

**Emergency Decree Amending the Bank of Thailand Act, B.E. 2485 (No. 2),
B.E. 2540 (1997)****Translation****Principle**

Amendment to empower the Fund to raise the amount of contribution which financial institutions must remit to the Fund to enable the Fund to guarantee depositors and creditors of financial institutions, and to allow the Fund to lend money to financial institutions with or without collateral. (Amendment of Section 25 quinque, Section 29 octo and Section 29 duodeviginti)

Rationale

Whereas it is deemed necessary to protect bona fide depositors and creditors of troubled financial institutions by empowering the Fund to insure such depositors and creditors;

And whereas the collateral required by the Fund against lending to financial institutions in certain cases has put other creditors of such financial institutions at a disadvantage and has affected confidence of creditors in extending credits to all financial institutions, which could aggravate the current financial institutions crisis;

Such that the Act should be amended to expand the base used in calculating the amount of contribution that financial institutions must remit to the Fund to enable the Fund to insure their depositors and creditors, as well as release collateral.

And whereas this is a situation which must be urgently addressed in order to preserve the economic stability of the country;

Now therefore, this emergency decree is enacted.

BHUMIBHOL ADULYADEJ, REX,

Given on the 22nd day of October B.E. 2540;

Being the 52nd Year of the Present Reign

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

Whereas it is deemed expedient to revise the law on the Bank of Thailand;

Be it, therefore, enacted by His Majesty the King, by virtue of Section 218 of the Constitution of the Kingdom of Thailand, as follows:

Section 1

This Emergency Decree shall be called the "Emergency Decree Amending the Bank of Thailand Act, B.E. 2485 (No. 2), B.E. 2540

Section 2

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

Section 3

Section 29 quinque of the Bank of Thailand Act, B.E. 2485 as amended by the Emergency Decree amending the Bank of Thailand Act, B.E. 2485, and B.E. 2528 shall be repealed and shall read as follows:

“Section 29 quinque

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 as approved by the Cabinet. Such rate shall not be more than one half of one percent of the total amount of deposits, borrowings or funds received by a financial institution from the public, as the case may be, which is outstanding at the end of the six-month accounting period prior to the period in which the remittance is to be made.

Where the Fund extends insurance to creditors of financial institutions, the Fund Management Committee may also require financial institutions to remit additional contributions at the rate not higher than one half of one percent of the amount of insured total liabilities outstanding at the end of the six-month accounting period prior to the period in which the remittance is to be made. Such contributions shall be remitted at the same time as remittances under the first paragraph.

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

In computing 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 4

Article 29 octo of the Bank of Thailand Act B.E. 2485 as amended by the Emergency Decree amending the Bank of Thailand Act B.E. 2485, B.E. 2528 shall be repealed and shall read as follows:

“Section 29 octo

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

- (1) hold ownership or possessory right 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 related to properties, within or outside the Kingdom, including to accept properties from donors;
- (2) lend money to a financial institution with or without collateral in accordance with procedures and conditions prescribed by the Fund Management Committee as approved by the Minister;
- (3) guarantee or issue acceptance, give aval to or intervene to honor bills;
- (4) provide reasonable financial assistance to depositors or creditors of financial institutions who sustain losses as a consequence of such financial institutions suffering serious financial crisis;
- (5) hold deposits with such financial institution as the Fund Management Committee deems necessary and appropriate;
- (6) purchase or hold shares of any financial institution;
- (7) purchase, discount or re-discount debt instruments or accept transfer of claims from any financial institution;
- (8) borrow money with or without interest, issue bills and bonds;
- (9) make investments to generate income as permitted by the Fund Management Committee;
- (10) Undertake all business in connection with or incidental to attainment of the purposes of the Fund.

For the purpose of this Section,

“Depositors” means all depositors including holders of negotiable certificate of deposit and promissory notes issued to borrow or receive money from the public

“Creditors” means creditor other than Depositors whose creditor status arose from the financial institution engaging in commercial banking, finance company, finance and securities company or credit foncier business, inter alia, lending, purchasing of promissory note or holding of other debt instruments where the financial institution is the borrower, payer or issuer.”

Section 5

The following clause shall be added as the second paragraph of Section 29 duodeviginti of the Bank of Thailand Act, B.E. 2485, as amended by the Emergency Decree amending the Bank of Thailand Act, B.E. 2485 B.E. 2528

“Where the Fund has insured or provided financial assistance to depositors and creditors of financial institutions in accordance with Section 29 octo (4) and incurs loss, the Government shall provide every necessary financial assistance to the Fund.”

Section 6

In the case of the collateral that the Fund has received against lending to the finance companies whose operations were suspended by the order of the Minister of Finance on 26 June B.E. 2540 or 5 August B.E. 2540, by virtue of the Act on the Undertaking of Finance Business, Securities Business and Credit Foncier Business, where the Fund Management Committee deems it necessary to restore the fairness and the soundness of financial system, the Fund Management Committee may release the said collateral in order to permit other creditors of such finance companies to receive their fair share of repayments. The above action shall be taken in accordance with procedures and conditions prescribed by the Fund Management Committee as approved by the Minister.

Section 7

The Minister of Finance shall be in charge and control of the execution of this Act.

Countersigned by

General Chavalit Yongchaiyudh

Prime Minister

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