

Deposit Protection Agency Act, B.E. 2551 (2008)

BHUMIBOL ADULYADEJ, REX.

Given on the 6th day of February B.E. 2551

Being the 63rd Year of the Present Reign

By Royal Command of His Majesty King Bhumibol Adulyadej, it is hereby proclaimed that:

Whereas it is deemed appropriate to enact the law related to the deposit protection Agency;

This Act contains certain provisions that restrict personal rights and freedom, which, according to Section 29 in conjunction with Section 31, Section 33, Section 36, Section 39, Section 41 and Section 43 of the Constitution of the Kingdom of Thailand, can only be enacted by virtue of legislation.

Be it, therefore, enacted by His Majesty the King, with the advice and consent of the National Legislative Assembly as follows:

Section 1

This Act shall be called the "Deposit Protection Agency Act, B.E. 2551 (2008)".

Section 2

This Act shall come into force after one hundred and eighty days after the date of the publication in the Government Gazette.

Section 3

In this Act,

"Agency" means the Deposit Protection Agency.

"Financial Institution" means commercial bank, finance company or Credit Foncier Company under the Financial Institution Business Act, or specialized bank established under specific legislation to operate financial activities and services.

"Deposit" means the money accepted by the Financial Institution from the public or any person subject to obligations to repay the depositor.

"Conservator Committee" means the Financial Institutions Conservator Committee under the Financial Institutions Business Act.

"Fund" means the Deposit Protecting Fund.

"Board" means the Board of the Deposit Protection Agency.

"President" means the President of the Deposit Protection Agency.

"Officer" means Deposit Protection Agency officer appointed by the President to carry out the task under this Act. The appointment of the officers shall be published in the Government Gazette.

"Minister" means the Minister in charge of the enforcement of this Act.

Section 4

Any specialized bank merited to be entitled to the deposit protection under this Act shall be deemed as a Financial Institution upon enactment of a Royal Decree.

Section 5

The Ministry of Finance shall be in charge of the enforcement of this Act, and shall have power to prescribe ministerial orders and notifications for the purpose of enforcement of the provisions of this Act.

Ministerial orders and notifications shall take effect after their publication in the Government Gazette.

Chapter 1 **Deposit Protection Agency**

Part 1 **Constitution and Capital**

Section 6

The Agency shall be constituted as a juristic person and titled "Deposit Protection Agency". Its objectives shall be as follows:

- (1) To provide protection for the deposit of money in Financial Institutions;
- (2) To enhance confidence and stability in the financial institution system;
- (3) To manage Financial Institution subject to control under the Financial Institutions Business Act and to liquidate Financial Institution whose license is revoked.

Section 7

Within the objectives defined in Section 6, the Agency shall have the following powers and responsibilities:

- (1) To manage the Fund, capital, and assets of the Agency;
- (2) To collect premiums from the Financial Institutions as prescribed in Section 49 and to make compensation to the depositors as prescribed in Section 53;
- (3) To hold any rights including engage in any rights or contracts within and outside the Kingdom of Thailand;
- (4) To issue bills, bonds or other financial instruments according to rules, procedures and conditions as prescribed by the Board and approved by the Minister;
- (5) To invest in government bonds or debt securities which principal and interest guaranteed by the government or invest in other types of securities as prescribed by the Board and approved by the Minister;
- (6) To place deposits in Financial Institutions or the Bank of Thailand or specialized banks for normal operation purposes according to rules, procedures and conditions as prescribed by the Board;
- (7) To execute any tasks that connected or incidental to the Agency's objectives.

Section 8

The headquarters of the Agency shall be located in Bangkok or its vicinities. Its branches or representative offices may be established anywhere in the Kingdom of Thailand.

Section 9

Capital of the Agency shall be composed of:

- (1) Initial capital provided by the government,
- (2) Monies and assets devolved on the Agency,
- (3) Donated monies and properties,
- (4) Earnings from the Fund allocated by the Board as mentioned in Section 48,
- (5) Earnings or income from monies and assets of the Agency.

Section 10

The initial capital of the Agency shall not exceed 10,000,000 Baht.

