

Bank of Thailand Act, B.E. 2485 (1942)

As amended until Bank of Thailand Act (No.4), B.E. 2551 (2008)

Translation

IN THE NAME OF HIS MAJESTY KING ANANDA MAHIDOL

THE COUNCIL OF REGENCY

(By notification of the President of the Assembly of the People's Representatives, dated 4th August B.E. 2480 and 16th December B.E. 2484)

ADITAYA DIBHA ABHA

PRIDI BHANOMYONG

Enacted on the 28th day of April B.E. 2485;

Being the 9th year of the Present Reign

Whereas the Assembly of the People's Representatives has passed a resolution that it is expedient to constitute to central bank in the Kingdom,

Be it therefore enacted by the King by and with the advice and consent of the Assembly of the People's Representatives, as follows:

**Chapter 1
Preliminary**

Section 1

This Act shall be called the "Bank of Thailand Act, B.E. 2485 (1942)"

Section 2

This Act shall come into force on and from the day following the date of its publication in the Government Gazette.

Section 3

In this Act⁽¹⁾

"Financial Institution" means

- (1) a commercial bank,
- (2) a finance company,
- (3) a credit foncier company,
- (4) any other juristic person prescribed by the Minister in the Government Gazette.

"International Monetary Fund" means the International Monetary Fund under the Agreement on the International Monetary Fund, of which Thailand is a member.

"Governor" means the Governor of the Bank of Thailand.

"Deputy Governor" means the Deputy Governor of the Bank of Thailand

"Officer" means the Officer of the Bank of Thailand.

"Employee" means the Employee of the Bank of Thailand.

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

Section 4⁽²⁾

The Minister of Finance shall have charge and control of the execution of this Act and shall have a power to promulgate the ministerial regulations and notifications for the implementation of this Act.

The Ministerial Regulations and notifications shall be effective after being published in the Government Gazette.

Chapter 2⁽³⁾

Constitution and Objectives

Section 5

There shall be constituted a central bank called "the Bank of Thailand", hereby referred to as "the BOT".

The BOT is a juristic person which is a state agency, and is neither a government agency nor state enterprise under the law on budgetary procedure and other laws.

Section 6

The BOT shall have its head office in Bangkok and may establish branch offices or representative offices in any other place in the Kingdom and, with the prior approval of the Minister, may establish outside the Kingdom.

Section 7

The BOT objectives are to carry on such tasks as pertain to central banking in order to maintain monetary stability, financial institution system stability and payment systems stability.

To undertake the tasks in paragraph one, the implementation of economic policy of the government shall be taken into consideration.

Section 8

The BOT shall be empowered to transact businesses to attain the objectives under Section 7 and such powers shall include the following businesses:

- (1) the issue and management notes of the government and bank-notes;
- (2) the formulation and implementation of monetary policies;
- (3) the management of the assets of the BOT;
- (4) the acting as a banker and the securities registrar to the government;
- (5) the acting as a banker to financial institutions;
- (6) the establishment or supporting of the establishment of a payment system;
- (7) the supervision and examination of financial institutions;
- (8) the management and administration of the exchange rate under the exchange rate regime, including the management and administration of the assets of the Currency Reserve, as prescribed in the law on currency.
- (9) the control of foreign exchange as prescribed in the law on foreign exchange control.
- (10) the undertaking under other laws as prescribed to be the authorities of the BOT.
- (11) other act in relation to or in conjunction with the management to attain the objectives of the BOT.

The BOT may have ownership, the right of possession or other real rights and may manage assets or claims or may establish of rights or may do any juristic act either within or outside the Kingdom.

Section 9

The BOT shall be prohibited from undertaking the following acts;

- (1) engaging in trade or otherwise have a direct interest in any commercial or industrial or other beneficial undertakings directly with the public, provided that the BOT may acquire interest in the course of the satisfaction of any of its claims.
- (2) purchasing or holding shares of any other financial institution or company, except for
 - (a) the shares in the Bank for International Settlements or international financial institutions;
 - (b) the shares acquired as a result of a debt settlement or a guarantee of loans granted to financial institutions as prescribed by this Act.
- (3) purchasing or possessing any immovable property, except
 - (a) in so far as is necessary for its own business premises or for the purpose of its own business;
 - (b) those acquired as a result of a debt settlement or a guarantee of credit granting.
- (4) granting loans in any other case beyond the prescription in this Act.
- (5) being employed in the printing of notes of the Government, bank-notes, bonds, stamp duty and other printings which have a security feature system against counterfeiting, including the distribution of printing ink or tools in relation to the printing of such things, except in the case where it is in corporation with Thai government, Foreign governments, International organizations, Financial Institutions or juristic persons established by any specific laws and upon the approval of the BOT Board.

Any interest or immovable property acquired by the BOT in accordance with paragraph one (1) or (3) (b) shall be disposed within 5 years from the date of acquisition, unless such immovable property will be used for premises or for the purpose of the BOT business.

Section 10

For the purpose of providing the statistic of balance of payment, international investment position and the financial statistic of the country, the BOT shall be empowered to order persons who conduct international monetary transactions and international investment transactions to submit the information relating the said transactions to the BOT in accordance with the rules and conditions prescribed by the BOT and published in the Government Gazette.

Section 11

The BOT business shall not be subject to the law on labor protection, the law on social security, the law on worker's compensation and the law on labor relation.

Nevertheless, the BOT shall arrange to have rules or regulations providing the officers and employees the benefits not less than those prescribed in the law on labor protection, the law on social security, the law on worker's compensation and the law on labor relation.

Chapter 3⁽⁴⁾

Capital and Reserve

Section 12

The initial capital of the BOT shall be Baht 20 million.

The capital of the BOT may be increased or reduced by the approval of the Cabinet.

Section 13

The reserves of the Bank of Thailand shall consist of;

- (1) ordinary reserves intended to cover possible loss;
- (2) reserves derived from the revaluation of assets and liabilities; and
- (3) other reserves for particular purposes as may be established by the BOT Board upon the approval of the Minister.

