ISSN 2055-0286
Advances in Social Sciences Research Journal; Vol. 13 No. 11 (2026) (34-43)
https://doi.org/10.14738/assrj.1311.12652

Legal Challenges in Protecting the Rights of Digital Payment Instrument Users: The Case of Mongolia

Narmandakh Badarch[1] & Jankhor Sengeravdan[2]

1. Ph.D, professor at Shihihutug University, Mongolia; Member of the Doctoral Degree Defense Council in Law
2. Ph.D, Associate professor, Member of the Doctoral Degree Defense Council in National Security

Abstract: The rapid expansion of digital payment services has transformed financial transactions by making payments faster, more convenient, and accessible to a wider population. However, the increasing use of mobile banking, electronic money, digital wallets, QR-code payments, and other electronic payment instruments has created new challenges for consumer protection. These include unauthorized transactions, payment fraud, misuse of personal data, service interruptions, insufficient disclosure of information, and difficulties in recovering lost funds. Such developments raise concerns about whether existing legal frameworks provide adequate protection for users of digital payment services. This article examines the legal challenges associated with protecting the rights of digital payment users in Mongolia, drawing on selected regulatory approaches from Singapore, India, and China. The study adopts a doctrinal and comparative legal research approach, based on an analysis of relevant legislation, regulatory instruments, and scholarly literature. It examines Mongolia's Law on the National Payment System, which establishes the legal foundations for protecting payment users, ensuring the security and reliability of payment systems, and supervising payment service providers. The analysis also considers the extent to which the existing framework addresses practical issues, particularly liability for unauthorized transactions, fraud reporting and investigation, complaint handling, personal data protection, and access to effective remedies. The comparative analysis highlights several regulatory approaches that may offer useful lessons for Mongolia. These include Singapore's risk-based regulatory framework and consumer protection guidelines, India's rules governing customer liability for unauthorized electronic banking transactions, and China's licensing and supervisory requirements for non-bank payment institutions. The study argues that Mongolia should strengthen the implementation of its existing legal framework by introducing clearer rules on customer liability, standardized complaint-resolution procedures, timely reimbursement mechanisms, stronger disclosure requirements, and more coordinated regulatory supervision. These measures would help improve legal certainty, enhance consumer confidence in digital payment services, and support the sustainable development of Mongolia's digital financial environment.

Keywords: digital payment instruments, consumer protection, electronic payment transactions, financial regulation, unauthorized transactions, Mongolia.

INTRODUCTION

The development of digital payment services has significantly changed financial transactions by making payments faster, more convenient, and accessible. Mobile banking, electronic money, digital wallets, and QR-code payments have contributed to financial inclusion and the growth of electronic commerce. However, their increasing use has also raised concerns

about unauthorized transactions, payment fraud, personal data protection, and the recovery of lost funds. These challenges require effective legal regulation and clearly defined responsibilities for payment service providers [1].

In Mongolia, the Law on the National Payment System (2017) establishes the legal framework for regulating payment services, protecting user interests, and ensuring payment-system security and reliability. Nevertheless, effective consumer protection requires more specific rules concerning provider liability, fraud reporting, complaint resolution, and compensation for unauthorized transactions.

Comparative experiences offer useful approaches to addressing these challenges. Singapore regulates payment services through the Payment Services Act 2019, India has established specific rules on customer liability for unauthorized electronic transactions, and China strengthened the supervision of non-bank payment institutions through regulations effective from May 2024. Examining these approaches may help identify opportunities to improve the legal protection of digital payment users in Mongolia [2].

The main research problem concerns whether Mongolia's existing legal framework provides sufficient protection for users of digital payment instruments. Although legislation recognizes the importance of protecting payment users, practical questions remain regarding responsibility for unauthorized transactions, financial losses resulting from fraud, and access to effective remedies.

Digital payment transactions often involve several service providers and intermediaries, making it difficult to determine liability when disputes arise. Therefore, this study examines the adequacy of existing legal provisions and identifies regulatory improvements necessary to strengthen consumer protection in Mongolia.

THEORETICAL AND CONCEPTUAL FRAMEWORK

The Concept of Digital Payment Instruments

Digital payment instruments refer to electronic facilities used to initiate, authorize, or execute financial transactions. They include payment cards, mobile banking applications, electronic money, digital wallets, and QR-code payments. Unlike a payment system, which comprises the infrastructure, procedures, institutions, and rules governing transactions, a payment instrument represents the means through which a payment is made.