Section 11

The Agency shall be a government organization, but not a government office or a state enterprise according to Budget Procedure Act and other Acts.

Income of the Agency shall not be submitted as the Government Revenues.

Section 12

Laws related to labor protection, labor relations, social security, and compensation shall not be applied to the operation of the Agency. The Agency shall have a constitution and rules providing benefits for the President, officers, and employees of the Agency, for not less than that specified in the laws governing labor protection, labor relations, social security, and compensation.

Part 2

Finance, Accounting and Audit

Section 13

The Agency shall institute and maintain a proper accounting system as well as conduct regular internal audits.

Section 14

The Agency shall prepare financial statements, and submit them to an auditor within sixty days of the end of each fiscal year.

A calendar year shall constitute a fiscal year for the Agency.

Section 15

The Office of the Auditor General shall be the Agency's auditor and shall audit the Agency's accounts including its finances.

Section 16

The auditor shall be empowered to examine the Agency's accounts and records, and, for such purpose, enquire the President, officers and employees of the Agency.

Section 17

The auditor shall conduct an audit and report his opinion to the Agency as well as prepare and submit an audit report to the Agency within 120 days after the end of each fiscal year.

The Agency shall publish audited financial statements in the Government Gazette within 150 days after the end of each fiscal year.

Section 18

The Agency shall prepare an annual report and present to the Minister within 150 days after the end of each fiscal year. The annual report shall include the Agency's performance of the preceding year with the explanation of the Board's policy, projects and future plans.

Part 3 **The Board**

Section 19

A Board shall be established and shall be called "Deposit Protection Agency Board". The Board comprises of a chairman, a representative from the Ministry of Finance, a representative from the Bank of Thailand, and at least three but not exceed five experts. There shall be at least one expert from each field of finance and fiscal, and legal.

The President shall be a Board member and served as secretary of the Board.

The Minister shall nominate candidates for the chairmanship and the experts to the Cabinet for appointment.

Section 20

The term of office of the Chairman and the experts is 4 years.

At the end of the first two years, the Chairman and half of the experts will be terminated by drawing lots. In the case where the number could not be divided evenly, any residual shall be disregarded. Such termination shall be deemed a regular terminate upon the expiration of the first term of office.

Upon the expiration of the term of office, the outgoing Chairman and the experts shall remain in offices and conduct their duties until a new appointment is made.

The outgoing Chairman and the experts shall be re-appointed but shall not be eligible to serve in office for more than two consecutive terms.

Section 21

The Chairman and experts shall have the following qualifications,

- (1) Thai nationality;
- (2) Not over 70 years of age.

Section 22

The Chairman and experts shall not possess any of the following disqualifications,

- (1) Being or was a political appointee, a person holding any position in a political party, or an official in a political party;
- (2) Being a shareholder of Financial Institution(s) whose shareholding exceeds 5 percent;
- (3) Being or was a director, an advisor or a person holding any other position in any Financial Institutions unless having already relinquished the position for not less than 1 year;
- (4) Having a record of termination, was discharged or dismissed from any government offices, government organizations, state enterprises, or Financial Institutions for malfeasance or serious misconduct;

- (5) Having been imprisoned by a final court judgment although the term is waiting to be served except for the record of offences concerning negligence or petty offences;
- (6) Being declared bankrupt or had been placed under false bankruptcy;
- (7) Being an incompetent or semi-incompetent.

Section 23

Apart from the termination from office pursuant to Section 20, the Chairman and the experts shall be terminated in the case of:

- (1) Death.
- (2) Resignation.
- (3) Termination order from the Cabinet under the recommendation of the Minister for immoral conduct, gross negligence or incompetence, whereby the justification of the termination must be clearly disclosed.
- (4) Lacking one of the qualifications under Section 21 or having one of the disqualifications stipulated in Section 22.

In the case that the Chairman or the experts cease to be in office before the expiration term, the term of office of the successor shall be limited to the unexpired term of the predecessor.

Section 24

At any convention of the Board Meeting, no less than one-half of the board members which constitutes a quorum shall be present thereat.

