

**Unofficial Translation**  
**Prepared by the Foreign Banks' Association**  
**This translation is for the convenience of those unfamiliar with the Thai language.**  
**Please refer to the Thai text for the official version.**

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THE BANK OF THAILAND

8<sup>th</sup> August 2005

To     Manager

All commercial banks registered in Thailand  
All branches of foreign commercial banks<sup>\*</sup>

No. SorNorSor. (21) Wor. 71/2548 Re: Dispatch of the Notification of the Bank of Thailand Re: Granting Credits to or Investment in Businesses with Beneficial Interest and Granting Credits to Shareholders of Commercial Banks

The Bank of Thailand dispatches herewith the Notification Re: Granting credits to or investment in businesses with beneficial interest and granting credits to shareholders of commercial banks dated 25<sup>th</sup> July 2005 which is enforceable from 5<sup>th</sup> August 2005 and has already been published in the Royal Gazette, General Edition No. 122, Special Section 60 Ngor. dated 4<sup>th</sup> August 2005.

The essentials of this Notification are as follows:

1.     The Notification of the Bank of Thailand regarding granting credits to or investment in businesses with a beneficial interest and granting credits to shareholders by commercial bank dated 28<sup>th</sup> May 2004 shall be repealed.

2.     In this notification, the essence in the previous notification has been modified as follows:

2.1     The definitions of “related person” and “power of control” are amended by adding “unless such a person is able to prove that other person is holding more shares”.

2.2     A definition of “other parties” within the definition of supporting *business* is clarified.

2.3     ***An exception for*** granting credits or investment in any juristic person established by an governmental authority who has the power of control directly or indirectly ***is added in Section 4.3 (b), in such case***-the commercial bank ***shall receive a*** prior approval from the Bank of Thailand.

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<sup>\*</sup> Excluding International Banking Facilities

2.4 *An exception for* granting credits or investment in any businesses, which the commercial banks, any of their directors or senior management have, beneficial interest *in Section 4.3 (g)*. is modified for better clarity.

Please be informed and comply with accordingly.

Yours sincerely,

(Mr. Samart Buranawanachoke)  
Senior Director, Financial Institutions Policy Group  
For  
Governor

Attachment: The Notification of the Bank of Thailand Re: Granting Credits to or Investment in Businesses with Beneficial Interest and Granting Credits to Shareholders of Commercial Banks dated 25<sup>th</sup> July 2005

Risk *Supervision Policy* and Analysis Department, Financial Institutions  
Policy Group  
Tel. 0-2283-5304, 0-2283-5303

Note: [ ] Bank of Thailand will arrange a clarification meeting on.....at.....  
[x] There will be no clarification meeting

**NOTIFICATION OF THE BANK OF THAILAND**  
**Re: Granting Credits to or Investment in Businesses with Beneficial Interest and**  
**Granting Credits to Shareholders of Commercial Bank**

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**1. Objective of the Notification**

To establish a guideline that will not hinder the operations of the financial institutions and to protect the public interest, the Bank of Thailand has therefore amended the Notification of the Bank of Thailand.

**2. Statutory Power**

By virtue of the provisions of Articles 22(5) and 22(8) of the Commercial Banking Act B.E. 2505 as amended by the Emergency Decree issued to amend the Commercial Banking Act B.E. 2505 B.E. 2528, the Bank of Thailand issues regulations regarding granting credits to or investment in businesses having mutual interest and granting credits to shareholders as stipulated within this notification.

**3. Scope of Application**

This notification shall apply to all commercial banks in accordance with the law governing commercial banks excluding international banking facilities.

**4. Contents**

4.1 The Notification of the Bank of Thailand regarding granting credits to or investment in businesses with a beneficial interest and granting credits to shareholders by commercial bank dated **28<sup>th</sup> May 2004** shall be repealed.

4.2 In this notification,  
“limited company” means a limited company established in accordance with the Civil and Commercial Code, public company established in accordance with the law on public company, limited partnership, ordinary partnership or any other juristic person.