Section 14

The net annual profits of the BOT after deduction of accumulated loss, if any, shall be provided in the following order for:

- (1) ordinary reserve amounting to 25 per centum;
- (2) other reserves for particular purposes, as specified by the BOT Board, upon the approval of the Minister.

Any remaining net profits after the BOT operation in paragraph one shall be paid in as state revenues.

Section 15

In the case where the operation of the BOT in any year results in loss, such loss shall be compensated by the ordinary reserve.

Section 16

For the revaluation of assets and liabilities of the BOT, the profits or losses derived from such revaluation shall be accumulated in or deducted from the reserves prescribed under Section 13 (2).

Chapter 4⁽⁵⁾

Boards

Section 17

For the implementation of the BOT authority in accordance with Section 8, the following boards shall be established:

- (1) the Bank of Thailand Board, hereby referred to as the "BOT Board", functioning in general control over the management of the BOT;
- (2) the Monetary Policy Board, functioning in formulating and monitoring the implementation of monetary policies of the country;
- (3) the Financial Institutions Policy Board, functioning in formulating and monitoring the implementation of the supervision and examination of financial institutions;
- (4) the Payment Systems Board, functioning in formulating and monitoring the implementation of the policies on payment systems that are under the supervision of the BOT, and on clearing system among financial institutions.

The members of the Boards in paragraph one shall consist of ex officio members, experts as prescribed in this Chapter on each Board. In this regard, the experts shall be professional or have suitable experience for holding positions in such Boards.

Section 18

The experts of the Boards under Section 17 shall have Thai nationality and not have the following prohibited characteristics;

- (1) having been adjudged as an incompetent or quasi-incompetent person;
- (2) being declared bankrupt or having been declared a dishonest bankrupt;

- (3) having been imprisoned by a final court judgment unless such punishment is for an offence committed through negligence or for a petty offence;
- (4) being or having been a political official unless vacating from the office for not less than 1 year;
- (5) being or having been a holder of any position in any political party or being an officer of any political party unless vacating from the office for not less than 1 year;
- (6) being a director or holding any position in financial institutions, unless holding position as specified by law;
- (7) being a director or an executive or a person with power of management or having significant interest in the juristic person having interest over the BOT business.

Section 19

The experts of the Boards under Section 17 shall hold office for a term of 3 years and may be reappointed, but shall not hold office for more than 2 consecutive terms.

In the case where one of the experts vacates office before the expiration of his or her term, a replaced member shall be appointed, unless the remaining term is less than 90 days. The replaced appointee shall hold office for the remaining term of the members already appointed.

Upon the expiration of the term of office mentioned in paragraph one, if no appointment of new board members has been made, the retiring experts shall retain their offices and continue to perform their duties until the newly appointed members take charge of their duties.

Nevertheless, such retaining shall not exceed the period of 120 days.

Section 20

In addition to the retirement from office on the expiration of the term, any experts of the Boards under Section 17 shall vacate upon;

- (1) death;
- (2) resignation;
- (3) being of 70 years of age;
- (4) disqualification or having any prohibited characteristics under Section 18;
- (5) absence from the board meetings without reasonable excuse for more than 3 consecutive meetings;
- (6) being removed by the Minister upon the recommendation of the BOT Board due to serious misconduct or gross incompetence in the performance of duties, provided that explicit reason shall be specified in the order.

Section 21

At the Boards' meeting under Section 17, the presence of not less than one-half of the total members of the Boards shall form a quorum.

At a meeting, if the Chairman is absent or is unable to perform his or her duty, the Deputy-Chairman shall be in charge. In the case where there is more than 1 Deputy-Chairman, the Deputy-Chairman with the highest seniority shall be in charge. However, in the absence of both the Chairman and Deputy-Chairman, the meeting shall be postponed.

Decisions shall be taken by a majority of votes; each board member shall have 1 vote. In the case of tie, the Chairman shall be entitled to cast an additional deciding vote.

Section 22

For the Boards' meeting under Section 17, if there is a particular matter involving personal benefit of the Chairman or the board members, they shall disclose such matter to the BOT

Board, the Monetary Policy Board, the Financial Institutions Policy Board, the Payment Systems Board, as the case may be.

The disclosure, consideration and decision in relation to personal benefit of the Chairman or the board members shall be in accordance with the rules and procedures as prescribed by the BOT Board.

Section 23

The Chairman and the board members shall receive meeting allowance or other remuneration as specified by the Minister. The meeting allowance and remuneration shall be deemed to be expenses for the operation of the BOT.

Division I

The Bank of Thailand Board

Section 24

The BOT Board shall consist of the Chairman appointed by His Majesty the King, the Governor, 3 Deputy- Governors, the Secretary of the Office of the National Economic and Social Development, the Director of the Fiscal Policy Office and 5 experts appointed by the Minister.

The Governor shall hold office as the Deputy-Chairman and shall appoint an officer as the secretary.

Section 25

The BOT Board shall have the powers and duties to generally control the business and operations of the BOT in order to attain the objectives under Section 7, except for the business and operations that are in charge of the Monetary Policy Board, the Financial Institutions Policy Board, and the Payment System Board, including the following duties;

- (1) considering and approving the operation and budgetary plan and assessing the undertaking of business and operations of the BOT, including the assessment of the general operation of the Governor;
- (2) issuing regulations on the organization structure and human resource administration;
- (3) issuing regulations on the nomination, consideration, and selection of the experts to be board members in the Monetary Policy Board, the Financial Institutions Policy Board, and the Payment System Board;
- (4) issuing regulations on the prevention of personal benefit involvement and the code of conduct of the board members for performing their legal duties in the Boards in accordance with Section 17, the Governor, the officer and the employee;
- (5) issuing regulations on authorization, administration or other affairs;
- (6) issuing regulations on budget, expense and procurement;
- (7) issuing regulations in relation to setting a remuneration and other monies, including the granting of loan, financial granting, and other benefits to the officers, employees or other retired persons and their family;
- (8) issuing regulations on the management of assets in the Currency Reserve under the law on currency and assets of the BOT as to Division 3, Chapter 6;
- (9) considering and approving the establishment and dissolution of the branch offices or representative offices;
- (10) determining the scope of the operations of the Audit Committee as to Section 55;

(11) supervising the preparation of financial statement, annual reports and other reports of the BOT as prescribed in this Act;

(12) doing other matters as prescribed in this Act or other laws.