In the absence of the Chairman or he/she is unable to perform the duty during the Board meeting, a Board member in presence shall be selected as a Chairman for that particular meeting.

The resolution of the Board Meeting shall be adopted by a majority vote. One Board member is entitled to one vote. In the case of an even voting outcome, the Chairman of the meeting shall have a second or casting vote.

Section 25

The Board shall have the power and duties to formulate policy, supervise the course of conduct of the businesses of the Agency, under the objectives as stipulated in Section 6. Such powers and duties include the followings:

- (1) To issue rules and procedures the payment of premiums as specified in Section 49, and the surcharge as specified in Section 50,
- (2) To issue regulation concerning delegating of authority under Section 33, and representing or acting as the President under Section 35,
- (3) To issue regulation for Financial Institutions to display statement, sign, or logo to indicate that their deposits are being protected by the Deposit Protection Agency under Section 38,
- (4) To specify types of protected deposits under Section 51,
- (5) To issue rules, procedures and condition for depositors in filing claim and exercising their right under Section 52,
- (6) To prescribe rules, procedures, and conditions concerning the payment of compensation to depositors under Section 53,
- (7) To authorize annual report of the Agency,

- (8) To issue regulations regarding the financial, accounting, budgeting, and procurement of the Agency,
- (9) To issue regulations regarding general operation and human resource management of the Agency, and
- (10) To give recommendations to the Minister regarding enactment of a Royal Decree or issuance of ministerial regulations under this Act,
- (11) To report quarterly operating results to the Minister,
- (12) To implement other actions in order to achieve the objectives of the Agency.

Section 26

The Board shall be empowered to appoint a sub-committee or an advisory committee to conduct any task as assigned by the Board.

The provisions of Section 20, Section 23 and Section 24 shall apply to the appointment and the meeting of the sub-committee mutatis mutandis.

Section 27

Not less than 60 percent of all investments specified under Section 7 (5) shall be made in highly secured securities as well as subject to the rules and procedure prescribed by the ministerial regulation.

The Board may assign any person to make the investment under paragraph one as deemed appropriate; whereas the qualifications of the assignee, methods and expenses incurred from such undertaking shall be as prescribed by the ministerial regulation.

Part 4 **The President**

Section 28

The Cabinet with the recommendation of the Minister shall appoint a President. The President shall serve with a term of 4 years and may be reappointed, but for no more than two consecutive terms.

Section 29

The President shall possess the following qualifications.

- (1) Thai nationality,
- (2) Not over sixty years of age on the day that the Cabinet passes a resolution to make the appointment,
- (3) Able to work for the Agency on a full time basis.

Section 30

The President shall not possess the any of the disqualifications specified under Section 22.

Section 31

The President shall cease to be in office, other than by reason of the expiration of his term of office according to Section 28, upon:

- (1) Death,

- (2) Resignation,
- (3) Termination order from the Cabinet under the recommendation of the Minister for immoral conduct, gross negligence or incompetence, whereby the justification of the termination must be clearly disclosed;

In the case where Agency is required to create the stability of the financial institution system, the Cabinet may pass a termination resolution under the recommendation of the Minister upon recommendation of the Board;

- (4) Lacking one of the qualifications specified under Section 29 or having one of the disqualifications stipulated in Section 30.

Section 32

The President shall have the power and duties to execute the tasks of the Agency prescribed in this Act as well as to implement policies, regulations and rules as prescribed by the Board, and to manage all of the personnel affairs of the Agency.

Section 33

In relation to any third parties, the President shall act on behalf of the Agency and may delegate, in accordance with the prescription of the Board, the power of attorney to any officer of the Agency.

Section 34

As many Senior Vice President and Vice President may be appointed as the Board considered appropriate.

Senior Vice President and Vice President shall be considered as officers of the Agency and shall have the power and duties as the President may assign.

Section 35

In case where the President is unable to perform certain duty or when the position of Presidency is vacant, one of the Senior Vice Presidents and Vice Presidents shall be acting President. If there is no such person or, if exist, is unable to perform the duties, the Board shall appoint a Board member or one of the officers of the Agency to fill in the position of an acting President, whichever is the case.

