

EMERGENCY DECREE
ON THE PROVISION OF ASSISTANCE AND REHABILITATION OF BUSINESS OPERATORS
IMPACTED BY THE SPREAD OF THE COVID-19 PANDEMIC,
B.E. 2564 (2021)

HIS MAJESTY KING MAHA VAJIRALONGKORN PHRA VAJIRAKLAOCHAOYUHUA;

Given on the 9th Day of April B.E. 2564;

Being the 6th Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Phra Vajiraklaochaoyuhua is graciously pleased to proclaim that:

Whereas it is expedient to provide assistance and to rehabilitate business operators who have been impacted by the COVID-19 pandemic;

Be it, therefore, enacted by the King, by virtue of the provisions of section 172 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 on the provision of assistance and rehabilitation of business operators impacted by the COVID-19 pandemic, B.E. 2564 (2021)”.

Section 2.¹ This Emergency Decree shall come into force as from the date of its publication in the Government Gazette.

*Translated by Nadtara Bott, Treasury Law Section, Financial and Treasury Law Division, Office of the Council of State. – Initial Version – pending view and approval by the Office of the Council of State.

¹ Published in Government Gazette, Vol. 138, Part 26a, dated 10th April 2021.

Section 3. In this Emergency Decree:

“financial institution” means a commercial bank under the Law on Financial Institutions and specific financial institutions under the Law on Financial Institution Businesses Providing a Money Lending Operation;

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

Section 4. In order to provide assistance and rehabilitate business operators who have been impacted by the COVID-19 pandemic or from State measures to inhibit, intercept and resolve problems arising from the spread of such disease, the Minister of Finance, the Bank of Thailand, and the Thai Credit Guarantee Corporation shall have the duty and power to act according to the procedures under this Emergency Decree.

Section 5. Other than the granting of loans prescribed under the Law on the Bank of Thailand, the Bank of Thailand shall have the power to grant loans on an occasional basis to financial institutions so that they may use such funds to provide a money lending operation, or for the purposes prescribed under this Emergency Decree, herewith, at the credit amount of not more than three hundred and fifty billion Baht.

The granting of loans to financial institutions under paragraph one may be made by the purchase of promissory notes issued by a financial institution.

The provisions of section 9 (4) of the Bank of Thailand Act, B.E. 2485 (1942) as amended the Bank of Thailand Act (No.4), B.E. 2551 (2008) shall not apply to the grant of loans by the Bank of Thailand under this Emergency Decree.

Section 6. Under this Emergency Decree, a financial institution, a business operator, an owner of property which constitutes a security asset, and the Thai Credit Guarantee Corporation shall be exempt from the following fees:

(1) fees levied on mortgage and fees levied on the registration of business security agreements arising from the borrowing of funds under Chapter I, or borrowing of funds to buy back property which is provided as a security asset under Chapter II;

(2) fees arising from the transfer of property as repayment of debt to the Thai Credit Guarantee Corporation under Chapter I, or the transfer of property as security for the repayment of loans to financial institutions, or the return of property which constitutes security to the owner of such property under Chapter II

Section 7. The Minister of Finance shall have charge and control of the execution of this Emergency Decree.

CHAPTER I

MEASURES TO PROMOTE THE GRANTING OF CREDIT TO BUSINESS OPERATORS

Section 8. The Bank of Thailand shall have the power to grant loans to financial institutions so that they may provide loans for business operators to borrow in accordance with the provisions of this Chapter, in the credit amount of not more than two hundred and fifty billion Baht.

The Bank of Thailand, with the approval of the Council of Ministers may grant loans to financial institutions in addition to the credit amount under paragraph one, but when combined with the credit amount in Chapter II, shall not exceed the credit amount under section 5, paragraph one.

The interest rate for lending to financial institutions under paragraph one and paragraph two shall be at zero point zero one per year.

Section 9. A financial institution shall submit an application for a loan to the Bank of Thailand in accordance with the criteria and conditions prescribed by notification of the Bank of Thailand within two years as from the date this Emergency Decree enters into force, but in the case where there is remaining credit and where there is necessity to continue to provide assistance, or where measures are to cease, the Bank of Thailand, with the approval of the Council of Ministers may extend such period for submission of application for a loan for a period of not more than one year, or may cease these measures prior to the expiry date prescribed.

Under the provisions of section 10 and section 11, in the granting of loans under paragraph one, the Bank of Thailand may prescribe criteria and conditions for which financial institutions must abide by.

Section 10. The funds received by a financial institution under section 9 must be used for lending to business operators which do not have a credit line with the financial institution, or those having a credit line with the financial institution of not more than five hundred million Baht, or more than such amount as the Bank of Thailand so prescribes by notification. Herewith, the credit amount on the date of 28th February 2021 shall be used as the criteria for consideration.

The credit line under paragraph one shall not include the credit line for consumption as prescribed by notification of the Bank of Thailand.

Section 11. In the granting of loans under section 10, a financial institution must proceed as follows:

(1) comply with the criteria and conditions of the loan prescribed by notification of the Bank of Thailand;

(2) charge interest at the averaged rate over the contract period as prescribed by notification of the Bank of Thailand, but at not more than five percent per year, whereby in the period of the first two years of the contract, the rate shall be not more than two percent per year;

(3) not charge interest from a business operator within the first six months as from the day the business operator receives the credit from each application for credit.

The criteria and conditions which the Bank of Thailand prescribes by notification under (1) shall take into consideration the purpose of providing wide and thorough assistance to business operators which have been impacted by the COVID-19 pandemic.

The Ministry of Finance shall pay compensation under (3) to the Bank of Thailand as charged thereby in order to pay compensation to financial institutions in turn.

