



Amendment of the Regulation for Enforcement of the Banking Act regarding Electronic Payment Services

1. Introduction

On December 8, 2023, the Financial Services Agency issued a broad solicitation for opinions for the purpose of amending the Regulation for Enforcement of the Banking Act, etc. regarding electronic payment services with the aim of (1) deregulating the transmission of remittance instructions and obtaining deposit account information within group companies, and (2) clarifying that banks and similar financial institutions are required to publish policies regarding cooperation and collaboration with electronic payment service providers, and to make efforts to open their APIs. These amendments were promulgated on July 8, 2024 and came into effect on July 9.¹

Of the above amendments, (1) the amendment regarding deregulation of certain electronic payment services (Article 1-3-3, etc. of the Regulation for Enforcement of the Banking Act) aims to exclude cash management systems (CMS), within group companies from the scope of regulated electronic payment services, which is considered to be of great practical significance. In this article, we explain regarding (2), the newly established "Measures to Promote Coordination and Collaboration with Electronic Payment Service Providers" (Article 13-6-12, etc. of the Regulation for Enforcement of the Banking Act), as follows.

Although the amendments include amendments for business types other than banks (e.g., credit unions, etc.), we will focus on the amendments to the Regulation for Enforcement of the Banking Act.

2. Details and current status of electronic payment services

As fintech services have become more familiar to the public, electronic payment services were launched as a new system on June 1, 2018, with the aim of promoting innovation for banks while ensuring user protection by clarifying the legal status of electronic payment services.

Electronic payment services are categorized into two types which are (1) receiving instructions from depositors regarding funds transfer transactions and transmitting such instructions to banks and other financial institutions (Service I), and (2) account information service in which account information is obtained from banks, etc. and provided to depositors (Service II). Both services are expected to be provided by using an electronic data processing system based on an entrustment by the depositor. Registration under the Banking Act and other laws is required in order to conduct electronic payment services in Japan, and electronic payment service providers are required to provide appropriate information to users and enter into contracts with financial institutions.

As of May 31, 2024, 122 companies have been registered as electronic payment service providers², and the collaboration between banks, etc. and fintech companies has made API-based services widely available to users. For banks and other financial institutions, collaboration with fintech companies has the advantage of expanding the functionality of their own apps and expanding their customer base, and mobile services for individual customers of banks, etc. can provide integrated household financial management functions, including information from other banks, etc., within a single app.

¹ <https://www.fsa.go.jp/news/r6/ginkou/20240708/20240708.html>

² <https://www.fsa.go.jp/menkyo/menkyoj/dendai.pdf>

3. Measures to promote coordination and collaboration with electronic payment service providers

With the amendment of (2) above, the Regulation for Enforcement now requires banks, etc. to establish policies to promote coordination and collaboration with electronic payment service providers and to publish such policies online or by other means without delay, and to do the same when such policies are revised.

Banks, etc. should include the following points in the said policies.

- ① Basic policy on promotion of coordination and collaboration with electronic payment service providers
- ② Whether or not the electronic payment service provider will develop a system to enable it to operate electronic payment services for the relevant bank without obtaining identification codes, etc. (such as IDs and passwords for the banking service) from the users of the electronic payment service it operates (i.e., implementation of open API³), the reason therefor and the scheduled completion date of the development.
- ③ If such system is to be developed, whether the bank designs, operates, and maintains the system itself or has a third party perform such work, and other policies that are relevant to the development of the system.
- ④ Name and contact information of the department in charge of coordination and collaboration with the electronic payment service providers.
- ⑤ Other information to which electronic payment service providers should refer when considering coordination and collaboration with the relevant bank.

In addition, banks, etc. are required to make efforts to develop a system for implementing open APIs.

4. Background of the measures to promote coordination and collaboration with electronic payment service providers

Pursuant to Article 10 of the Supplementary Provisions of the Act Partially Amending the Banking Act (Act No. 49 of 2017), promulgated in June 2017, financial institutions were already required to establish and publish their the policies to promote coordination and collaboration with electronic payment service providers by March 1, 2018. On April 24, 2020, the Financial Services Agency compiled and published the publication status of each financial institution⁴.

In addition, pursuant to Article 11 of the said Supplementary Provisions, banks, etc., were required to make efforts to develop a system to implement open APIs by the date prescribed in the Cabinet Order, with such date being within two years from the effective date of the amended Banking Act, etc.

However, it was unclear whether and when this obligation would apply to banks and other financial institutions that were newly licensed after the effective date of the amended Banking Act. Therefore, in order to clarify the permanent measures to promote coordination and collaboration with electronic payment agents, this most recent amendment has been clearly stipulated in the form of the Regulation for Enforcement of the Banking Act, and is considered to be a permanent measure.

It is stipulated that policies published by banks, etc., prior to the effective date of this amendment will be deemed to have been published in accordance with the amended Regulation for Enforcement of the Banking Act. Therefore, it is considered that banks, etc., that have already published such policies do not need to take any special measures. On the other hand, banks, etc. that have not taken such publication measures should do so as soon as possible.

It should also be noted that if a foreign bank obtains a license from the Prime Minister pursuant to Article 4, paragraph 1 of the Banking Act, the foreign bank branch offices are deemed to be a bank and are subject to the Banking Act, and thus taking the above publication measures, etc. is necessary.

³ This means that the bank provides an API (application programming interface, a program that allows non-banks to connect to the bank's system and use its functions) to other companies and grant access to the bank system (https://www.fsa.go.jp/common/about/pamphlet/dendaigvo_start.pdf).

⁴ <https://www.fsa.go.jp/status/renkeihoushin/index.html>

5. Conclusion

The recent amendments clarify the obligation to publish policy decisions or changes regarding open API initiatives, etc. As described above, banks, etc. that have not yet established and published their policies (or published their policy change, if any) must do so immediately. In addition, it is also necessary to prepare for prompt publication of any future policy changes.

End

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