“related person” means a person who is related to another person in one of the following characteristics:

- (1) a spouse, father, mother, or foster parents,
- (2) children or stepchildren,
- (3) a limited company in which that person or the person in (1) or (2) has managing authority,
- (4) a limited company in which that person or the person in (1) or (2) has authority to control the majority vote in the shareholders’ meeting,
- (5) a limited company in which that person or the person in (1) or (2) has authority to control the appointment or dismissal of directors,
- (6) a subsidiary of the limited company in (3) or (4) or (5),
- (7) an affiliated company of the limited company in (3) or (4) or (5),
- (8) an incorporator or representative.

In the case where a person holds 20% or more of the total paid-up capital in a limited companies, directly or indirectly, it is to be assumed that such limited company is related to the said person **unless such a person is able to prove that other person is holding more shares.**

“parent company” means a limited company which has power of control over the business of other limited companies.

“subsidiary” means

- power of control,
- (1) a limited company over which another limited company has
  - (2) a subsidiary of the limited company in (1) at every tier.

“affiliated company” means a subsidiary sharing the same parent company with other companies.

“power of control” means

- (1) an individual holding more than 50% of the paid-up capital, directly or indirectly in a limited company, or
- (2) an individual having authority to exercise control over the majority vote at a shareholders’ meeting of a limited company, directly or indirectly or for any reason, or
- (3) an individual having authority to exercise control over the appointment or dismissal of half or more of the total number of directors in a limited company.

In the case where a person holds, directly or indirectly, 20% or more of the total paid-up capital in a limited company, it is to be assumed that the person holding the aforementioned shares as has power of control in the limited company **unless such a person is able to prove that other person is holding more shares.**

“senior management” means an executive from the level of assistant managing director upwards.

“business in which a commercial bank, its directors or senior management have a vested interest” means:

- (1) a limited company in which the commercial bank, any of its directors, senior management or any related persons of such persons hold in the aggregate more than 10% of the total paid-up capital or has power of control over such a limited company,
- (2) an affiliated company of a commercial bank.

“shareholder” means

- (1) a person holding, directly or indirectly, inclusive of shares held by related persons, in excess of 5% of the paid-up capital of a commercial bank ,
- (2) a person, inclusive of related persons, having power of control over the business of the commercial bank,
- (3) a limited company in which the persons in (1) or (2) holds more than 10% of its paid-up capital or has power of control over the business of such a limited company.

“financial business” means business relating to finance, such as commercial bank business, finance business, credit foncier business, securities business, hire-purchase business, leasing business, life insurance business, asset management business, business for the acceptance for value of transfer of claims arising from dispositions of goods.

“supporting *business*” means a limited company which:

(1) any financial institution holds more than 10% of the total paid-up capital of the limited company or several financial institutions hold in the aggregate in excess of 50% of the total paid-up capital of the limited company, and

(2) conduct back office operations or supporting operations which serve financial institutions and other parties, e.g. accounting and finance, information technology, internal audit, legal affairs, supervision of commercial banks operation, credit cards, credit information, documents handling, training center, security, etc.

**“other parties” within the definition of “supporting *business*” means:**

- (1) other financial institutions,**
- (2) parent company, subsidiaries or affiliated companies of the commercial banks, or of other financial institutions, *where such companies undertake financial business or supporting business.*,**
- (3) specialized financial institutions,**
- (4) the Bank of Thailand.**

4.3 Commercial banks shall cease granting credits to or investment in businesses in which the commercial banks, any of their directors or senior management have beneficial interest or granting credits to their shareholders or senior management in excessive amount.

Granting credits to and investment in excessive amount shall mean the following credit granting or investment:

(1) granting credits to or investment in any one or several types of businesses or persons under paragraph 1 in excess of 5 percent of tier one capital of the commercial banks, or

(2) granting credits to or investment in any one or several types of businesses or persons under paragraph 1 in excess of 50 percent of shareholder’s equity of such a limited company, or

(3) granting credits to any one or several types of businesses or persons under paragraph 1 in excess of 25 percent of total liabilities of such a limited company or person.