Section 26

Section 18, Section 19 and Section 20 shall apply to the Chairman of the BOT Board *mutatis mutandis*.

Section 27

For the initial term, when the experts hold their office until the expiration of 1 year and 6 months, 3 of them shall be retired by means of drawing lots. Retirement from the office by means of drawing lots shall be deemed retirement upon the expiration of the term of office.

Section 28

In the case where the Chairman or any expert of the BOT Board vacates his or her office before the expiration of the term, the Minister shall arrange the appointment of the selective committee in accordance with Section 28/1 within 30 days from the date of such vacation.

In the case where a new Chairman or expert has not been appointed yet, the remaining members shall perform their duties as possible unless the remaining number is less than 7.

Section 28/1

In the case where there shall be the appointment of the Chairman and any expert in the BOT Board, the Minister shall appoint a selective committee comprising 7 members with duty to select the suitable persons to be appointed as members of the BOT Board. The Governor shall appoint an officer as the secretary.

The selective committee in paragraph one shall be appointed from the persons who have held previous position as the Secretary of the Ministry of Finance, the Secretary of the Ministry of Commerce, the Secretary of the Ministry of Industry, the Director of the Bureau of Budget, the Secretary of the Council of State, the Secretary of the Office of the National Economic and Social Development, the Director of the Fiscal Policy Office, the Governor of the BOT or the Secretary of the Securities and Exchange Commission.

The selective committee shall not be a political official and have no personal benefit or interest in contravention to the duties imposed by this Act at the time of the appointment and during their duties.

The selective committee shall choose one of its members to be a Chairperson.

The Chairperson and the selective committee shall be granted the meeting allowance and other remuneration as specified by the Minister. The meeting allowance and other remuneration shall be deemed to be expenses for the operation of the BOT.

Section 28/2

The selective committee shall, within 30 days from the date of their appointment, determine the regulations on the meeting of the selective committee, the nomination, the consideration and the selection of the experts to be a Chairman or members of the BOT Board. The regulations shall, at least, sufficiently prescribe information in relevant to the knowledge and experience of the experts for the purpose of performing their duties and any involving benefit of such persons that may contravene the performance of the BOT Board, in order to assist the consideration of the selective committee.

The regulations in paragraph one shall be valid notwithstanding the expiration of the term of such determining selective committee.

The amendment, cancellation or re-determination of regulations shall be done upon the votes of not less than half of the total member of the committee. The selective committee shall disclose the regulations in the manner that could be accessed by public.

Section 28/3

At the meeting of the selective committee, the presence of not less than two third of the total members shall form a quorum.

Section 28/4

The selective committee shall vacate from office when the selection process and the appointment of the experts to be a Chairman or experts, as the case may be, has been completed.

Section 28/5

The Governor and the Secretary of the Ministry of Finance shall propose the name list of a person, with Thai nationality and no prohibited characteristics as prescribed under Section 18 and having knowledge and experience for the purpose of performing their duties in the BOT Board, to the selective committee to elect the suitable persons to be appointed as a Chairman or expert of the BOT Board, as the case may be. In the name list, the Governor may nominate not more than 2 times of the total number of experts, and the Secretary of the Ministry of Finance may nominate not more than the total number of experts.

After the selective committee has selected the suitable persons, in the case of Chairman, the name shall be proposed to the Minister to submit to the Cabinet for consideration. Soon after approving the name list, the Cabinet shall tender the name list to His Majesty the King for the appointment. In the case of experts, the name shall be proposed to the Minister to consider and appoint.

Division II

The Monetary Policy Board

Section 28/6

The members of the Monetary Policy Board shall consist of the Governor, as the Chairman,² Deputy-Governors determined by the Governor; one of which shall be assigned by the Governor to be a Deputy-Chairman, and 4 experts with professional knowledge in the field of economic or banking appointed by the BOT Board.

The Governor shall appoint an officer to be a secretary.

Section 28/7

The Monetary Policy Board shall have powers and duties conferred as follows;

- (1) determining targets of national monetary policy, provided that the fundamental state policies, national economic and monetary status shall be taken into consideration;
- (2) determining policies of managing the currency exchange under the exchange rate regime as to the law on currency;
- (3) determining any necessary measure in compliance with the target and policies in (1) and (2);
- (4) monitoring the BOT implementation according to(3) to be correct and efficient.

The Monetary Policy Board shall report its operation to the Cabinet for every 6 months.

Section 28/8

By December of each year, the Monetary Policy Board, with a corporative agreement with the Minister, shall determine targets of monetary policy for the following year which shall be regarded as the guideline for the State and the BOT for the purpose of implementing any measure to maintain the price stability. The Minister shall propose the agreed targets

of monetary policy to the Cabinet for approving. Upon the approval, it shall be published in the Government Gazette.

In the case where it is appropriate or necessary, the Monetary Policy Board may edit, change or add targets of monetary policy, provided that those stated in paragraph one shall be complied with.

Division III

The Financial Institutions Policy Board

Section 28/9

The members of the Financial Institutions Policy Board shall consist of the Governor, as the Chairman, 2 Deputy-Governors determined by the Governor; one of which shall be assigned by the Governor to be a Deputy-Chairman, the Director of the Fiscal Policy Office, the Secretary of the Insurance Commission, the Secretary of the Securities and Exchange Commission and 5 experts appointed by the BOT Board.

The Governor shall appoint an officer to be a secretary.

Section 28/10

The Financial Institutions Policy Board shall have powers and duties to formulate and execute policies concerning supervising and examining the financial institutions and monitoring the BOT operation in accordance with Section 8 (5) and (7); including the following duties;

- (1) determining policies concerning financial institutions;
- (2) determining policies on opening and closing branches of the financial institutions;
- (3) determining financial proportion, which financial institutions are subject to comply with under the law on financial institutions businesses;
- (4) giving an opinion or recommendation concerning the establishment of a new financial institution.

