

## Peer-to-Peer (P2P) Lending Service in Thailand

Peer-to-peer lending services, also known as P2P lending services, is a method that the business operator, who will be an intermediary between individual borrower and the lender who can be either an individual or a juristic person for lending transaction. Therefore, the P2P lending business operator could directly connect the borrowers with lenders, bypassing financial institution, through online platform.

The Ministry of Finance has recently issued the notification to govern the system business or electronic network for lending business between persons on 20 September 2018. Such notification has already effective on 21 September 2018 (the “**Notification**”)<sup>1</sup>. According to Clause 2 of the Notification, the system business or electronic network for lending business between persons is a business required a license prior to its operation. Therefore, the applicant who wishes to operate the peer-to-peer (“**P2P**”) lending business has to obtain an approval from the relevant authorities (i.e. the Bank of Thailand and the Ministry of Finance) prior to commencing the business and shall have the qualifications set out in the Notification. The license to operate the P2P lending business shall valid for 5 (five) years from the approval date of the Ministry of Finance. The renewal of such license shall be according to the notification which will be further announced by the Bank of Thailand.

In addition, the Bank of Thailand plans to announce regulations governing the lending platform operator in details by the year-end.

Pursuant to the Notification, there are certain issues to be considered as follows:

### (1) The Applying for Operating P2P Lending Business

- The applicant shall apply the application and required documents to the Bank of Thailand, except for the financial institution which can operate such business (i.e. lending) by themselves as a normal business operation under its existing licenses; and
- The Bank of Thailand may require that the applicant testing such business operation in the Regulatory Sandbox with the Bank of Thailand and if the platform of such applicant is successful from testing in the Regulatory Sandbox and the applicant is ready to provide their service in wide area, the Bank of Thailand will further submit the applicant’s application and required documents to the Ministry of Finance to consider and issue the license within 60 (sixty) days from the date they receive completes set of application and supporting documents.

### (2) The Qualification of the Business Operator Applying for P2P Lending Business

- being a juristic person - private limited liability company or public limited liability company registered and validly existing in Thailand, and not being a financial institution already obtaining an approval from the Ministry of Finance;
- having a registered capital and shareholders’ equity not less than 5,000,000 (Five Million) Baht during the business operation;
- having shares held by Thai nationality not less than 75 (Seventy Five) percent of the total number of issued shares with voting right; and
- its director or managing person of business is not subject to any prohibitions specified by the Notification e.g. being a bankrupt person or free from being a bankrupt person not more than 5 (five) years etc.

---

<sup>1</sup> Notification of the Ministry of Finance regarding type of business in accordance with Section 5 of the Declaration of the Revolutionary Council No. 58 (Re: system business or electronic network for lending business between persons)

### (3) The Restriction of the Business Operator

The business operator could not conduct the following matters:

- borrowing or accepting deposit money from the public except for the issuance of bills and offer to the private placement (PP) and the issuance of debenture according to the Securities and Exchange law;
- being a lender or borrower through the system or electronic network, neither of themselves as a business operator nor other business operator;
- decreasing its capital, unless obtain prior approval from the Ministry of Finance;
- ceasing its operation in relation to the system business or electronic network for lending business between persons, unless obtain prior approval from the Ministry of Finance; and
- conducting other businesses, except for the business allowed by the Bank of Thailand.

As mentioned above, the P2P lending business operator shall have not less than 75 (Seventy Five) percent of the total number of issued shares with voting right held by Thai nationality. Kindly note that the definition of the "Thai nationality" of the business operator has not yet been specified by the MOF and/or the BOT whether it shall be an individual or a juristic person. As a result of that, the foreign entity which establishes according to the foreign law or the entity establishes under Thai law but held by major foreign shareholders, could not apply for the license to conduct the P2P lending business by themselves.

In addition, under the MOF's Notification, it also requires the P2P lending business operator to set out the consumer protection and the risk management measures e.g. know your customer procedure, client suitability and the credit rating of the borrower etc. to control lending risk.

**For more information, please contact:**

Chaipat Kamchadduskorn, Partner  
Email: chaipat@lshorizon.com

Dalin Saechea, Associate  
Email: dalin@lshorizon.com

Apichaya Krairiksh, Associate  
Email: apichaya\_k@lshorizon.com

Nataporn Soponthammakit, Associate  
Email: nataporn@lshorizon.com



**THERE IS ALWAYS A SOLUTION**

LS Horizon Limited is a regional law firm with offices in Thailand and Lao PDR and associated firms in Singapore, Cambodia and Myanmar, which is capable of delivering international quality legal services.

LS Horizon has more than 50 dedicated attorneys, including foreign attorneys with previous experience at top-tier international law firms and capable of handling landmark transactions in Thailand and other Asian countries to service clients in a wide range of industries with the best legal counsel.

Our current practice areas are

- Mergers and Acquisitions
- Capital Markets
- Corporate Real Estate
- Banking and Finance/Projects
- Private Equity & Foreign Direct Investment
- Dispute Resolution
- Insolvency and Business Reorganization
- Administrative and Constitution Law

## Important Note and Disclaimer

The content of this Newsletter is prepared as of 6 November 2018.

This Newsletter is informational in nature and is not to be considered as legal advice. It does not exhaustively cover the subjects which it treats, and is only intended to address some of the key issues. When specific questions arise in practice, it is necessary to obtain appropriate legal advice.

### **LS HORIZON LIMITED**

14<sup>th</sup> Floor, GPF Witthayu Tower A  
93/1 Wireless Road, Lumpini  
Phatumwan, Bangkok 10330 THAILAND  
Tel: (+662) 627 3443  
Fax: (+662) 627 3250  
E-mail: [information@lshorizon.com](mailto:information@lshorizon.com)  
[www.lshorizon.com](http://www.lshorizon.com)

### **LSH LAW CORPORATION**

(in association with LS HORIZON LIMITED)  
9 Temasek Boulevard  
#19-05 Suntec Tower Two  
Singapore 038989  
Tel: (+65) 6258 3100

### **DBLS LAW OFFICE**

(in association with LS HORIZON LIMITED)  
38, Samdech Pan Ave. (corner of 214 St. & 55 St.)  
Sangkat Boeung Rang, Khan Daun Penh, Phnom Penh  
The Kingdom of Cambodia  
Tel: (+855) 23 211 789  
[www.dbllslaw.com](http://www.dbllslaw.com)

### **LS HORIZON (LAO) SOLE CO., LTD.**

Unit 4/1.1, 4<sup>th</sup> Floor  
Simuong Commercial Center  
Fa Ngum Road, Phiavath Village  
Sisatanak District, Vientiane  
Lao PDR  
Tel: (+856-21) 217 762, 217 768  
Fax: (+865-21) 217 590

### **VALENSEA LAW LLC**

(as correspondent law firm of LS HORIZON LIMITED)  
10 Anson Road, #20-01 International Plaza  
Singapore 079903  
Tel : +65 6592 5269  
[www.valensealaw.com](http://www.valensealaw.com)

### **DECHA & CO (MYANMAR) LIMITED**

(in association with LS HORIZON LIMITED)  
22 (C), Lane of Kabaraye Pagoda Road,  
Ko Min Ko Chin Ward, Bahan Township,  
Yangon 11201, Myanmar  
Tel. (+95) 94 5523 7324-5  
[www.dechaco.com](http://www.dechaco.com)