However, such assignation shall comply with the prescription of the Board.

Part 5

Remuneration and Indemnity

Section 36

The Minister shall stipulate the remuneration for the Chairman, Board members, and President.

The Board shall stipulate the remuneration for the sub-committees and advisory committees.

Section 37

The law concerning infringement liability shall be applied to the conduct in line with the power and responsibilities of the Chairman, Board members, sub-committee members, advisors, President, officers and employees of the Agency.

Chapter 2

Prescription on Financial Institutions

Section 38

The Board is empowered to set regulation prescribing Financial Institution to display statement, sign or logo to represent that their deposits are being protected under this Act.

Section 39

In order to monitor Financial Institutions' positioning and performance, the Bank of Thailand or other supervisory authorities and the Agency are empowered to provide or exchange, between each other upon request, the examination reports or other information of the Financial Institution.

Section 40

Where it is necessary in the course of monitoring a Financial Institution's standings and performance, the Agency is empowered to require the Financial Institution to submit, either periodically or occasionally, confidential report containing the particular items specified by the Agency or any documents, together with notes explaining or elaborating the said statements or documents.

Financial Institution must prepare the said statements or documents and explanatory notes in the above paragraph in full and with accuracy reflecting the truth of the matters.

Section 41

In the case where there is a reasonable suspicion that financial condition or performance of any Financial Institution may cause damage to the public, the Agency may request any general or specific information regarding assets, liabilities, conditions or operation of the Financial Institution from the Bank of Thailand, or any authority entrusted to supervise the Financial Institution.

The Bank of Thailand or other supervisory authorities shall comply with the request of the Agency and in such occasion, the Agency may request to participate in the examination process of the Financial Institution concurrently with such authorities.

Section 42

Where there is evidence to the Agency that the condition or operation of any Financial Institution may cause damage to the public interest, the Agency shall notify the Bank of Thailand, or any supervisory authority of the Financial Institutions, so that actions as prescribed by relevant laws could be taken.

The Agency shall have the power to appoint representatives to participate in the relevant discussion with the Bank of Thailand or other supervisory authorities of the Financial Institutions and may access information about measures imposed or to be imposed on the Financial Institution.

Section 43

For the purpose of effective enforcement of this Act, the appointed officers shall have the power to order the director, officer, employee, or auditor of a Financial Institution and any person who collects or compiles information of the Financial Institution by employing the use of computers or any other instrument, as well as any other person who holds or is privy to the information of the Financial Institution to testify, deliver copies of, or disclose accounting records, documents or other evidence concerning the affairs, assets and liabilities of the Financial Institution that the said person has in possession.

If, by other means, the evidence could not be found, the officers shall have power to order any person who formerly held the position or used to perform the tasks as mentioned in paragraph one and has retired from the said positions or ceased from performing such tasks for not more than five years, to testify or deliver copies or disclose the actual books of accounts, documents or other evidences concerning the affairs, assets and liabilities of the Financial Institution that the said person has in possession.

Section 44

The Agency, with the Board's approval, shall have power to disclose any information related to an offence and penalty of any person committed the offense, including the information received by performing any task under this Act.

Section 45

In the case where the Bank of Thailand places any Financial Institution under control in accordance with the Financial Institutions Business Act and has notified such Financial Institution, the Agency shall submit a list of nominees to the Bank of Thailand to be appointed as members to the Conservator Committee as stipulated thereof.

Section 46

The officers shall be deemed the officers under the Criminal Procedure law.

Chapter 3

Deposit Protection

Part 1

Deposit Protection Fund

Section 47

A Fund called "Deposit Protection Fund" shall be established.

The Fund shall be comprised:

- (1) Premiums collected from Financial Institutions under Section 49 and surcharge under Section 50,
- (2) Net earnings from the fund,
- (3) Monies or assets received from liquidation process as prescribed in Chapter 4,
- (4) Donated monies or assets,
- (5) Loans for reimbursement to depositors.