Section 12. A financial institution shall repay the funds loaned under this Chapter with the interest to the Bank of Thailand within five years as from the day it receives the loan, or at a extended date as the Bank of Thailand so prescribes by notification.

The repayment of funds under paragraph one shall be in accordance with the criteria and conditions prescribed by notification of the Bank of Thailand.

Section 13. For the purpose of providing wide and thorough assistance to business operators who are face problems or have been impacted by the COVID-19 pandemic, the Thai Credit Guarantee Corporation shall also have the purpose, duty and power to provide credit guarantees for loans provided by financial institutions under this Emergency Decree.

In the provision of credit guarantees under paragraph one, the Thai Credit Guarantee Corporation bear on not more than twenty percent of the total amount of credit which each financial institution has granted in loans to business operators under section 11, and is guaranteed by the Thai Credit Guarantee Corporation under this section, herewith , in accordance with the criteria and conditions which the Ministry of Finance, the Bank of Thailand and the Thai Credit Guarantee Corporation jointly prescribes.

The fees for the guarantee of credit under paragraph one shall be charged at not more than one point seven five of the credit guarantee amount per year, whereby the Ministry of Finance shall compensate such fees at a rate of not more than three point five of the credit guarantee amount to the Thai Credit Guarantee Corporation.

The Thai Credit Guarantee Corporation shall cease to provide credit guarantees under paragraph one at the lapse of six months as from the day the period for loans end under section 9. The cessation of the provision of such loans shall not affect the rights liabilities arising from the provision of guarantees made prior thereto.

Section 14. In the course of proceeding under section 13, if the Thai Credit Guarantee Corporation faces liquidity problems specifically due to proceedings under section 13, the Ministry of Finance shall have the duty and power to provide assistance as is necessary, so that the Thai Credit Guarantee Corporation may efficiently proceed under this Emergency Decree.

In proceeding under section 13, if the Thai Credit Guarantee Corporation becomes liable to repay a debt which causes a loss at whichever amount, the Ministry of Finance shall compensate such loss. In so doing, the Bureau of the Budget shall issue an expenditure item for repayment on an annual basis within five years as from the day it has knowledge of the amount of loss.

The criteria and procedures for the calculation of loss under paragraph two shall be as prescribed by the Ministry of Finance.

Section 15. Once the Thai Credit Guarantee Corporation repays a debt to a financial institution under section 13, the Thai Credit Guarantee Corporation shall be subrogated to the rights of a financial institution against a business operator.

The management of debt subrogated under paragraph one shall be in accordance with the criteria and conditions prescribed by notification of the Minister, whereby an asset management company under the Law on Asset Management or any other party may act in its place. In such case, the Thai Credit Guarantee Corporation shall be deemed a financial institution under the Law on Asset Management.

Profit arising from the proceedings under this Emergency Decree shall be remitted as State revenue.

MEASURES TO PROMOTE ACCEPTANCE OF THE TRANSFER OF PROPERTY
AS SECURITY FOR THE REPAYMENT OF DEBT

Section 16. The Bank of Thailand shall have the power to grant loans to financial institutions to proceed under this Chapter at a credit amount of not more than one hundred billion Baht.

The Bank of Thailand, with approval of the Council of Ministers may grant loans to financial institutions in addition to the credit amount under paragraph one, but when combined with the credit amount under Chapter I shall not exceed the credit amount under section 5, paragraph one.

Section 17. A financial institution who submits an application for a loan under this Chapter must be a financial institution which has received a transfer of property as security in accordance with the criteria and conditions prescribed by notification of the Bank of Thailand however, such criteria and conditions must not conflict with the following criteria:

(1) the business operator was already a debtor of such financial institution prior to 1st March 2021;

(2) the business operator already has property whether belonging to them or to another person as security for the repayment of debt under (1);

(3) the financial institution receives a transfer of property as security for the repayment of debt under (2) to settle an existing debt at the agreed amount;

(4) in the receipt of the transfer of property under (3) there must be a condition that the business operator or the owner of the property which constitutes security, or the other party which the business operator or the owner of the property which constitutes security so designates shall have a right to repurchase the property which constitutes security in the time period agreed which must not exceed five years as from the day the property is transferred as security, or within a longer period of time as extended by notification of the Bank of Thailand under section 19;

(5) once the business operator has transferred property under (4), the business operator has the right to hire such property from the financial institution to conduct business according to the state of the property at the agreed rate, but notification of intent to hire must be made to the financial institution within fifteen days as from the date the property is transferred;

(6) the price at which the financial institution shall re-sell to the business operator or the owner of the property constituting security under (4) shall not be higher than the price received combined with the costs of maintenance and any other costs prescribed by notification of the Bank of Thailand, deducted by the cost of hire under (5)

Section 18. Once the financial institution has entered into a contract to receive the transfer of property according to the criteria and conditions under section 17, the financial institution shall have a right to borrow from the Bank of Thailand in accordance with the criteria and conditions prescribed by notification of the Bank of Thailand.

Within two years as from the day this Emergency Decree comes into force, the financial institution shall submit an application for a loan to the Bank of Thailand under paragraph one at an amount not exceeding the price received in the transfer of such property, with the interest rate at the rate of zero point zero one percent per year. However, in the case of necessity, the Bank of Thailand may, with the approval of the Council of Ministers extend such time period for not more than one year.

Section 18. The financial institution shall repay the money loaned under this Chapter with interest to the Bank of Thailand within five years as from the day the loan is received, or at an extended time period prescribed by notification of the Bank of Thailand.

The repayment under paragraph one shall be in accordance with the criteria and condition prescribed by notification of the Bank of Thailand.

Countersigned by

General Prayut Chan-o-cha

Prime Minister