The Financial Institutions Policy Board shall report the operation to the BOT Board within the period indicated by the BOT Board.

Division IV

The Payment Systems Board

Section 28/11

The members of the Payment Systems Board shall consist of the Governor, as the Chairman, 2 Deputy-Governors determined by the Governor; one of which shall be assigned by the Governor to be a Deputy-Chairman, the President of the Thai Bankers' Association and 3 experts appointed by the BOT Board.

The Governor shall appoint an officer to be a secretary.

Section 28/12

The Payment Systems Board shall have powers and duties to formulate policies concerning a payment system that is under the supervision of the BOT and the clearing system between financial institutions, for the purpose of security and effectiveness, and monitoring the BOT operation under Section 8 (6).

The Payment Systems Board shall report the operation to the BOT Board within the period as indicated by the BOT Board.

Chapter 5

The Governor

Section 28/13

The Governor shall be responsible for the management and administration of the BOT operation to attain the objectives prescribed under Section 7, including the implementation of laws, regulations and policies prescribed by the Boards under Section 17.

The Governor shall have authority over the officers and the employees.

Section 28/14

The Governor shall be appointed by His Majesty the King upon the recommendation of the Cabinet.

In the case where there shall be the appointment of the Governor, the Minister shall appoint a selective committee consisting of 7 members who have held previous positions stipulated under Section 28/1 functioning to nominate not less than 2 suitable persons to be selected as a Governor. The Minister shall appoint any person as a secretary.

For the appointment of the Governor for a term of office, the selective committee shall propose the nominated name in paragraph 2 to the Minister for consideration not less than 90 days prior to the expiration of the term.

In the case where the Governor vacates office before the expiration of his or her term, the Minister shall appoint a selective committee under paragraph two within 15 days from the date of the vacation.

Section 28/2, Section 28/3 shall apply to the selective committee in paragraph two *mutatis mutandis*.

The selective committee in paragraph two shall vacate from office when the selection process and appointment of the Governor has been completed.

Section 28/15

The Governor shall have knowledge and professional skill in the field of economics or banking and finance.

Section 28/16

For the performance of duties, the Governor shall be independent in the management and administration of the BOT affairs.

Section 28/17

The Governor must have Thai nationality and not have the following prohibited characteristics;

- (1) being of more than 60 years of age on the date the Cabinet had a resolution to submit the name to His Majesty the King for the appointment;
- (2) having been adjudged as an incompetent or quasi-incompetent person;
- (3) being declared bankrupt or having been declared a dishonest bankrupt;
- (4) having been sentenced to imprisonment by a final judgment unless such punishment is for an offence committed through negligence or for a petty offence;
- (5) being an officer or employee;
- (6) being or having been a political official unless vacating from the office for not less than 1 year;
- (7) being or having been a holder of any position in any political party or being an officer of any political party unless vacating from the office for not less than 1 year;

- (8) being a director or having a position in a financial institution or any juristic person established by any specific law , except for a position specified by law;
- (9) being a director or an executive or a person with power of management or having significant interest in the juristic person having interest over the BOT business.

Section 28/18

The Governor shall hold office for a term of 5 years from the date of the appointment and may be reappointed for not more than 1 term.

Section 28/19

In addition to the retirement from office on the expiration of the term prescribed under Section 28/18, the Governor shall vacate upon;

- (1) death;
- (2) resignation;
- (3) possessing qualifications or restrictions contravening the provisions of Section 28/17;
- (4) being removed by the Cabinet upon the recommendation of the Minister due to wrongful misconduct or dishonest performance of duties;
- (5) being removed by the Cabinet upon the recommendation of the Minister or by the proposal of the Minister upon the recommendation of the BOT Board due to gross incompetence in the performance of duties or incapability, provided that explicit reason shall be specified in the order.

Section 28/20

The Governor vacating office shall not hold any position in financial institutions within 2 years from the date of vacation.

Section 28/21

For the BOT business concerning any third party, the Governor shall be a representative of the BOT. In this regard, the Governor may authorize an officer to undertake any particular business in accordance with the regulations prescribed by the BOT Board.

Section 29

The Governor shall have salary, position award and other benefits as prescribed by the Minister. To determine the salary, consideration shall be taken as to the prohibition of holding a position in any financial institution as specified under Section 28/20.

Chapter 5 bis

Financial Institutions Development Fund

Section 29 bis

In this Chapter:

“Financial Institution” means

- (1) a commercial bank under the law on commercial banking;
- (2) a finance company, a finance and securities company or a credit foncier company under the law on the under taking of finance business, securities business and credit foncier business;
- (3) any other institution undertaking business concerning finance as prescribed by the Minister in the Government Gazette.

“Fund” means the Financial Institutions Development Fund.

“Manager” means the manager of the Fund.

Section 29 ter

A fund shall be established in the Bank of Thailand and called the “Financial Institutions Development Fund”. The Fund shall be a juristic person with the purpose of reconstructing and developing the financial institution system to accord its strength and stability. It shall have the “Department of Financial Institutions Development Fund” as its competent authority and shall be separated and kept wholly distinct from the Bank’s other business.

Section 29 quarter

The Fund shall be composed of:

- (1) monies accepted under Section 29 quinqué and Section 29 septem;
- (2) monies and properties given by donors;
- (3) other monies and properties devolved on the Fund; and
- (4) the Fund’s earnings.

Section 29 quinqué

Each financial institution shall, in accordance with the rules, procedures and within the period of time prescribed by the Fund Management Committee, remit to the Fund a sum of money at the rate prescribed by the Fund Management Committee, with the approval of the Cabinet. Such rate shall not be more than one half of 1 per cent of the total amount of deposits, borrowings or funds received during the year by a financial institution from the public, as the case may be, which is outstanding at the end of the preceding 6 month financial period in which the remittance is to be made.