The Fund shall be used only for:

- (1) Allocation to the Agency specified under Section 48,
- (2) Reimbursement to the depositors as prescribed in Section 53,
- (3) Payment the fund management fee as prescribed by the Board,
- (4) Repayment the principal and interest.

Section 48

Each year, the Board shall allocate a specified amount of money, but not exceed half of net earnings of the Fund, specified under Section 47 (3) after the deduction of the Fund management fee to the Agency as necessary.

Section 49

Financial Institutions shall remit premium to the Fund at the rate specified by a Royal Decree. However, the rate shall not exceed one percent per annum of average deposits of insured accounts.

Rules and calculation method of average deposit of insured accounts according to paragraph one shall be set by the Board and published in the Government Gazette.

The initial premium rate as specified by a Royal Decree shall be a flat rate. The differential rate according to type or performance of a Financial Institution may be adopted afterwards.

The regulation regarding remittance to the Financial Institutions Development Fund under the Bank of Thailand Act shall not be applicable to Financial Institutions having remitted premiums into the Fund under this Section.

Section 50

Any Financial Institution which fails to remit premium to the Fund or fails to remit the full amount of premium within a specified period shall pay a surcharge not exceed two percent per month of the unpaid amount according to rules and regulations prescribed by the Board.

The Agency shall order the Financial Institution which fails to remit premium to the Fund or fails to remit the full amount of premium and fails to pay the surcharge under paragraph one to pay such amounts within a specified period.

The premium and surcharge shall have preferential rank subordinate to tax liabilities of a Financial Institution.

Part 2

Deposits under Protection

Section 51

Deposits under protection shall consist of all types of deposits of a Financial Institution subject to the calculation of the average deposits and accrued interests from such deposits calculated up to the date the Financial Institution's license is revoked under the Financial Institutions Business Act, subject to the following conditions:

- (1) It shall be deposits and accrued interest denominated in Thai Baht and
- (2) It shall be deposit accounts opened in the Kingdom of Thailand, excluding the non-residence Baht accounts of non residence persons according to the definition in the Foreign Exchange Control Act.

The Board shall publish the detail of insured deposits under paragraph one in the Government Gazette.

Part 3

Compensation

Section 52

Upon the revocation of a Financial Institution's license in accordance with the Financial Institutions Business Act, the Conservator Committee or the representative of the juristic person of such Financial Institution, as the case may be, shall transfer all the money and

assets as well as documents to the Agency who will be responsible for liquidation within seven days after the license has been revoked.

Within forty days after the license has been revoked, the Agency shall announce to the public to submit a request form for the compensation.

Within ninety days after the Agency has made the announcement, eligible depositors shall submit request forms to the Agency. The deadline may be extended by the Minister, if considered necessary, but not to exceed two periods of ninety days each.

The Agency shall be exonerated from any further obligation to depositor who has failed to submit the request form before the expiration period stipulated in paragraph three unless under force majeure and the depositor submit the request within ninety days from the date such cause has ended. The said depositor still has a right to file claim according to the liquidation process under Chapter 4.

The Board shall prescribe rules, procedures and condition regarding depositors' reimbursement and exercise of rights.

Section 53

Within 30 days after the submission of the request form, the Agency shall make compensation to each depositor of each Financial Institution for the aggregate sum of all deposit accounts. If the aggregate sum of all deposit accounts exceeds 1,000,000 Baht, only 1,000,000 Baht shall be paid.

When a depositor has an outstanding debt of a determinable amount to the Financial Institution, the debt shall be deducted from the aggregate sum of all deposit accounts at such Financial Institution first.

The Agency shall pay off compensation to any person whose name appears as the owner of the deposit account or his/her heir only. In the case of a multiparty account, each holder shall be considered individually as eligible depositor and entitled to their share for compensation, proportionate to their right in the deposit as clearly stated on the depository document. Where the portion is unknown, the deposit will be shared equally.

Compensation shall be made according to rules, regulations and conditions prescribed by the Board.

Section 54

The protection amount may be set higher than the amount stipulated in Section 53 paragraph one, in general or for a particular type of depositors, for fairness reason, by enacting a Royal Decree.