This distinction is important because consumer risks may arise during payment initiation, authentication, processing, or settlement. Mongolia's Law on the National Payment System (2017) provides the legal basis for regulating payment instruments and services, emphasizing user protection, security, and system reliability [3].

The legal regulation of digital payment instruments is essential to ensuring secure transactions, reducing consumer risks, and strengthening user protection throughout the payment process.

Consumer Protection Theory

Consumer protection theory recognizes that consumers often have weaker bargaining power, less technical knowledge, and limited access to information than service providers.

This imbalance is particularly evident in digital payments, where providers control transaction systems, authentication procedures, and electronic records.

Effective consumer protection therefore requires transparency, fair allocation of liability, access to remedies, protection against unfair contractual practices, and accountability of service providers. These principles provide a basis for evaluating whether digital payment users receive adequate legal protection [4].

Consumer protection theory establishes that effective legal protection in digital payment services requires addressing information and bargaining inequalities through transparency, fair liability allocation, accessible remedies, and provider accountability.

Information Asymmetry and Liability

Information asymmetry occurs when service providers possess greater information and technical evidence than consumers. In disputed digital transactions, providers generally control authentication records, transaction histories, and security information, making it difficult for users to establish the circumstances of unauthorized payments.

An important legal distinction must therefore be made between authentication and authorization. Authentication verifies the identity or credentials used in a transaction, whereas authorization concerns whether the transaction was actually approved by the account holder or an appropriately authorized person. Consequently, technical authentication alone should not automatically determine legal responsibility.

The effective consumer protection requires distinguishing technical authentication from genuine user authorization and ensuring that service providers bear appropriate evidential responsibility in disputed digital transactions.

Risk-Based Regulation and Institutional Accountability

Risk-based regulation requires supervisory obligations to reflect the nature and level of risks associated with different payment services. Payment institutions holding customer funds, for example, require appropriate safeguards against financial loss, while digital payment applications may require stronger cybersecurity, authentication, and information-protection measures.

Ehrentraud et al. (2021) emphasizes the importance of proportionate regulation and effective supervision of non-bank payment service providers. In Mongolia, the Bank of Mongolia plays a central role in regulating and supervising the national payment system under the Law on the National Payment System (2017). However, effective institutional accountability also requires clear supervisory responsibilities, appropriate enforcement powers, and accessible procedures for resolving consumer complaints [6].

The risk-based regulation and effective supervision by the Bank of Mongolia are essential to ensuring proportionate oversight, institutional accountability, and accessible consumer remedies in digital payment services.

LEGAL FRAMEWORK FOR PROTECTING DIGITAL: PAYMENT USERS IN MONGOLIA

The Law on the National Payment System

The Law on the National Payment System (2017) provides the principal legal framework for regulating and supervising payment activities in Mongolia. Article 4 establishes principles concerning payment-system reliability, risk management, user protection, confidentiality, and security. The law also grants the Bank of Mongolia regulatory and supervisory authority, including monitoring compliance and taking measures against violations.

These provisions establish an important foundation for protecting digital payment users. However, effective protection also requires clear rules on unauthorized transactions, liability, complaint handling, and compensation. Particular attention should be given to balancing payment finality with users' legitimate rights to challenge fraudulent or incorrectly processed transactions.

Thus, while the Law on the National Payment System (2017) establishes the foundation for regulating payment services in Mongolia, stronger provisions on unauthorized transactions, liability, dispute resolution, and consumer compensation are necessary to ensure effective user protection.

Banking Transactions and Customer Protection

Banking legislation provides an additional legal basis for protecting customers using mobile banking and other electronic financial services. Principles of confidentiality, security, and reliability are particularly relevant to transactions conducted through bank accounts and digital platforms.

However, digital payments may involve both banks and non-bank payment providers. This creates a need for clear allocation of responsibility, particularly regarding complaint handling, transaction investigation, and the protection of customer funds. The applicable obligations should remain clear even when several institutions participate in a single transaction [7].

Therefore, effective banking regulation must ensure clear institutional responsibilities and consistent customer protection throughout digital transactions, particularly when banks and non-bank payment providers are involved.

Consumer Rights and Contractual Transparency

Consumer protection also depends on the transparency and fairness of contractual relationships between users and payment service providers. Consumers should receive understandable information about transaction fees, payment conditions, security requirements, account restrictions, and procedures for reporting unauthorized transactions.

