

## E-MONEY

### *An Electronic Alternative to Cash*

Money, as we know it, has been undergoing a transformation in recent years. The use of electronic money (“**E-money**”) in Malaysia has increased exponentially over the last five years. With the intention of aiding the understanding of the general public about E-money, this Newsletter will present a swift yet meaningful overview of E-money against the backdrop of the laws of Malaysia.

#### **Legally speaking, what is E-money?**

E-money is categorised as a designated payment instrument pursuant to the Financial Service Act 2013 (“**FSA**”) and is defined under the Financial Services (Designated Payment Instruments) Order 2013 as *“any payment instrument, whether tangible or intangible, that stores funds electronically in exchange of funds paid to the issuer and is able to be used as a means of making payment to any person other than the issuer”*.

#### **In a practical sense, how can E-money be described?**

E-money is an electronic form of a payment instrument that contains monetary value as a result of payment in advance by a user to the E-money issuer. Example of E-money payment instruments in Malaysia are aplenty; card-based such as Touch n Go, Mondex, prepaid phone cards or network-based such as Paypal, Alipay, Samsungpay.

#### **Approval from Bank Negara Malaysia (“BNM”)?**

Division 1, Part 1 of Schedule 1 of the FSA categorises the issuance of a designated payment instrument, in this case E-money, as an approved business. Section 8 of the FSA provides that no person shall carry on any authorised business (which includes an approved business) unless it is licensed or approved by BNM (as applicable). In accordance to this, all aspiring issuers of E-money must obtain the approval from BNM before commencement of their operation of business.

The submission for approval to BNM requires a compilation of documents identified in the Submission Guideline for Operating Payment System or Issuing Designated Payment Instrument, which includes, amongst other things, the corporate documents of the applicant and thorough information on the E-money system together with a fee of RM500.00.

Practically, applicants should be ready to receive a list of queries from BNM after submission of their application and possibly a meeting between BNM officers and the main management team of the applicant.

#### **Guideline on E-Money**

With the objective of promoting safety and soundness in the E-money schemes, BNM had in 2008 issued the Guideline on Electronic Money (E-Money) (“**Guideline**”). The Guideline contain broad principles and minimum standards to be observed by E-money issuers in relation to the operation of their E-money business.

The Guideline divides E-money issuers into two classes based on the maximum monetary value that can be stored in an E-money instrument (i.e. purse limit) and outstanding E-money liabilities. The **first class** refers to a Large E-money Scheme defined as a purse limit exceeding RM200.00, with the maximum purse limit being capped at RM1,500.00 or any amount as approved by BNM and having outstanding E-money liabilities for 6 consecutive months amounting to RM1 million or more. The **second class** refers to a Small E-money Scheme defined as a purse limit not exceeding RM200.00 and having outstanding E-money liabilities of less than RM1 million.

There are specific requirements imposed on the Large E-money Scheme operators which includes the need to maintain at all times a minimum shareholders’ fund unimpaired by losses of RM5 million or 8% of their outstanding E-money liabilities (whichever higher) and submission of independent audit reports of their E-money system as and when required by BNM.

Summarily, the Guideline encompasses the following principles relating to the issuance of E-money:

- Establish adequate governance and operational arrangements;
- Ensure proper risk management is in place, which caters to operational risk, security risk, and outsourcing risk;

- Ensure that the risks of using E-money, and rights and responsibilities of all stakeholders are clearly defined and disclosed;
- Ensure prudent management of funds which includes the need for trust accounts and refund policies;
- Ensure timely refund of stored value in the E-money;
- Implement adequate measures to prevent the use of E-money for money laundering and ensure compliance to other requirements;
- Submission of annual audited financial statements and monthly statistical report on operation of the E-money scheme by E-money issuers, as and when required by BNM.

## Moving Forward

The importance and expansion in use of E-money is expected to grow in Malaysia as it slowly paves its way into becoming one of the main payment instruments for Malaysians. Recognising this fact, BNM issued the Interoperable Credit Transfer Framework (“ICTF”) on 16 March 2018, which comes into effect on 1 July 2018, with the objective to “*foster an efficient, competitive and innovative payment landscape in Malaysia by enabling the interoperability of credit transfer services and promoting collaborative competition (co-opetition) between banks and non-bank electronic money (e-money) issuers through fair and open access to shared payment infrastructure*”.

Simply put, once ICTF comes into effect, Malaysian will be able to transfer money regardless of their monetary form or platform. Users can transfer their monetary value from an online banking platform to a non-online banking platform and consequently to an E-money platform. The interoperability between platforms will help bridge the gap between the various types of payment instrument platforms available to ease the transfer of monetary value in Malaysia.

*\*All information in this Newsletter is correct as at 31 May 2018 unless otherwise stated.*

\*\*\*\*\*

The author to this newsletter is [Kiranjit Kaur](#). Kiran is qualified as an advocate and solicitor since 2014 and was recently promoted as a Senior Legal Associate of Donny & Ong. She mainly advises on corporate commercial matters with particular focus on cross-border transactions.

### Disclaimer

Our publications or newsletters are for general guidance only and shall not be construed as a professional legal advice rendered by us. It is not intended to form the basis of your decision in respect of any transaction or matter contemplated. The content is updated as at the date of the Newsletter and it includes information from publicly available sources. Should you have any specific enquiry on the subject matter, please contact us for more information.

### CONTACT US

| T +603 6211 1316  
| F +603 6211 1876  
| A A-2-10, Plaza Damas 3, Jalan Sri Hartamas 1, 50480 Kuala Lumpur  
| W [www.donnyong.com](http://www.donnyong.com)  
| E [admin@donnyong.com](mailto:admin@donnyong.com)