Section 55

The Agency shall be subrogated to the rights of the paid depositors and entitled to receive their shares from a receiver or a liquidator, as the case may be. The preferential rights shall be ranked above creditors of the Financial Institution.

Chapter 4

Liquidation of Financial Institution

Section 56

After the license of a Financial Institution has been revoked, the Agency shall act as a liquidator of the Financial Institution and any power and responsibility of the shareholders' meeting shall be carried out by the Agency.

Section 57

In the case where the Agency deems that the deposits of the Financial Institution under liquidation bear higher than reasonable or fair interest rates, the Agency with the approval of the Board shall have the power to reduce such interest rates. However, the depositors shall be notified first and the reduction shall take effect after 7 days from the date of the notification.

Section 58

In the case where the Agency deems that the contractual obligations of the Financial Institution under liquidation exceed due benefits, the Agency with the approval of the Board may negotiate with asset owners, counter-parties, or relevant persons to reduce such obligations.

Section 59

In the case where the Agency deems that the employment contract of any executives of the Financial Institution under liquidation contains inappropriate conditions or stipulates higher than reasonable remuneration or benefits, or such Financial Institution incurs losses from the mismanagement or negligence of the executive, the Agency with the approval of the Board shall be empowered to dismiss, suspend or reduce the remuneration or benefits granted to such executives.

Section 60

When the Minister orders any Financial Institution's license revoked, the Agency as the liquidator having disposed or transferred any asset, liabilities or contingent liabilities of such Financial Institution to other parties, Section 237 and Section 306 of the Civil and Commercial Code, as well as Section 114 and Section 115 of the Bankruptcy Act, B.E. 2483 whichever the case may be, shall be inapplicable.

Where any person suffers from losses in the course of the conduct in accordance with the above paragraph, the Financial Institution which license is revoked and the person, who made the purchase, or to whom the transfer of assets, liabilities or contingent liabilities is made, shall be mutually liable to such losses.

Section 61

In the sale or transfer of assets of the Financial Institution under Section 60, any security attached to the assets being sold or transferred, other than mortgage, pledge, or surety due to the transferee under Section 305 of the Civil and Commercial Code shall be transferred to the purchaser or transferee.

Section 62

In the sale or transfer of assets of the Financial Institution under Section 60, where a claim is being made in a court of justice, the purchaser or transferee of the asset, liability or contingent liability shall assume the rights of the party of such lawsuit and new evidence may be presented to challenge the formerly submitted documents, to question witnesses who had already given statements and to demur given evidences.

However, the court may not grant such a permission if such demurring or challenging causes injustice to the other party of the lawsuit. In the case where the court has reached the judgment to enforce the rights to the transfer of claims, the purchaser or transferee shall subrogate the rights of the creditors of such judgment.

Section 63

In the case where compensation has been made to depositors, the Agency as the liquidator shall have power to manage any assets to be reimbursed for the compensation amount the

Agency itself had made, and to pay any other creditors with higher preferential right. The remaining fund, if any, shall be fairly apportioned among common creditors with the consent of the said creditors prior to filing a request for a court to order the Financial Institution insolvent.

When there is a court order for the absolute and immediate control over debtor's properties, the Agency shall transfer money, assets and all documents to the appointed official receiver and the Agency shall be relieved from all powers and duties as a liquidator onwards. Further liquidation process shall be in accordance with the law on bankruptcy.

Section 64

During the period that the license of the Financial Institution has been revoked in accordance with the related law and the time that the court has given order for the absolute and immediate control over debtor's assets in accordance with Section 63,

- (1) no person shall be allowed to file for a bankruptcy case against that Financial Institution;
- (2) court shall temporary cease trials concerning any claims against the Financial Institution that have been submitted to the court.

Chapter 8 Penal Provisions

Section 65

No person other than the Financial Institutions shall make use of a statement, a sign or a logo representing that their deposits are protected under this Act.

Whoever violates this Section shall be liable to imprisonment for a term not exceeding two year or a fine not exceeding two hundred thousand Baht or both. A fine shall be further imposed in an amount not exceeding five thousand Baht per day during which such violation continues.

