https://www.sec.or.th/EN/Pages/News_Detail.aspx?SECID=8994).
40. Emergency Decree on Digital Asset Businesses B.E. 2561 (2018) Section 17.
41. Emergency Decree on Digital Asset Businesses B.E. 2561 (2018) Section 19.
42. Emergency Decree on Digital Asset Businesses B.E. 2561 (2018) Section 19.
43. Crowdfunding Notification TorJor. 21/2562 12 April 2019 Capital Market Supervisory Board (CMSB), amended by TorJor. 14/2563 (No.2) in March 2020.
44. <https://www.bangkokpost.com/business/2036615/sec-gauges-69-smes-for-crowdfunding>.
45. <https://www.sec.or.th/TH/pages/lawandregulations/employeestockoptionprogram.aspx>.
46. [https://www.sec.or.th/TH/Pages/News\\_Detail.aspx?SECID=8343](https://www.sec.or.th/TH/Pages/News_Detail.aspx?SECID=8343).
47. OIC Notification Re: Rules and Procedures for Insurance Policy Issuance, Insurance Policy Offering and Reimbursement of Money under the Life Insurance contract Using Electronic Methods (2017). OIC Notification Re: Rules and Procedures for Insurance Policy Issuance, Insurance Policy Offering and Reimbursement of Money under a Non-Life Insurance Contract Using Electronic Methods (2017).
48. Registrar's Order No. 56/2560 Re: Rules for Approval, Forms, and Insurance Policy Messages and the Premium Rates Offered for Sale Via Electronic for Non-Life Insurance Companies. Registrar's Order No. 53/2560 Re: Criteria for Approval, Form and Insurance Policy Message of Life Insurance Policy Offering for Sale or Issue of Insurance Policy Using Electronic Means of Ordinary Type with Installment Premium Payment or A Standard One-Time Premium Payment for Life Insurance Companies.
49. OIC Notification: Criteria, Methods and Conditions for Participating in Innovation Testing Projects that Bring Technology to Support Services for Insurance Business (Insurance Regulatory Sandbox) (2021), [http://oiceservice.oic.or.th/document/Law/file/12499/12499\\_27c05a5508bb7d9beb39685f61078222.pdf](http://oiceservice.oic.or.th/document/Law/file/12499/12499_27c05a5508bb7d9beb39685f61078222.pdf).
50. [https://investor.ais.co.th/news.html/id/822982/group/newsroom\\_press](https://investor.ais.co.th/news.html/id/822982/group/newsroom_press).
51. <https://www.insurancebusinessmag.com/asia/news/breaking-news/singaporebased-insurtech-launches-in-thailand-106372.aspx>.
52. [https://www.eta.or.th/getattachment/Our-Service/Digital-Trusted-services-Infrastructure/Digital-Service-Sandbox/law/ETDAannounce-DigitalServiceSandbox-29May63\\_1.pdf.aspx?lang=th-TH](https://www.eta.or.th/getattachment/Our-Service/Digital-Trusted-services-Infrastructure/Digital-Service-Sandbox/law/ETDAannounce-DigitalServiceSandbox-29May63_1.pdf.aspx?lang=th-TH).
53. [https://www.eta.or.th/getattachment/Our-Service/Digital-Trusted-services-Infrastructure/Digital-Service-Sandbox/law/ETDAannounce-DigitalServiceSandbox-15July64\\_2.pdf.aspx?lang=th-TH](https://www.eta.or.th/getattachment/Our-Service/Digital-Trusted-services-Infrastructure/Digital-Service-Sandbox/law/ETDAannounce-DigitalServiceSandbox-15July64_2.pdf.aspx?lang=th-TH).
54. <https://www.eta.or.th/th/Our-Service/Digital-Service-Sandbox/announce.aspx>.
55. <https://www.ndid.co.th/>.

56. Section 36 of the Patent Act (1979).
57. SorNorSor 4/2562 Re: Rules, Procedures and Conditions for Undertaking Peer to Peer (P2P) Lending Platform Business.
58. No. BOT.RPD(23)C. 1759/2561 Re: Guidelines on the Undertaking of Digital Asset Business by Financial Institutions and Companies Within the Financial Business Group of Financial Institutions.
59. Anti-Money Laundering Act 1999.
60. Counter-Financing of Terrorism and Dissemination of Weapons of Mass Destruction B.E. 2559.
61. <https://internationalfinance.com/thailand-introduce-qr-code-cross-border-payments-asean>.
62. <https://www.bangkokpost.com/business/2134811/promptpay-now-linked-to-duitnow>.
63. <https://internationalfinance.com/thailand-vietnam-launch-qr-code-facilitate-cross-border-transactions>.
64. <https://www.bangkokpost.com/business/2090595/bbl-to-offer-cross-border-qr-payment-with-vietnam>.
65. <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n0963.aspx>.
66. <https://www.bot.or.th/English/PressandSpeeches/Press/2019/Pages/n2262.aspx>.
67. <https://www.bot.or.th/English/PressandSpeeches/Press/2019/Pages/n6062.aspx>.
68. <https://www.bot.or.th/English/PressandSpeeches/Press/2019/Pages/n2262.aspx>.
69. <https://www.bangkokbank.com/en/Business-Banking/Manage-My-Business/Merchant-Services/Alipay-WeChatPay>; <https://www.kasikornbank.com/th/business/sme/digital-banking/kplushop/functions/manage/Pages/apply-alipay.html>; <https://www.scb.co.th/th/personal-banking/payment/for-merchant/mae-manee-app/alipay-wechat-onboarding.html>.
70. [nationthailand.com/business/30395933](https://nationthailand.com/business/30395933); <https://www.krungsri.com/bank/en/NewsandActivities/Krungsri-Banking-News/thai-qr-code-payment-in-japan.html>.
71. <https://www.bot.or.th/English/PressandSpeeches/Press/2020/Pages/n3563.aspx>.

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