

# Legal Risk and Prevention of Third Party Electronic Payment in China

Quan Wu

Jiangsu Dongyin Law Firm, Nanjing 211100, Jiangsu, China

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**Abstract:** Online shopping in China has developed over the years and the introduction of electronic payments has made online shopping much more convenient. However, the third-party payment industry faces significant risks and threats due to various reasons such as laws, policies and markets. Currently, there are many regulatory documents on third party electronic payments in China, but due to the complexity and specialised nature of the Internet, it is difficult to cover all aspects of the regulatory framework. Based on the current legal risks of third party payments on the basis of foreign legal and regulatory experience, suggestions are made to improve the legal framework for third party payment risk control in the light of national conditions.

**Keywords:** Third party payments; Risk; Law

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## 1. Introduction

The prevalence of online shopping has generated a large number of financial disputes in the context of driving a booming economy. For example, I purchased two pieces of clothing online on the fourth day after payment and found that only one, less than one was found online for replacement or return by the dealer, and the two pieces of clothing insisted on submitting two copies, so they were not returned to Tiangong customer service applications, shipping numbers, etc. A few days later the reply, the reimbursement application was still a failure. As the author often shops online, this risk is everywhere. Therefore the study of the legal system of risk management of third-party payment platforms is not only of theoretical value, but also of practical value<sup>[1]</sup>.

## 2. Overview of third party payments

The overall performance of third party electronic payments is based on an agreement between the third party electronic payment provider and the bank, and an agreement between the buyer and seller and the payment provider, where both parties to the transaction establish separate accounts on the platform to ensure the safe flow of virtual currency.

①The buyer sets up the purchase on the buying platform and transfers the money from their personal account to complete the payment, which is held in the Alipay manager's account.②Paypal receives the transfer from the buyer and notifies the seller to send the goods ordered by the buyer.③The seller will deliver the goods to the buyer via various courier methods.④The buyer signs for the goods and confirms online that he/she has received them.⑤Alipay then completes the transaction by transferring the money for the goods from the previous account to the seller's account.

## 3. Legal risks for third parties

### 3.1 Risks arising from the ambiguity of the legal nature and liability of third party payments

#### 3.1.1 Ambiguity in the legal nature and scope of business

Third-party payment platforms cannot be considered as holders of funds, as they accept deposits and currently only use funds to invest in funds, and are currently legally referred to as “non-financial institutions”, but from the perspective of a financial operator, third-party payment transactions are in fact a financing service for commercial banks and have certain financial characteristics<sup>[2]</sup>.

#### 3.1.2 Vague legal liability

The law does not clearly define legal liability for breach of contract in relation to internet payment transactions, and in practice, breach of contract or tort can only be dealt with by reference to contract or tort law. Firstly, consumers have no right or opportunity to participate in the content of an online payment contract and can only choose whether to accept the contract or not.

## **3.2 Credit risk of third party payments**

### **3.2.1 Breach of trust by the buyer**

If the buyer takes delivery of the goods in bad faith or deliberately extends the collection period, the seller will not receive payment on time and if the seller believes the buyer's story, the latter will face a situation where the goods are not available. Often, sellers do not trust buyers and offer refunds or reshipments, but late payment by buyers prevents sellers from getting paid on time and increases the operating costs of third party payment platforms.

### **3.2.2 Breach of trust by sellers**

Breach of trust by sellers is common in everyday online shopping, for example, when the goods received do not match the pictures. The buyer then suffers certain losses. The author experienced a bogus top-up transaction after receiving a top-up text message confirming online payment, only to find out the next day that the phone bill had not been deducted from his account. Upon enquiry, he realised that the seller had manipulated the bogus top-up text message to make the buyer trust and pay for the goods.

### **3.2.3 Breach of trust in online third party payments**

Firstly, third party payment platforms may be unable to complete payment operations due to their own operational problems or difficulties. Personal registration data, bank identification data, payment data and purchase records are stored on the servers of third-party payment platforms. If such information is collected, sold or leaked by unscrupulous elements, it may lead to substantial infringement of users' rights and breach of the contract between the platform and the user.

### **3.2.4 Breach of trust by banks**

During third party payment transactions, bank failures, delays in the flow of funds and sudden interruptions in service contracts can affect the normal processing of payments and users.

## **4. Institutional improvement of legal risk control of third party payment**

### **4.1 Risk control for third party payments in sound legislation**

Electronic payments are so diverse, technically different and complex that it is difficult to develop detailed and workable legislation when it comes to e-commerce and some kind of unified legislation is necessary.

#### **4.1.1 Regulation of real names in legislation**

Both the Electronic Signature Law of 2005 and the Anti-Money Laundering Law implemented in 2007 refer to the real name system, but both are rather fragmented. The security and integrity of the object of the transaction!

#### **4.1.2 Sound protection of consumer rights in legislation**

Once a real-name system is introduced, online transactions are more transparent and secure, but the main issue for consumers is the protection of personal information and privacy. I believe that both the real-name system and the protection of consumer information are important issues for the security of online transactions,.

### **4.2 Improving the liability regime for third-party payments**

Probably the biggest obstacle to the development of e-commerce is security and reliability. While the risks have not been completely eliminated, we can put in place appropriate risk systems to properly manage third party losses in the event of risks such as theft of finances.

#### **4.2.1 Legal liability for incorrect payments**

If there is a risk of unauthorised payment, the third party payment platform form will be liable for the loss if the platform is not properly notified and an error occurs. Third party beneficiaries are entitled to compensation for human rights violations. This is often the case for third party payers and consumers, where unauthorised payments are not made and where the perpetrators cannot be identified by sharing the burden proportionately.

#### **4.2.2 Liability for errors in payment instructions**

The transmission of data over the network may lead to errors in the content, presentation and execution of payment orders and such damage is not protected by law and is covered by the service contract The payer assumes the risk in the event of an error in the payment order specifying the wrong content. However, if an error occurs when a third party makes a payment, the liability for the third party's payment will be borne by the third party unless it is proven that it did not act in error.

## **References:**

- [1] Yang Zhiqiong. Misunderstanding of Criminal Law Regulation and Correction of taking money illegally by third-party Payment [J]. Politics and Law,2018(12):36-50.
- [2] Dai Anan. Analysis on the influence of third-party payment on household consumption [J]. Research in Institutional Economics,2020(01):215-233. (in Chinese)