In the case where the violator is a juristic person, its board, manager or any person who responsible for the course of conducting its business shall be liable to the above mentioned imprisonment or fine unless his/her innocence could be proven.

Section 66

Any Financial Institution violated the provision of Section 40 shall be liable to a fine not exceeding 500,000 Baht and a fine shall be further imposed for the amount not exceeding 5,000 Baht per day during which such violation continues.

A director, manager or any person who has management power in the Financial Institution shall be liable to the penal provision according to the first paragraph, unless his/her innocence could be proven.

Section 67

Whoever violates or fails to comply with the order of the officer in the performance of his/her duty under Section 43 or gives a false statement, false document, account or evidence shall be liable to imprisonment for not more than two year or a fine not exceeding two hundred thousand Baht or both. A fine shall be further imposed for an amount not exceeding five thousand Baht per day during which such violation continues.

Section 68

The Conservator Committee or the representative of the Financial Institution which violates Section 52 shall be liable to imprisonment for not more than one year or a fine not exceeding one hundred thousand Baht or both. The fine will further be imposed for the amount not more than 5,000 Baht per day during which such violation continues.

Section 69

Whoever is privy to the affairs of any Financial Institution from the performance of his duty under the authority prescribed in this Act, or is privy to any information of the business, or any confidential or classified information disclosed by a person who is empowered under this Act, divulged them to other person shall be liable to imprisonment for not more than one year or a fine not exceeding one hundred thousand Baht or both.

Provision under paragraph one shall not apply in the following cases:

- (1) Disclosure made in the performance of his/her duty.
- (2) Disclosure made for the purpose of an investigation or a trial.
- (3) Disclosure made on any violation against this Act.
- (4) Disclosure made for the purpose of remedying the Financial Institution's situation and operation or of Financial Institutions in general.
- (5) Disclosure made to the auditor of the Financial Institution.
- (6) Disclosure made to the authorities or international and domestic bodies responsible for the supervision of such Financial Institution's business.
- (7) Disclosure made upon written consent given by the owner of the information.

Section 70

In the case of an offence under this Penal Provision, if no lawsuit has been filed or fine imposed by the Penal Committee under Section 71 within one year from the date of a officer found such offence or within five years from the date of its commission, such offence shall be no longer subject to a prosecution.

Section 71

Any offence under Section 65, Section 66, Section 67 and Section 68, the Penal Committee appointed by the Ministry shall be empowered to fine an offender for his/her violation.

The Penal Committee appointed by the Ministry specified in paragraph one shall consist of three members. One of which must be an investigation official according to the Criminal Investigation Procedures Code.

When the fine has been settled according to the Penal Committee's order, such offence shall be terminated in accordance with the law regarding criminal investigation procedures.

Transitional Provisions

Section 72

Upon establishing the Deposit Protection Agency, the blanket guarantee provided by the government to depositors of Financial Institutions shall be abolished. During the first 4 years of the enforcement of this Act, depositors shall be paid in accordance with regulation stipulated under Section 53 where the amount under protection shall not exceed the following amount.

- (1) First year Full amount as appeared on the account book
- (2) Second year 100,000,000 Baht
- (3) Third year 50,000,000 Baht
- (4) Forth year 10,000,000 Baht

Nonetheless, during the first four years of the enforcement of this Act, if there is any significant change to the economic situation and financial system leading to the increase of the deposit under protection from those prescribed under paragraph one, it shall be legislated in a Royal Decree.

Countersigned by
General Surayut Chulanont
Prime Minister

Note: The rationale for the enactment of this Act is that deposits with financial institutions are beneficial to the savings of the general public and are favorable to the economy of the country. At present deposits protection under the resolution of the Cabinet covers the full amount of deposits at a financial institution which imposes excessive financial obligation on the State. In addition, a suitable mechanism is still lacking. Hence, in order to reduce the State's financial obligation, it is appropriate to adopt limited protection coverage as well as to stipulate various mechanisms to protect deposits systematically. This shall enhance public confidence of the financial institution system that would encourage domestic savings and strengthen the stability of the financial institution system as a whole. This Act is therefore enacted.

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