

BANK OF THAILAND ACT (No.4), B.E. 2551 (2008)

BHUMIBOL ADULYADEJ, REX.,

Enacted on the 26th day of February B.E. 2551;

Being the 63rd year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it deems necessary to amend the law governing the Bank of Thailand;

Whereas it is aware that this Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which Section 29, in conjunction with Section 36, Section 41, Section 43 and Section 44 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

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

Section 1

This Act shall be called "Bank of Thailand Act (No.4), B.E 2551 (2008)"

Section 2

This Act shall enter into force after the date of its publication in the Government Gazette, except that Section 10, Section 11, Section 18 and Section 19 shall enter into force when the law governing the Deposit Protection Agency is effective.

Section 3 to Section 13

(These Sections are amended the Bank of Thailand Act, B.E. 2485 and are published in the previous part.)

Section 14

The members in the BOT Board, of which established under Section 15 of the Bank of Thailand Act B.E. 2485 (as amended by the Bank of Thailand Act (No.2), B.E. 2485) who has held office before the date of this Act come into force, shall further hold office and perform duty in the BOT Board until there is an appointment of the Chairman and experts in the BOT Board as prescribed under Section 24 of the Bank of Thailand Act, B.E. 2485 as amended by this Act. However, the transitional period shall not exceed 180 days from the date of this Act comes into force.

Section 15

For the initial term, the selective committee shall nominate six persons who are suitable for being appointed as the members of the BOT Board and propose to the Minister. One of those shall be nominated to serve as a Chairman of the BOT Board. In this regard, Section 28/5 of the Bank of Thailand Act, B.E. 2485 (as amended by this Act) shall apply *mutatis mutandis*.

For the calculation of the term of the members of the BOT Board, it shall recognize the calculation under the Bank of Thailand Act, B.E. 2485 (as amended by this Act) as the first term.

Section 16

During the time that there is no appointment of the Monetary Policy Board, the Financial Institutions Policy Board or the Payment Systems Board under Section 28/6, Section 28/9, Section 28/11 of the Bank of Thailand Act, B.E. 2485 (as amended by this Act) , respectively, the Monetary Policy Board, the Financial Institutions Policy Board or the Payment Systems Board, who were

appointed by the Governor and has held office before the date of this Act come into force, shall further perform the duty as the aforementioned Boards, as the case may be.

However, the transitional period shall not exceed 180 days from the date of this Act come into force.

Section 17

The Governor of the BOT, who has held office before the date of this Act come into force, shall further hold office as the Governor of the BOT under the Bank of Thailand Act, B.E. 2485 (as amended by this Act). However, it shall not exceed the fiscal year, under the law on budgetary procedure, of the year that the Governor is of 60 years of age.

In the case where the Governor vacates his or her office under paragraph one or resigns from his or her office, the Minister shall determine the compensation to be paid to the Governor for the prohibition of holding a position under Section 28/20 of the Bank of Thailand Act, B.E. 2485 (as amended by this Act). The compensation shall be deemed to be the expense for the operation of the BOT.

Section 18

Section 29 duodeviginti, paragraph two, of the Bank of Thailand Act B.E. 2485 (as amended by the Emergency Decree amending the Bank of Thailand Act B.E. 2485 (No.2) B.E. 2540) shall further effective to the case of granting guarantee or financial assistance of the Financial Institutions Development Fund, for the purpose of reconstructing and developing financial institutions under the said provisions, of which has conducted before the date of this Act come into force.

Section 19

Within four years from the date of the law on the Deposit Protection Agency come into force, in the case where there is no promulgation of law on financial assistance to a financial institution facing with financial crisis, which may endanger the financial institutions system stability, and is of necessary to be rehabilitated and there has been an undertaking under Section 42 of the Bank of Thailand Act, B.E. 2485 (as amended by this Act), the BOT, upon the agreement of the Financial Institutions Policy Board, may propose the operational plan, the guideline and measures to resolve problems of such financial institutions to the Fund Management Committee of the Financial Institutions Development Fund. In this regard, the BOT shall demonstrate that the operation under the plan, the guideline and measures is of the highest effectiveness and appropriation. Soon after the Fund Management Committee has agreed, it shall submit to the Minister to further submit to the Cabinet for consideration.

When there is an approval by the Cabinet, the Financial Institutions Development Fund shall have the following powers, as deems necessary for reconstructing financial institutions;

- (1) granting of loans to financial institutions with or without collateral, in accordance with the rules, measures and conditions prescribed by the Fund Management Committee of the Financial Institutions Development Fund upon the approval of the Minister;
- (2) purchasing or holding shares of any financial institution;
- (3) purchasing, discounting or re-discounting instruments representing claims on obligations or accepting transfer of claims from any financial institution.

In the case where the Financial Institutions Development Fund deems necessary to borrow monies for the operation in paragraph two, the BOT may grant loan to the Fund or the government may guarantee such granting of loan. In this regard, the Fund shall prepare books of accounts for such operation separately from other accounts.

The government shall repay monies which the Financial Institutions Development Fund has borrowed in paragraph three, the interest arisen from such borrowing, including relevant operational expenses, to the Fund.

Section 20

All notifications, regulations, orders or rules issued under the provisions of the Bank of Thailand Act, B.E. 2485, which have been effective before the date of this Act come into force, shall further effective, as to not contravene to the provisions of the Bank of Thailand Act B.E. 2485 (as amended by this Act) until there will be notifications, regulations, orders or rules issued under the provisions of the Bank of Thailand Act, B.E. 2485 (as amended by this Act).

Section 21

The Minister of Finance shall have charge and control of this Act.

Countersigned by Prime Minister

Note: The rationale for the enactment of this Act is that it deems appropriate to modify the objectives, duties and authorities and the structure of the Bank of Thailand to be suitable for undertaking business as pertain to central banking in order to maintain monetary stability, financial institutions system stability and payment systems stability as well as to be in line with international central banking standards. In addition, it deems appropriate to establish the boards, with the powers to determine, as necessary, policies and measures on specific areas; namely the Bank of Thailand Board, the Monetary Policy Board, the Financial Institution Policy Board and the Payment Systems Board in order to allow the Bank of Thailand to undertake its tasks of maintaining the monetary stability and financial institution system stability more effectively, promptly and suitably for global economic conditions which change expeditiously. Furthermore, the Governor shall be independent in administrating and managing the Bank of Thailand's affairs and in performing of duties to attain the objectives of the Bank. This Act also prescribes the prevention of conflict of interest of the Governor, the Boards, the officers and employees of the Bank of Thailand in order to promote transparency. Moreover, it deems appropriate to determine that the Minister of Finance, as the supervisor of the Bank of Thailand's affairs, shall take part in solving problems in relevant to monetary stability and financial institution system stability which may seriously endanger the stability of economic and monetary system as a whole. It deems appropriate to specify the types of asset and the instrument for the purpose of implementation of the policies to maintain monetary stability and financial institution system stability and to specify the management of the asset of the Bank of Thailand together with the extension of types of reserve. Additionally, it also improves the accounting, auditing and reporting system to support the effective and flexible management. In addition, in the case where the Deposit Protection Agency Act comes into force, it deems appropriate to repeal the powers of the Financial Institutions Development Fund (the "FIDF") in assisting financial institutions, depositors or creditors of financial institutions in the case where the financial institutions face financial crisis severely. The FIDF, therefore, shall be able to cease its roles on that matter. The FIDF, however, shall further manage its existing asset in order to settle its obligations and contingent liabilities. Thus, it is necessary to enact this Act.

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