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Improving the debt management of loan made by the Ministry of Finance to assist the Financial Institutions Development Fund

King Bhumibhol Adulyadej of Thailand

Thai Public Debt Management Office (PDMO)

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EMERGENCY DECREE
IMPROVING THE DEBT MANAGEMENT OF LOAN MADE BY THE MINISTRY OF FINANCE
TO ASSIST THE FINANCIAL INSTITUTIONS DEVELOPMENT FUND,
B.E. 2555 (2012)

BHUMIBOL ADULYADEJ, REX. Given on
the 26th Day of January B.E. 2555; Being
the 67th Year of the Present Reign.

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

Whereas it is expedient to have a law on improving the debt management of loan made by the Ministry of Finance to assist the Financial Institutions Development Fund;

This Emergency Decree contains certain provisions in relation to the restriction of rights and liberties of a person, in respect of which section 29, in conjunction with section 41 and section 43 of the Constitution of the Kingdom of Thailand so permit by the virtue of law;

By virtue of the provisions in section 184 of the Constitution of the Kingdom of Thailand, the King hereby issues the Emergency Decree as follows:

Section 1. This Emergency Decree is called the “Emergency Decree Improving the Debt Management of Loan Made by the Ministry of Finance to Assist the Financial Institutions Development Fund, B.E. 2555 (2012)”.

Section 2. This Emergency Decree shall come into force as from the day following the date of its publication in the Government Gazette.¹

* **DISCLAIMER:** “This Translation is provided by the Public Debt Management Office as the competent authority for information purposes only. Whilst the Public Debt Management Office has made efforts to ensure the accuracy and correctness of the translation, the original Thai text as formally adopted and published shall in all events remain the sole authoritative text having the force of law.”

¹ Published in the Government Gazette, Vol. 129, part 10a, page 15, dated 26th January B.E. 2555.

Section 3. In this Emergency Decree:

“Fund” means the Financial Institutions Development Fund under the law on the Bank of Thailand.

“Minister” means the Minister having charge and control of the execution of this Emergency Decree.

Section 4. The Fund shall have the duty and responsibility in relation to the repayment of principal of loan and the repayment of interest thereof, in the parts related to the debts, as follows:

(1) the remaining debt of loan made by the Ministry of Finance under the Emergency Decree Authorising the Ministry of Finance to Raise and Manage Loan to Assist the Financial Institutions Development Fund, B.E. 2541 (1998);

(2) the remaining debt of loan made by the Ministry of Finance under the Emergency Decree Authorising the Ministry of Finance to Raise and Manage Loan to Assist the Financial Institutions Development Fund, Phase Two, B.E. 2545 (2002).

The payment sequence of the principal and interest of debt to be repaid and the amount of money to be paid thereto under this Emergency Decree shall be determined in accordance with notification of the Ministry of Finance, provided that consideration shall be given to the amount of money and assets in the account under section 5 which may potentially be used to repay the debt.

The debt under this section shall also include the debt incurred by debt restructuring.

Section 5. For the purpose of executing section 4, the Savings Account for the Repayment of Principal of Loan to Compensate for the Losses of the Financial Institutions Development Fund, established under the Emergency Decree Authorising the Ministry of Finance to Raise and Manage Loan to Assist the Financial Institutions Development Fund, Phase Two, B.E. 2545 (2002), shall be for the purposes of repaying the principal of loan under section 4 and the interest incurred by such debt.

The following money or assets shall be remitted to or added into the account under paragraph one:

(1) money or assets remitted or transferred pursuant to section 7;

(2) money remitted by the Bank of Thailand pursuant to section 10;

(3) money or assets transferred by the Ministry of Finance pursuant to section 11;

(4) fruits of money or assets under (1), (2) and (3).

Section 6. The revenue of the Bank of Thailand which is money or asset in the account under section 5 shall not be allocated as monetary reserves or money to be remitted to the State pursuant to the law on the Bank of Thailand or any other laws. The Bank of Thailand shall have the duty to safeguard and manage such money or asset, and to exchange foreign currency into Thai Baht to accord with the principal of loan and interest thereof under this Emergency Decree, and shall have the power to order a payment from such account to the Fund for any of the purposes, as follows:

- (1) to pay the interest of loan incurred by the debt pursuant to section 4;
- (2) to repay the principal of loan pursuant to section 4;
- (3) to pay the management costs for the execution of (1) and (2), in accordance with the rules and conditions prescribed by the Minister.

Section 7. During the repayment of principal of loan under section 4, the followings shall be undertaken:

(1) in each year, the Bank of Thailand shall remit the net profit which must be remitted to the State under the law on the Bank of Thailand, the amount of which shall not be less than ninety per cent, into the account under section 5;

(2) the remaining asset in the annual benefit account under the law on currency, subsequent to year-end expenditure, shall be transferred to the account under section 5 only to repay the principal of loan under the Emergency Decree Authorising the Ministry of Finance to Raise and Manage Loan to Assist the Financial Institutions Development Fund, Phase Two, B.E. 2545 (2002), without having to be transferred to the special reserve account;

(3) the money and asset of the Fund shall be transferred to the account under section 5, the amount of which shall be determined by the Council of Ministers.