In the case where the Fund guarantees to the creditors of the financial institutions, the Fund Management Committee shall require the financial institutions to remit to the Fund a sum of money at the rate of not more than one half of one per cent of the debt outstanding guaranteed by the Fund and held by such financial institutions at the end of the preceding 6 month financial period. Such remittance shall be made at the same time the remittance as prescribed in paragraph one is to be made.

The rate under the first paragraph may be prescribed differently according to type of financial institution.

For the purpose of computation of the remittance to the Fund, deposits or borrowings received by a financial institution from the Fund shall be excluded.

Where the Fund has sufficient money and property to conduct business in accordance with its purposes, the Fund Management Committee may declare that money shall cease to be remitted to the Fund.

Section 29 sex

Any financial institution which fails to make the remittance to the Fund in accordance with Section 29 quinqué accurately and in full shall pay in accordance with rules and procedures prescribed by the Fund Management Committee a surcharge not exceeding twice the amount of money yet to be remitted.

Section 29 septem

The Bank of Thailand shall from time to time consider allocating to the Fund any suitable amount of reserves under Section 9.

The Bank of Thailand may advance to the Fund such sums as are deemed necessary, but such sums shall be repaid by the Fund within the time prescribed by the Court, which may also prescribe that the Fund shall pay remuneration in return for such advances.

Section 29 octo⁽⁶⁾

The Fund is empowered to conduct its business within the scope of its purposes under Section 29 ter, and such shall include the powers to:

- (1) hold ownership or possessory or any real right, build, buy, acquire, sell, dispose of, hire, lease, hire-purchase, lease under hire-purchase agreement, borrow, lend, accept pledges, accept mortgages, exchange, transfer, accept transfer of or engage in any act concerning properties, within or outside the Kingdom, including to accept properties from donors;
- (2) guarantee or certify, accept, give aval to or intervene to honor bills;
- (3) hold deposit with financial institutions as the Fund Management Committee deems necessary and appropriate;
- (4) borrow money, issue bills and bonds;
- (5) make investment for the purpose of earning income as permitted by the Fund Management Committee;
- (6) undertake all business in connection with or incidental to attainment of the objectives of the Fund.

Section 29 novem

There shall be a committee called the "Fund Management Committee" consisting of the Governor as Chairman, the Permanent Secretary for Finance as Deputy Chairman and not less than five, but not more than nine, other committee members appointed by the Minister.

The Manager shall be the Secretary of the Fund Management Committee.

Section 29 decim

Committee members appointed by the Minister shall retain office for a term of 3 years.

If a committee member appointed by the Minister vacates his or her office before the expiration of his or her term or if the Minister appoints an additional committee member during the term of office of existing committee members, the replacement appointee or the additional appointee shall retain office for the remaining term of the existing committee members.

On the expiration of the term of office mentioned in the first paragraph, if no appointment of new committee members is yet made, the retiring committee members shall retain their offices and conduct their duties until new appointees take charge of their duties.

A retiring committee member shall be eligible for reappointment, but for not more than 2 consecutive terms.

Section 29 undecim

Besides retiring from office on the expiration of the term under Section 29 decim, any committee member shall vacate his or her office when he or she;

- (1) dies;
- (2) resigns;
- (3) is ordered to leave by the Minister;
- (4) is declared bankrupt;
- (5) is adjudged incompetent or quasi-incompetent;
- (6) is sentenced to imprisonment by a final judgment unless such punishment is for an offence done in negligence or for a petty offence.

Section 29 duodecim

For a meeting of the Fund Management Committee, the quorum shall consist of not less than half of the members of the Committee.

Decisions shall be taken by a majority of votes, each committee member having 1 vote. In the case of a tie, the Chairmen shall be entitled to cast an additional deciding vote.

Section 29 tredecim

The Fund Management Committee shall have the authority and duty to lay down policies and take general control and superintendence of the affairs of the Fund. Such authorities and responsibilities shall include:

- (1) issuing regulations of the purpose of complying with Section 29 ter, Section 29 quinque and Section 29 octo;
- (2) issuing regulations concerning meetings and operations of the Fund Management Committee;
- (3) issuing regulations governing the performance of duties of the Manager; and
- (4) considering any other matters assigned by the BOT.

Section 29 quattuordecim

The Chairman and members of the Fund Management Committee shall receive such remuneration as prescribed by the Minister.

Section 29 quindecim

The Manager shall be appointed or removed by the Fund Management Committee.

The Manager shall be appointed from an officer of the BOT.

Section 29 sedecim

It shall be the Manager's duty to administer the affairs of the Fund in accordance with the objectives and responsibilities of the Fund and in accordance with the policy or regulations prescribed by the Fund Management Committee.

In administering the affairs of the Fund, the Manager shall be responsible to the Fund Management Committee.

Section 29 septendecim

The Manager shall be the representative of the Fund in regard to the Fund's external affairs and in this respect the Manager may, in accordance with the regulations prescribed by the Fund Management Committee, specifically authorize a representative or any person to act on his behalf.

Section 29 duodeviginti⁽⁷⁾

The monies of the Fund shall be spent only on conducting business to attain the objectives of the Fund and for the Fund's administrative expenditures including any remuneration under this Chapter as prescribed by the Fund Management Committee.

Section 29 undeviginti

The Fund shall lay down and observe a proper accounting system, maintain regular internal auditing and books of account which itemize:

- (1) receipts and payments;
- (2) assets and liabilities;

showing accurately and properly its state of affairs including the origin of such items.

Section 29 viginti

The Office of the Auditor-General shall be the Fund's auditor and shall each year audit the Fund's accounts including its finances.

Section 29 unetviginti

The auditor shall present an audit report to the Minister within 90 days of the end of the financial year, a copy of which shall also be sent to the Bank of Thailand.

Chapter 6⁽⁸⁾

Operation within the scope of the BOT powers and duties

Division I

Issues Notes of the Government and Bank-Notes

Section 30

The notes of the Government shall be issued by the BOT in compliance with the law on currency.