Attention should be given to whether contractual terms adequately explain customer responsibilities, provider liability, and available complaint procedures. General consumer rights must be supported by practical disclosure obligations and accessible remedies to ensure meaningful protection in digital payment transactions.

Accordingly, effective consumer protection in digital payment services depends on transparent and fair contractual terms that clearly define user rights, provider responsibilities, and accessible remedies for resolving disputes.

Electronic Transactions and Evidentiary Issues

Electronic payment disputes frequently involve differences in access to transaction information. Payment providers generally maintain authentication records, transaction histories, and security data, while consumers may have limited access to this evidence.

Therefore, legal protection requires appropriate rules governing electronic evidence, record preservation, transaction investigation, and the assessment of disputed payments. Importantly, successful technical authentication should not automatically be treated as conclusive proof of the user's actual authorization. The circumstances of fraud, phishing, identity theft, and unauthorized access must also be considered when determining liability [8].

Therefore, fair resolution of electronic payment disputes requires transparent evidence procedures and a balanced assessment of provider records, user authorization, and the circumstances surrounding suspected fraud or unauthorized transactions.

Preliminary Assessment of the Mongolian Legal Framework

Mongolia has established a statutory foundation for regulating payment services and protecting payment users. Nevertheless, the effectiveness of this framework depends on the clarity of liability rules, the coordination of regulatory responsibilities, and the availability of accessible remedies for consumers [9].

The main areas requiring further legal examination include unauthorized transaction liability, reimbursement procedures, complaint resolution, disclosure obligations, and the evidentiary standards applied in payment disputes. These issues provide the basis for comparing Mongolia's regulatory framework with the approaches adopted in Singapore, India, and China.

Although Mongolia has established a legal framework for regulating digital payment services, further improvements in liability allocation, dispute resolution, transparency, and consumer remedies are necessary to strengthen user protection in line with international practices.

COMPARATIVE LEGAL ANALYSIS: SELECTED ASIAN COUNTRIES

A comparative analysis of South Korea, Mongolia, and Japan provides an opportunity to examine how different legal systems regulate digital payment services and protect consumers against financial risks. Although all three countries have established legal frameworks for electronic and cashless transactions, they differ in their approaches to provider liability, unauthorized transactions, consumer remedies, and regulatory supervision. This comparison focuses on the legal mechanisms most relevant to protecting users of digital payment instruments.

South Korea has developed a relatively comprehensive legal framework for electronic financial transactions, primarily through the Electronic Financial Transactions Act (2006). The Act aims to ensure the safety and reliability of electronic financial transactions by defining the legal responsibilities of financial institutions, electronic financial service providers, and users [10].

A particularly important feature is Article 9, which establishes the liability of financial institutions and electronic financial business operators for certain losses arising from electronic financial accidents. These include incidents involving forged or altered access devices, errors during the electronic transmission or processing of transaction instructions, and unauthorized access to electronic systems resulting in fraudulent transactions. However, the law allows certain exceptions where the user has acted intentionally or with gross negligence under specified contractual conditions. Article 10 further addresses liability for losses resulting from the loss or theft of access devices after the user has notified the provider.

These provisions demonstrate an approach that places significant responsibility on financial service providers while recognizing limited circumstances in which consumers may bear responsibility. Consequently, South Korea's legislation offers an important comparative reference for examining the allocation of liability and protection against unauthorized digital payments [11].

Mongolia's principal legislation governing digital payment services is the Law on the National Payment System (2017), which entered into force on 1 January 2018. The law establishes the legal and institutional framework for organizing, regulating, and supervising the national payment system. Article 4 identifies important principles, including system stability, continuity, reliability, risk management, protection of users' interests, and confidentiality and security of payment activities [12].

The Bank of Mongolia is responsible for regulating and supervising payment system participants, including banks and non-bank payment service providers. The legislation therefore provides a foundation for institutional accountability and the secure operation of digital payment services. It also recognizes the importance of protecting payment users within the national payment system.

However, compared with South Korea, Mongolia's legal framework places greater emphasis on the overall regulation and stability of the payment system than on detailed consumer liability rules for individual unauthorized transactions. Further attention is therefore required regarding reimbursement for fraudulent payments, the allocation of responsibility between banks and non-bank providers, electronic evidence, complaint procedures, and compensation for financial losses.

