Research of Problems of Supervision for E-payment System

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After analyzing domestic and abroad E-payment systems including related law and supervision situation, there are some gaps of law exposed which could cause risks of E-payment system especially the third party paying system. Based on govern experience from overseas, this article brings up several monitoring measures and policies.

Keywords: regulatory, third party payment

Proposal of the Problems

Modes of Electronic Payment

It is necessary to classify the modes of electronic payment in order to analyze the status of supervision. According to business, there are basically four forms of it. First of all, it is internet bank system through which the electronic business platform could connect with bank directly. Second is union pay system that people can use to pay by credit or debt cards from different bank. The third one is connection between payment platform and bank. The forth one is payment platform internal business system.

Gaps of Law and Regulation

So far, China still lacks of related laws and policies of electronic payment. In the end of 2005, “electronic payment guidance (1)” was came up and although there are some limitations, such as uncovered the third and fourth form of E-payment mentioned above, existing in it, it was known as the first law file of E-payment. In the beginning of 2006, the new law file called “payment clearing management system” (Electronic payment information network, 2005) came out but did not match with “electronic payment guidance (1)” (Yin, 2001) and was short of specific operation methods so that those two files were really difficult to perform well in the market.

Regulation of E-payment in Different Regions

European Union basically made legislations for electronic currency. In 1998, 2000, and 2002, EU has issued a series of laws of guiding the E-currency and E-payment of countries in EU. The laws emphasized the protection of consumers and were severe at entering condition. Once the E-currency is allowed to enter into the market then it is widespread through the whole European Union. So far, there are six countries in EU which issued 12 licenses of E-currency organization and 72 entities in seven countries made application for operation in small scale, in which businesses are mainly online payment.

Different from EU’s regulation, the United States treats E-currency and creative electronic payment service with a loose altitude. There is no special legislation or definition of E-currency. Saving cards, smart

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cards, and electronic wallets are not regarded as saving but debt, so that those economic tools can be issued by non-bank organization. Every state should supervise their own non-bank E-currency publishers which are mostly regulated by currency translation law office and have limitations of investment money, saving money and license. The third party companies showed up like PayPal on account of this slack policy of United States.

With regards to the regulation of Asia, Singapore government encourages citizens to develop electronic payment in domestic. The government on the one hand maintains the original elastic regulation principles and on the other hand makes laws that are suitable with generation, including building up virtual bank, to guide and promote the development of electronic payment. However, in India, virtual bank is prohibitive and the government sets strict limitations of business and basically does not allow foreign companies to build up electronic payment service in India. The requirement of entering into an area of Hong Kong is similar with India except the altitude of Hong Kong government for business is quite flexible. Japan, as an Asia's economic powerhouse, takes relatively loose measures of domestic electronic payment companies but is pretty strict to foreign ones.

For China, there still lacks of related regulations (Li, 2005). The "electronic payment guidance (1)" mainly constraints the E-payment of economic organization. However, it only shows the way to exploit the service but not enforceable and before it, there was no complete standard of business process, precaution of risk, disclosure of information, and consumer protection. Unfortunately, "electronic payment guidance (1)" has not any constraint of non-economic third party electronic payment business (Zhang, 2002). Therefore, those organizations were not managed effectively that were not good for either risk control or development of themselves.

Although "payment clearing management system", which has been mentioned above, clarifies the requirements of non-economic organizations to enter into electronic payment service business, the limitations and disadvantages are still existing. As for service company of online payment, they essentially are using the services that are affordable for banks but do not provide across-banks service to banks. Therefore it is not appropriate to classify them into payment clearing management system. There are two questions to clear before using "payment clearing management system". The first is the third party non-economic companies and secondly, if not, is it appropriate for the government to manage them using the measurements of economic companies? Hence, the online payment and all sorts of retail and business payment tools need to be managed but should be managed in a more proper way.

Venture Analysis

1. Technology risk, which means using an improper technology or the technology being used, is relatively outdated that may bring unknown risk (Mckenzie, 2003).

2. Business risk, including credit risk, fluent risk, payment and setting risk, law risk (the risk that organization fails to observe the laws, standards, or regulation), operation risk (the risk that the flaw of stability, reliability, and security of machines may result in), strategy risk (the risk that wrong analysis and poor decision result in), and investment risk, etc.