Section 8. The Bank of Thailand shall have the power to require financial institutions to remit money in percentage base per annum of the average savings balance in the accounts with deposit protection as determined by notification of the Bank of Thailand, the rate of which together with the rate financial institutions are required to remit to the Deposit Protecting Fund pursuant to the law on Deposit Protection Agency shall not exceed

one per cent per annum of the average savings balance in the accounts with deposit protection.

For the purpose of sufficient repayment of the principal and interest of loan, the Bank of Thailand may require financial institutions to pay additional sum beside the rate specified under paragraph one in accordance with the rules, procedures and rates prescribed by notification of the Bank of Thailand, but such sum together with the money remitted under paragraph one shall not exceed one per cent of the sum of money such financial institutions receive from the public.

Financial institutions under this section mean financial institutions under the law on Deposit Protection Agency.

Section 9. Any financial institution which fails to remit the money pursuant to section 8 or fails to remit the full amount within the specified period of time must remit extra amount, of not more than two per cent a month of the money which has not been remitted or remitted in full amount, the rule and procedure of which shall be prescribed by the Bank of Thailand.

In the case where a financial institution fails to remit the money pursuant to section 8, or fails to remit the full amount, and subsequently fails to remit the extra amount pursuant to paragraph one, the Bank of Thailand shall have the power to issue an order requesting the financial institution to pay such amount of money within a specified period of time.

Section 10. The money remitted by financial institutions under section 8 and the extra money under section 9 shall be remitted further by the Bank of Thailand into the account under section 5.

The money to be remitted by financial institutions under section 8 and the extra money under section 9 shall be deemed to be the debt with preferential right after the tax liability of such financial institutions.

Section 11. The Ministry of Finance shall transfer the money of the Fund for Principal Repayment to Compensate for the Losses of the Financial Institutions Development Fund, established under the Emergency Decree Authorising the Ministry of Finance to Raise and Manage Loan to Assist the Financial Institutions Development Fund, B.E. 2541 (1998), into the account under section 5.

Once the undertaking under paragraph one is completed, the Fund for Principal Repayment to Compensate for the Losses of the Financial Institutions Development Fund, established under the Emergency Decree Authorising the Ministry of Finance to Raise and Manage Loan to Assist the Financial Institutions Development Fund, B.E. 2541 (1998), shall be abolished from the date of the notification by the Minister.

Section 12. The provisions of section 9 paragraph one of the Emergency Decree Authorising the Ministry of Finance to Raise and Manage Loan to Assist the Financial Institutions Development Fund, B.E. 2541 (1998) and the provisions of section 8 paragraph two, section 9 and section 10 of the Emergency Decree Authorising the Ministry of Finance to Raise and Manage Loan to Assist the Financial Institutions Development Fund, Phase Two, B.E. 2545 (2002) shall cease to be in force from the date this Emergency Decree comes into force.

Section 13. The Minister of Finance shall have charge and control of the execution of this Emergency Decree.

Countersigned by
Yingluck Shinawatra
Prime Minister

Remarks: The reasons for the promulgation of this Emergency Decree are as follows. Due to the flood disaster in several parts of Thailand in the year of B.E. 2554 which causes serious damage to the economy and the community, there arises an urgent need for the government to repair and restore the country, provide remedy to the public, prepare to put in place the system of water management and build the future of the country by ensuring investment in the basic public utility infrastructure. In addition, such damage also causes the economy of the country to slow down and to be in a vulnerable stage of losing public confidence, thereby measures must be taken in order to restore the country, repair the damage, prevent further catastrophe to come and rebuild confidence of the public and investors in carrying out their businesses and professions, the undertakings of which will cost a large amount of money and must be carried out without delay in various forms. One of these is to reduce the burden on the budget in order to repay the interest of loan taken out for the purpose of assisting the Financial Institutions Development Fund in solving the crisis of financial institution system in the year of B.E. 2540, whereby the debt repayment system needs to be revised and managed for greater efficiency and no longer be a burden on the government expenditure budget. It is therefore expedient to have a law on the improvement of debt management of loan made by the Ministry of Finance to assist the Financial Institutions Development Fund, where the Financial Institutions Development Fund shall have the duty and take responsibility in relation to the repayment of principal of loan and interest thereof in parts related to the debt of loan incurred by the Ministry of Finance in order to support the management and restoration of financial institution system experiencing financial crisis in the year of B.E. 2540, and the Bank of Thailand shall be the regulator overseeing the undertakings of such Fund and shall enhance the supply of financial sources in order to repay the principal and interest of loan without interruption, whereby the rules and existing specified financial sources shall remain in use. Additionally, financial institutions shall also be required to remit money for the aforementioned undertakings in accordance with the principle of maintaining financial and fiscal discipline of the country, as the improvement of such debt management will enable the government to have sufficient expenditure budget for the reconstruction, restoration, and development of the country and will provide stability to the financial system of the country in general. And as it is the case of urgent necessity which cannot be avoided for the benefit of preserving economic stability of the country, it is therefore necessary to enact this Emergency Decree.