Section 31

The BOT shall have the sole right to issue bank-notes within the Kingdom.

The bank-notes issued by the BOT in paragraph one shall be deemed as the notes under the law on currency. The issue and management of such bank-notes shall be governed by the aforementioned law.

Section 32

The bank-notes issued by the BOT shall be deemed to be currency under the provisions of the Criminal Code.

Division II

Implementation of monetary policies

Section 33

The BOT shall implement monetary policies as determined by the Monetary Policy Board, with powers and duties as follows;

- (1) accepting of money on fixed or current account deposit in accordance with rules prescribed by the Monetary Policy Board;
- (2) determining interest rate in lending money to financial institutions under Section 41 (1);
- (3) buying ,selling as well as entering into a swap transaction on currencies with financial institutions, foreign financial institutions or international financial institutions;
- (4) borrowing foreign exchange for the purpose of maintaining the valuation of currency by means of issuing bills which have a fixed date of payment or bonds or by other means and arranging to have collateral for money so borrowed as approved by the Minister;
- (5) borrowing money for the implementation of monetary policies as well as providing collateral thereto;
- (6) subscribing, buying, selling as well as entering into a swap transaction on securities in so far as is necessary to control money supply of;
 - (a) government securities or securities guaranteed as to principle and interest by the Ministry of Finance;
 - (b) debentures, bonds or other debt instruments issued by government enterprises or financial institutions established by any specific law as prescribed by the BOT;
 - (c) bills, bonds or other debt instruments issued by the BOT
 - (d) other debt instruments as prescribed by the BOT;

- (7) borrowing or lending with or without remuneration of securities in (6), in the case of lending, it shall have first-rate collateral assets as prescribed by the BOT as the collateral.
- (8) selling or disposing of properties under the possession of the BOT for the purpose of activating the right to claim, in whole or in part;
- (9) undertaking other business in connection with or incidental to the implementation of monetary policies as prescribed by the Monetary Policy Committee.

The sale in paragraph one (3) and (6) may contain the provisions indicating that;

- (1) the seller shall deliver properties and the buyer shall make a payment immediately within the specified period;
- (2) the seller shall deliver properties and the buyer shall make a payment at a particular time in the future for the specified amount and price;
- (3) providing the right of one party to call another party to enter into a sale contract within a period of time or at a particular time in the future for the specified amount and price;
- (4) the buyer shall sell back and the seller shall buy back the properties at a particular time in the future for the specified amount and price;
- (5) other provisions prescribed by the BOT.

For the purpose of paragraph one (3) and (6), a swap transaction is a contract to which the parties agree exchange the obligations to receive or pay interest or to exchange the obligations to receive or pay different currencies within a specific period of time.

Section 34

For the purpose of implementation of monetary policies, in addition to liquid assets to be maintained as specified by other laws, the BOT may order financial institutions to maintain cash reserve at the BOT, in accordance with the rules and interest rate specified by the BOT.

Division III

Management of the Assets of the BOT

Section 35

The BOT shall have powers and duties to manage the BOT assets; including to make an investment for the purpose of earning income in accordance with the rules prescribed by the BOT Board, provided that consideration shall be taken on financial security, liquidity, income and risk management.

The assets in Currency Reserve under the law on currency shall not be regarded as the assets in paragraph one.

Section 36

For the management under Section 35, in case of the investment in foreign assets, only the following assets shall be eligible;

- (1) gold;
- (2) currency of a country accepting the obligations prescribed in Chapter 8 on Agreement on the International Monetary Fund, which must be in the form of deposit with a commercial bank outside the Kingdom, a foreign financial institutions outside the Kingdom, an international financial institution, or in the form of money deposits at a custodian outside the Kingdom, in accordance with the characteristics or qualifications prescribed by the BOT Board;

- (3) foreign securities payable in foreign currency as stated in (2), only the following securities;
 - (a) securities of a foreign government, an organization of a foreign government, an international financial institution or international organization;
 - (b) securities which guaranteed as to the performance of obligations by a foreign government, an international financial institution or international organization;
 - (c) instruments issued by an international financial institution, of which Thailand is a member, as evidence that the holder thereof is participating with such institution in making available loans to member government or organizations of member governments of the said institution to the amount indicated in the instruments;
 - (d) securities issued by other foreign organization or juristic person as prescribed by the BOT Board;
- (4) right to purchase reserve tranche under the law on authorization on the operation in relevant to the International Monetary Fund and the international banks;
- (5) Special Drawing Right under the law on Authorization and Regulation of Certain Operation concerning Special Drawing Right in the International Monetary Fund;
- (6) other assets paid as subscription to the International Monetary Fund which may not be regarded as Currency Reserve under the law on currency;
- (7) other assets as prescribed by the BOT Board.

Section 37

The BOT shall quarterly submit the performance report on the management of the BOT assets to the BOT Board.

Division IV

Acting as the Banker and the Securities Registrar to the Government

Section 38

The BOT shall act as the banker to the government with the powers and authorities as follows;

- (1) accepting monies for account of the Ministry of Finance and make payments up to the amount outstanding to the credit of the account, no charge being payable by the Ministry of Finance and no interest being payable by the BOT to the Ministry of Finance on such account;
- (2) providing custodial service of monies, securities and other articles of value and collect the proceeds, whether principal or interest, of any such securities for the benefits of the Government;
- (3) executing money exchange, foreign remittance and other banking business as pertain to the government;
- (4) acting as the government's representative in the following business;
 - (a) the purchase and sale of gold and silver;
 - (b) the purchase, sale and transfer of bills of exchange, securities and share certificates;
 - (c) the control and centralization of foreign exchange;
 - (d) the transaction of any other government business which may be entrusted to it.

Section 39

The BOT may act as the securities registrar of the government and shall have powers to undertake the following matters;

- (1) the distribution of securities of the government
- (2) the making payments of principal and interest according to the conditions of the securities distributed under (1);
- (3) other matters in relation to the undertaking according to (1) and (2)

Section 40

The BOT may be the banker to state enterprises or other state agencies or be the Securities Registrar of the state enterprises, financial institutions established by any specific law or other state agencies. The provisions of Section 38 or Section 39 shall apply, as the case may be, *mutatis mutandis*.