3. Management risk, including management risk and supervision risk (The Basel Committee on Banking Supervision, 2003). The former risk came up by the unbalance between the present regulation status of electronic payment management and the rapid development of electronic payment, and the latter is the result of complication of economic supervision.

In addition, the risks of different business and different modes of organizations are various. For example, the risks of business banks mainly focus on electronic banks service and electronic payment. The other aspects of risks could be managed based on the measures taken by regular banks. The two modes which are the third party electronic payment platform and the internal trade of internet platform are instinctive different from economic organization. ¹The primary risks of those two modes are basically classified into four categories as following (Harvard Business Review, 2006). First of all, there will be money sequestration and money precipitation and the problems of fund security or payment risk will come up with the showing of those two conducts. Moreover, many electronic payment service organizations may be related to the issuing of electronic currency, which has no solid regulations to manage. In addition, those two modes are related to payment settlement account or provide payment settling service. Although the new payment clearing system allows the non-economic companies to operate in the market, however, this kind of organization is different from bank so that the simply permission has considerable risk and even will make the risk become legal. Furthermore, ²electronic may become the tool of illegal transaction and cash of fund, which may cause certain risk (Minsk Business Daily, 2005). The last but not the least, the fund security cannot be protected effectively.

Supervision Advices and Conclusions

1. Supervision of entering into market includes setting the minimum investment limitation, reinforcing empowering internal controlling system and risk management, strengthening secure technology, and forming insurance. About investment limitation, the “payment clearing management system” was already mentioned and listed but not specified to activate. Nowadays, China has no regulations related with internal controlling system and risk management of no matter internet bank or electronic payment (Sun, 2004). ³With respect of secure technology, without controlling of entering in the market, it is necessary to form up an impeccable basic facility to ensure the safety of customers’ transaction activity and authenticity of transaction record (Times, 2004). Cash deposit mechanism is adopted for non-economic organizations and research is conducted for the insurance of electronic payment. Due to the massive competitions between electronic payment companies, it is hard for them to survive and develop so that government needs to prevent vicious competitions and decrease the payment risk. For promoting the companies’ development, government can consider merger and acquisition that is guided by policy and issue state-owned holding stock to reduce chaotic competitions and enhance strength.

2. Supervision of business includes business operation risk, board of directors and managers, inner operators, customers, and quitting the market. Government could use “online bank business management method” for reference to formulate electronic payment business management. About management layer, government could take example of the United States and Singapore that form a technical supervisor and the board of directors should both enact regulations to supervise and investigate timely to monitor if the co-operations are legal. About inner operators, the non-economic banks use the measures that are similar to banks, which prohibits individual operation, separates responsibilities, and sets requirements of entering into business. The supervision of customers should be restrained by law to ensure the confidentiality of customers’ information and the security of costumers’ property. In 2005, Master Company of the United States had

¹ Roberts Wall Street Ignores Potential Negatives, Embraces PayPal IPO 2002(2).

² Thibodeau Patrick Older Systems Hinder E-payments 2000(39).

³ Marjanovic Steven Fed Proposes Rule Changes to Help Electronic Banking.

disclosed a massive amount customers' information which exposed the vulnerability of the third-party payment supervision (Chen, 2004). About non-economic organization, government could consider the way of merger and acquisition because in this way, the customers' property and information will be well protected. In regard to supervision of business range, government needs to ensure the electronic payment will develop in a healthy way and every company will compete in an equitable way.

3. Supervision of organizations, includes reinforcing technological supervision, renewing opinion to strengthen business monitoring, forming complete supervision law system, putting timely monitoring in effort, empower quitting market supervision, and enhancing international cooperation (Guo & Ding, 2003). Recently, Chinese supervision organization adopts China Banking Regulatory Commission + Ministry of Information Industry + Ministry of Security + Press and Publication Administration. Some of organizations in the electronic payment market are not economic organization so that the specialties might be different. Therefore, the recent regulations have not considered how to monitor non-economic organizations by China Banking Regulation Commission (Chen, 2006). With respect to international cooperation, organizations need to refer to foreign successful experience. On account of the convenience of electronic payment that crosses border, government should prevent the risk of crossing border making strict supervision of foreign competitors and give support of domestic electronic payment organization development (Alamus & Zhou, 2005).

4. Electronic currency. There are various problems that are listed below needing to be regulated by law file: right of issuing electronic currency, issuing organization's risk, bankruptcy of payment organization, etc.

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