The comparison suggests that although Mongolia has established the essential regulatory structure for digital payments, more explicit provisions addressing individual consumer disputes would strengthen the practical implementation of payment-user protection.

Japan regulates digital payment services through several legislative instruments, particularly the Payment Services Act (2009), the Banking Act, and the Act on the Protection of Depositors from Unauthorized Automated Withdrawal. These laws address different

aspects of payment activities, including funds transfers, prepaid payment instruments, financial service providers, and protection against unauthorized withdrawals [13].

Table 1: Comparative Analysis of the Legal Frameworks for Digital Payment Consumer Protection in Mongolia, Japan, and South Korea

Comparative criteria	Mongolia	Japan	South Korea
Principal legislation	Law on the National Payment System (2017)	Payment Services Act (2009)	Electronic Financial Transactions Act (2006)
Regulatory authority	Bank of Mongolia	Financial Services Agency	Financial Services Commission and Financial Supervisory Service
Provider liability	General regulatory framework and user-protection principles	Sector-specific obligations and liability rules	Specific liability for defined electronic financial accidents
Unauthorized transactions	Requires further legal clarification	Specific protection for certain unauthorized ATM withdrawals	Explicit provisions under Articles 9 and 10
Consumer information	General payment service regulatory requirements	Disclosure of fees and contractual conditions	Electronic transactions and security requirements
Protection of customer funds	Payment system risk management and supervision	Safeguarding requirements for relevant payment providers	Provider responsibility and financial safeguards
Consumer remedies	Further development of dispute-resolution and reimbursement rules is desirable	Specific statutory protection and financial safeguards	Legal responsibility and compensation for specified losses

Source: Author's comparative analysis based on the legislation of the three countries.

The Payment Services Act establishes registration and supervisory requirements for non-bank funds transfer providers and prepaid payment instrument issuers. Article 51 is particularly relevant to consumer protection because it requires funds transfer service providers to provide information about service fees and contractual conditions, prevent misunderstandings about the nature of their services, and implement appropriate measures to protect users' interests. The Act also establishes safeguards concerning customer funds and the proper operation of payment services.

Japan also provides specific legal protection against certain unauthorized ATM withdrawals involving counterfeit or stolen cards. The Act on the Protection of Depositors from Unauthorized Automated Withdrawal establishes conditions under which financial institutions may be responsible for losses, taking into account the depositor's conduct and the circumstances of the transaction [14].

The comparative findings reveal three different regulatory approaches. South Korea emphasizes the allocation of liability for electronic financial accidents, Japan combines

preventive supervision with specific safeguards for payment users, while Mongolia primarily focuses on the stability, security, and institutional regulation of its national payment system.

From the perspective of Mongolia, the experiences of South Korea and Japan demonstrate the importance of developing more detailed provisions concerning unauthorized transactions, provider liability, reimbursement procedures, and consumer dispute resolution. In particular, the distinction between technical authentication and actual authorization should be clearly reflected in the assessment of responsibility for fraudulent electronic payments.

DISCUSSION

The comparative analysis of Mongolia, South Korea, and Japan highlights differences in their approaches to protecting consumers using digital payment services. While all three countries have established relevant legal frameworks, they differ in the extent to which they regulate provider liability, unauthorized transactions, and consumer remedies.

South Korea's Electronic Financial Transactions Act (2006) provides relatively clear rules on the responsibility of financial institutions for specified electronic financial accidents. Japan's Payment Services Act (2009) emphasizes preventive supervision, transparency, and the protection of users' interests. In comparison, Mongolia's Law on the National Payment System (2017) focuses primarily on payment system stability, security, and institutional supervision. Although these principles provide an important foundation, more detailed provisions addressing individual consumer losses and reimbursement are needed.

An important issue identified across the three legal systems is the responsibility for unauthorized transactions. Consumers often have limited access to transaction records and technical information controlled by payment providers. Therefore, successful authentication should not automatically be considered proof that a consumer authorized a transaction. Legal assessments should also consider fraud, phishing, identity theft, and the security responsibilities of service providers.

The comparison also demonstrates that effective consumer protection requires clear institutional accountability and accessible dispute-resolution procedures. The Bank of Mongolia, together with banks and non-bank payment providers, has an important role in ensuring that consumers can report unauthorized payments, obtain transaction information, and seek appropriate remedies. Transparent contractual conditions and fair allocation of liability are equally important in maintaining consumer confidence in digital payment services.