Division V

Acting as the Banker to Financial Institutions

Section 41

With respect to the acting as the banker to financial institutions, the BOT shall have powers and duties as follows;

- (1) granting loans to financial institutions with maturity not exceeding 6 months with first-rate collateral assets as prescribed by the BOT under Section 33 (7), in accordance with the rules and conditions specified by the BOT;
- (2) being a custodian of monies, securities or other articles of value of financial institutions; including the collection of proceeds, whether principal or interest, of any such securities;
- (3) ordering any financial institutions to submit a report concerning assets, liabilities, contingent liabilities as prescribed by the BOT and may require any financial institution to explain or clarify such report.

The granting of loans in paragraph one shall include the purchase with a right to sell back transaction of first-rate collateral assets under Section 33 (7) from the financial institution.

Section 42

In the case where any financial institution faces liquidity problem which may seriously endanger the stability of economic and monetary system as a whole and the BOT consider that the granting of loans or giving financial assistance to such financial institution may help maintaining the stability of economic and monetary system, the BOT, upon the approval of the Financial Institutions Policy Board and the approval of the Cabinet, may grant loan or give financial assistance by other means to the said financial institution.

In the case where the financial institution hold shares or properties of any other financial institution or any juristic person which may be used as collateral, such shares or properties shall be used to guarantee the granting of loans or financial assistance in paragraph one, in accordance with rules, procedures and conditions prescribed by the Financial Institutions Policy Board.

The granting of loans or assistance in paragraph one shall include the purchase, purchase with a right to sell back contract, discounting or re-discounting of bills or transferable instruments and undertaking the contingent liabilities for the benefit of the financial institution.

Section 43

The BOT shall have a special preferential right in precedence against other general preferential rights for the obligations arisen from the granting of loans or financial

assistance under Section 42 and against monies, securities or properties of the financial institution and shares or properties of other juristic persons used as collateral, only those in the possession of the BOT.

Division VI

Establishment or Support of the establishment of Payment Systems

Section 44

The BOT shall establish or support the establishment of payment systems including the clearing system among financial institutions and the management of such systems, for the purpose of the security and effectiveness of the systems, in accordance with the rules and conditions prescribed by the BOT.

Section 45

In the operation concerning the payment systems which has been established by the BOT under Section 44, in the case where the BOT deems necessary to grant loans, it shall comply with the rules and conditions as prescribed by the Payment Systems Board. In case of the granting of loan for intra-day liquidity, the BOT may or may not charge interest or remuneration or may or may not call for collateral thereto.

Chapter 7

Prevention of the Conflict of Interest of the Officers

Section 46

The Governor, the Boards, the officers and employees shall not conduct any act which may cause the conflict of their personal interest and the BOT interest, or may contravene the performance of duties.

Section 47

In performing of duties, an officer or employee shall disclose information, concerning conflict of interest with respect to the matters assigned to him or her, to the Governor, the BOT Board, the Monetary Policy Board, the Financial Institutions Board or the Payment Systems Board, as the case may be. He or she shall not consider or participate in the meeting in relation to such matter until there is a decision regarding the solution on the matter, in accordance with the regulations prescribed by the BOT Board.

Section 48

The officers or employees shall not hold any position or be employed or accept to conduct any business in financial institutions, except allowed in accordance with the regulations prescribed by the BOT upon the approval of the BOT Board.

Chapter 8

Supervision

Section 49

The general supervision of the affairs of the BOT is vested in the Minister.

Section 50

For the maintenance of economic stability, monetary stability or financial institutions system stability, the Minister and the Governor may arrange a consultation as deemed appropriate.

Section 51

Where there is an incident which may cause effects or serious damages to the economic stability, monetary stability or financial institutions system stability, the BOT shall, to the Minister, report the facts of the case, assess possible impacts or damages, analyze problems and propose solutions promptly, for further consideration.

For the purpose of preventing or alleviating the incident which may cause effects or serious damages to the economic stability, monetary stability or financial institutions system stability, the Minister may order the BOT to report the facts of the case analyze problems and propose solutions for further consideration.

Section 52

In the case where the net position of international reserve is below the minimum level to maintain the monetary and exchange rate stability, the BOT shall promptly report to the Minister, along with proposing the solutions of such problem. Then, the Minister shall further submit to the Prime Minister for acknowledgement.

Chapter 9

Accounting, Examination, Auditing and Reporting

Section 53

The financial year of the BOT shall be the calendar year.

Section 54

The accounting of the BOT shall be in compliance with the Generally Accepted Accounting Principles except for a particular matter which the BOT Board has prescribed to be in conjunction with general practices of other central banks.

Section 55

There shall be a group of Auditing Committee consisting of not less than 3 and not more than 5 persons appointed by the BOT Board, 2 of those shall be the experts in the BOT Board and one of those shall be an external person, for the purpose of supervising the BOT business and quarterly reporting to the BOT Board and the Minister.

Section 56

The Office of the Auditor-General shall be the Accounting Auditor of the BOT.

Section 57

Within 3 months from the end of a financial year, the BOT shall annually submit the financial statement of the BOT, Currency Reserves, notes issuance business, of which has been certified by the Governor and examined and opined by the Auditor, to the Minister for publication in the Government Gazette.

Apart from financial statement to be submitted in paragraph one, the BOT shall submit the report of the BOT Board on the summary of the operation of the BOT throughout the year to the Minister.

Section 58

The BOT shall provide the report indicating the official international reserve position, whether in the aggregated position, the net position and the net forward position, by monthly publishing in the Government Gazette.

Section 59

At the end of each week, the BOT shall publish a weekly report on the BOT position, regarding financial condition, currency reserve and bank-notes issuance business, and submit to the Minister for publication in the Government Gazette.

Section 60

For the purpose of maintenance of economic stability, monetary stability or financial institutions system stability, the BOT shall provide a monthly report on the economic condition with any relevant information to the Minister, along with the analysis and the operational guideline thereon.