Credit granting specified in paragraph 1 and 2 by means of purchase or discount or rediscount of bills shall be considered granting credits to holders who sell bills and persons who must be liable for the payment of the amount in such bills under the law.

Credit granting or investment as mentioned in paragraph 1, 2 and 3 shall **not apply to** the following cases:

(A) granting credits to or investment in any governmental authorities;

(B) **granting credits to or investment in any juristic person established by a governmental authority who has the power of control directly or indirectly, in such case the commercial bank shall receive a prior approval from the Bank of Thailand;**

(C) granting credits to or investment in any limited companies in which the Ministry of Finance has power of control or hold

(D) in excess of 10 percent of the paid-up capital of such limited companies;

(E) granting credits to or investment in any mutual funds established by the governmental authorities;

(F) granting credits with full collateral in the form of deposits of financial institutions or negotiable Thai Government securities without any obligation. The securities shall be valued at the registered value of such securities or instruments;

(G) granting credits to or investment in any financial businesses and businesses supporting the financial institutions;

(H) granting credits to or investment in any businesses which have undergone debt restructuring and in which the commercial banks, any of their directors or senior management did not have beneficial interest prior to the debt restructuring. As for the **debt restructuring of the** business in which the commercial banks, any of their directors or senior management have beneficial interest prior to the debt restructuring, **or the subsequent debt restructuring in which the commercial banks, any of their director or senior management have beneficial interest due to debt restructuring, if these cases** requires the commercial banks to raise additional credits or investment in excess of the prescribed level in paragraph 2, a prior consent from Bank of Thailand must be obtained.

4.4 Commercial banks shall cease granting credits to or investment in any businesses in which the commercial banks, any of their directors or senior management have beneficial interest, or granting credits to shareholders or senior management of the commercial banks, with conditions or stipulations deviated from the norm.

The following cases of credit granting or investment shall be deemed as having conditions or stipulations deviated from the norm.

- (1) Credit granting or investment without consideration of status and operating performance of the businesses or without any analysis of the feasibility of the projects.
- (2) Credits granting or investment which offers special favour to the businesses, e.g. interest rate charged at a lower rate than the normal rate charged on customers with equal risk rate, no mortgage registered on immovable property placed as collateral, no legal enforcement made on the collateral, etc.
- (3) Credit granting with reasonable doubt that business is truly conducted.

4.5 Commercial banks shall prepare a policy on granting credits to or investment in businesses in which such commercial banks, any of their directors or senior management has beneficial interest or granting credits to shareholders or senior

management of the commercial banks, wherein the following rules must be included at the minimum:

(1) It shall be conducted in accordance with prescription of the Bank of Thailand regarding practice in the credit granting, contingent liabilities undertaking, investment in securities, and sale of assets of commercial banks.

(2) The aforementioned credit granting or investment shall be approved by the Board of Directors of the commercial bank with a unanimous resolution.

(3) Any directors or senior management having beneficial interest on the credit granting are prohibited to participate in such credit decision.

4.6 In the case where any commercial banks grant credits to or invest in business in which the commercial banks, any of their directors or senior management having beneficial interest, or grant credits to their shareholders or senior management exceeding the ratios mentioned in paragraph 2 of Section 4.3, prior to the date of enforcement of this notification and which is not credit granting with conditions or special stipulations deviated from the norm as mentioned in Section 4.4, such ratios may be maintained. However, additional credit granted or investment must not be permitted, unless:

(A) where the Bank of Thailand has granted permission or has ordered otherwise, the commercial banks shall comply accordingly,

(B) where credit agreements with credit lines exceeding the rate stipulated in paragraph 2 of the Section 4.3 was executed prior to the date of enforcement of this notification, the commercial banks shall comply with the agreement but must not increase the credit lines or extend any time frames from what were originally stipulated.

## **5. Date of Enforcement**

This Notification comes into force on the date following publication in the Royal Gazette.

Given on the **25<sup>th</sup> July 2005**

(M.R. Pridiyathorn Devakula)  
Governor  
The Bank of Thailand