From Mongolia's perspective, the experiences of South Korea and Japan provide useful references for improving existing legislation. Particular attention should be given to clarifying provider liability, establishing reimbursement procedures, strengthening electronic evidence requirements, and improving complaint-handling mechanisms. These measures should be adapted to Mongolia's legal and institutional environment rather than directly copied from foreign legislation.

The findings indicate that Mongolia has established a basic legal and institutional framework for digital payment regulation, but further development is necessary to ensure that consumer protection principles are translated into practical and enforceable rights. The main challenge is to balance payment system security and efficiency with the rights of consumers to fair treatment, accountability, and compensation when unauthorized or disputed transactions occur.

CONCLUSION

The analysis demonstrates that Mongolia has established a legal foundation for regulating digital payment services through the Law on the National Payment System (2017), banking legislation, and general consumer protection principles. However, the existing framework requires further development to address the specific risks associated with electronic transactions and the growing use of digital payment instruments.

The main legal challenges concern the allocation of responsibility for unauthorized transactions, the protection of customer funds, contractual transparency, and access to effective dispute-resolution mechanisms. Particular attention should be given to electronic evidence, as payment providers generally control transaction records and authentication information that consumers may not be able to access independently. Technical authentication should not automatically establish actual user authorization when determining liability for disputed payments.

The findings also highlight the importance of strengthening coordination between the Bank of Mongolia, commercial banks, and non-bank payment service providers to ensure consistent consumer protection. Clearer legal requirements concerning reimbursement, complaint handling, information disclosure, and provider accountability would help translate existing consumer protection principles into enforceable rights.

The effective protection of digital payment users requires a balanced regulatory approach that considers both payment system security and individual consumer rights. Further development of Mongolia's legal framework, informed by relevant international practices, particularly those of South Korea and Japan, would contribute to more transparent, accountable, and reliable digital payment services.

REFERENCES

1. Asian Development Bank. (2023). E-commerce law in Mongolia. Asian Development Bank. https://lpr.adb.org/sites/default/files/event/1768/FINAL-Report-on-Mongolia-EN.pdf
2. Bank of Mongolia. (n.d.). Overview of the payment system in Mongolia. https://www.mongolbank.mn/en/p/1301
3. Committee on Payments and Market Infrastructures, & World Bank Group. (2016). Payment aspects of financial inclusion. Bank for International Settlements. https://www.bis.org/cpmi/publ/d144.htm
4. Committee on Payments and Market Infrastructures, & World Bank Group. (2020). Payment aspects of financial inclusion in the fintech era. Bank for International Settlements. https://www.bis.org/cpmi/publ/d191.htm
5. Government of Japan. (1981). Banking Act (Act No. 59 of 1981). Financial Services Agency. https://www.fsa.go.jp/common/law/bank01.pdf

6. Government of Japan. (2005). Act on Protection of Depositors from Unauthorized Automated Withdrawal (Act No. 94 of 2005). Japanese Law Translation Database System. https://www.japaneselawtranslation.go.jp/ja/laws/download/3107/09/h17Aa000940204en11.0_h19A74.pdf
7. Government of Japan. (2009). Payment Services Act (Act No. 59 of 2009). Japanese Law Translation Database System. https://www.japaneselawtranslation.go.jp/
8. Government of Mongolia. (2017). Law on the National Payment System. Legalinfo.mn. https://legalinfo.mn/en/edtl/16758239966811
9. Government of Mongolia. (2021). Law on deposits, loans and banking transactions of banks and authorized legal entities (Revised edition). Legalinfo.mn. https://legalinfo.mn/en/edtl/16758290323991
10. Republic of Korea. (2006). Electronic Financial Transactions Act. Korea Legislation Research Institute. https://elaw.klri.re.kr/eng_service/jomunPrint.do?cseq=2310624&hseq=55549
11. World Bank. (2017). Good practices for financial consumer protection. World Bank Group. https://documents1.worldbank.org/curated/en/492761513113437043/pdf/Good-practices-for-financial-consumer-protection-2017-edition.pdf
12. World Bank. (n.d.). Inclusive digital financial services: A reference guide for policymakers and regulators. World Bank Group. https://digitalfinance.worldbank.org/
13. Government of Japan. (2005). Act on the Protection of Depositors from Unauthorized Automated Withdrawal.
14. Japan: Payment Services Act and Act on the Protection of Depositors from Unauthorized Automated Withdrawal.