Section 61

For every 6 months period, the BOT shall provide the report on economic condition, monetary policies, financial institutions policies, payment system policies, the operational guideline and the assessment, to the Minister in order to submit to the Cabinet for recognition. Such report shall be made within 60 days from the date of June 30th and December 31st of each year.

Chapter 10

Penalties

Section 62

No person other than the BOT shall use the term "national", "state", "Thailand", "central", as part of the name or description of a bank, whoever violates the aforesaid provision shall be liable to imprisonment for a term not exceeding 1 year or a fine not exceeding 100,000 Baht or both and a further fine of not exceeding 3,000 Baht per day, for everyday during which such violation continues.

Section 63

Any person violates or fails to comply with Section 10 shall be liable to a fine not exceeding 100,000 Baht.

Section 64

Whoever violates Section 28/20 shall be liable to imprisonment for a term not exceeding one year or a fine not exceeding 500,000 Baht or both.

Section 65

Any financial institution which violates or fails to comply with Section 34 shall be liable to a fine not exceeding 100,000 Baht and a further fine of not exceeding 3,000 Baht per day, for everyday during which such violation continues or until the time the correction has been made.

Section 66

The Governor, the Boards, the officer or employee, having the duty to purchase, manufacture, manage or keep any property dishonestly misappropriates such property for himself or herself or other persons, or dishonestly allows other persons take such property, shall be liable to imprisonment for a term of 5 to 20 years or a life imprisonment or a fine of 500,000 Baht to 2 millions Baht or both.

Section 67

The Governor, the Boards, the officer or employee, wrongfully exercising his or her functions to coerce or induce any person to deliver or to procure a property or any other benefit for himself or herself or other persons, shall be liable to imprisonment for a term of 5 to 20 years or life imprisonment or a fine of 500,000 Baht to 2 millions Baht or both.

Section 68

The Governor, the Boards, the officer or employee, wrongfully demanding, accepting or agreeing to accept for himself or herself or other persons a property or any other benefit for exercising or not exercising any of his or her functions whether such exercise or non-exercise of functions is wrongful or not, shall be liable to imprisonment for a term of 5 to 20 years or life imprisonment or a fine of 500,000 Baht to 2 millions Baht or both.

Section 69

The Governor, the Boards, the officer or employee, performing or omitting any act in one's own function in consideration of the property or any other benefit demanded, accepted or agreed to accept by oneself before being appointed as official in that post, shall be liable to imprisonment for a term of 5 to 20 years or life imprisonment or a fine of 500,000 Baht to 2 millions or both.

Section 70

The Governor, the Boards, the officer or employee, having the duty in the purchase, execution, management or keep of any thing dishonestly exercises any of his or her functions damaging the BOT, shall be liable to imprisonment for a term of 5 to 20 years or life imprisonment or a fine of 500,000 Baht to 2 millions or both.

Section 71

The Governor, the Boards, the officer or employee, having the duty of managing or looking after any activity, takes the interest for the benefit of himself or herself or other persons concerning such activity, except for the act assigned by the BOT or under the BOT regulations, shall be liable to imprisonment for a term of 1 to 10 years or a fine of 100,000 Baht or 1 million or both.

Section 72

The Governor, the Boards, the officer or employee, having the duty to defray things, defray such things in excess of what should be defrayed for the benefit of himself or herself or other person, shall be liable to imprisonment for a term of 1 to 10 years or a fine of 100,000 Baht or 1 million or both.

Section 73

The Governor, the Boards, the officer or employee, wrongfully exercising or not exercising any of his or her functions to the injury of any person, or dishonestly exercising or omitting to exercise any of his or her functions, shall be liable to imprisonment for a term of 1 to 10 years or a fine of not exceeding 100,000 to 1 million Baht or both.

Section 74

The Governor, the Boards, the officer or employee who in the performance of duties under the authority in this Act, having acquired knowledge of the BOT affairs, which in a normal banking business is to be held in confidence, or is the affairs which the Boards under Section 17 (1) (2) (3) or (4), as the case may be, agrees not to disclose, reveal such knowledge to other persons, shall be liable to imprisonment for a term not exceeding 5 years or a fine of not exceeding 500,000 Baht or both.

The provision in paragraph one shall not apply to the following cases;

- (1) disclosure in the performance of duty or for the purpose of investigation or procession;
- (2) disclosure concerning the offences in this Act;
- (3) disclosure for the purpose of rectifying the condition or operation of financial institutions;
- (4) disclosure to the Accounting Auditor of financial institutions or domestic and international institutions which have authority in supervising financial institutions;
- (5) disclosure in the performance of duty of state's organization, domestically and internationally; disclosure to government or institutions, domestically or internationally, which have authority in supervising securities or security market or supervising financial institutions;
- (6) disclosure for other purposes as prescribed by law.

Section 75

Any person other than persons specified under Section 74 having acquired the confidence of the BOT business under this Act, acts in anyway to allow other persons to acquire such confidence which is not the performance of duty or the implementation of law, shall be liable to imprisonment for a term not exceeding 5 years or a fine of not exceeding 500,000 Baht or both.

Countersigned by

Field-Marshal P. Pibulsongkram,

Prime Minister

Amendment

- (1) As amended by Section 3 of the Bank of Thailand Act (No.4), B.E. 2551
- (2) As amended by Section 3 of the Bank of Thailand Act (No.4), B.E. 2551
- (3) As amended by Section 5 of the Bank of Thailand Act (No.4), B.E. 2551.
- (4) As amended by Section 7 of the Bank of Thailand Act (No.4), B.E. 2551.
- (5) As amended by Section 9 of the Bank of Thailand Act (No.4), B.E. 2551.
- (6) As amended by Section 10 of the Bank of Thailand Act (No.4), B.E. 2551.
- (7) As amended by Section 11 of the Bank of Thailand Act (No.4), B.E. 2551.
- (8) As amended by Section 13 of the Bank of Thailand Act (No.4), B.E. 2551.

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