

Unofficial Translation

This translation is for the convenience of those unfamiliar with the Thai language
Please refer to Thai text for the official version

Bank of Thailand

28 September 2016

To Manager

All Commercial Banks

No. RPD (23) C. 9/2559 Re: Dispatch of the Bank of Thailand Notification
Re: Regulations and Methods on Investment of Financial Institutions

Currently, the establishment of private equity trust, which is subject to approval from the Office of the Securities and Exchange Commission, becomes one of the methods for capital raising of businesses not listed on the stock exchange, especially the small and medium enterprises (SMEs) and financial technology (FinTech) firms, which play leading roles in driving the economy and promoting financial innovations.

The Bank of Thailand is aware of the importance of such capital raising method and thereby amended the guideline and methods on investment of financial institutions by extending the limit on holding or owning of trust certificates of private equity trust funds that invest in (1) SMEs; (2) FinTech firms; and (3) Venture Capital firms that are neither subsidiaries of any financial business group nor other types of private equity that invest in FinTech firms. The details of which are as prescribed in the Bank of Thailand Notification No. FPG. 14/2559 Re: Regulations and Methods on Investment of Financial Institutions dated 13 September 2016, which has been published in the Government Gazette, General Issue, Vol.133, Special Section 214 Ngor dated 26 September 2016 and has come into effect from 27 September 2016 onwards.

Please be informed and comply with accordingly.

Yours sincerely,

(Miss Yupin Ruengrit)

Director, Financial Institutions Business and Accounting
Policy Office
Regulatory Policy Department
for Governor

Enclosure: The Bank of Thailand Notification No. FPG. 14/2559 Re: Regulations and
Methods on Investment of Financial Institutions dated 13 September 2016

Regulatory Policy Department

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Remark: The Bank of Thailand will arrange a clarification meeting on ____ at ____
 No clarification meeting will be arranged

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Bank of Thailand Notification

No. FPG. 14/2559

Re: Regulations and Methods on Investment of Financial Institutions

1. Rationale

The Bank of Thailand has prescribed regulations and methods regarding investment of financial institutions in other companies in order to prevent the financial institutions to have significant interests in non-financial institution businesses or supporting businesses, while the regulations had been periodically amended to correspond to the ongoing development and conditions of the market. Those amendments are, for example, extending the scope of investment of financial institutions to cover investment in mutual funds and trust funds under the law governing trust for transactions in capital markets in order to accommodate a variety of investment methods available in the market, and amending the regulations on holding or owning of shares for foreign bank branches in Thailand by excluding the shares held or owned at the head office or other branches acquired from transactions that facilitate capital raising of Thai corporations from abroad and the development of Thai capital markets. This also promotes the capital raising of domestic large corporations from abroad, while enhancing the competitiveness of foreign commercial banks operating branches in Thailand against other foreign commercial banks.

Currently, the Office of the Securities and Exchange Commission allows the use of private equity trust funds as one of the capital raising methods for non-listed firms. Also, the Bank of Thailand realizes the importance of SMEs' accessibility to funding sources, which play a leading role in driving the economy, as well as the importance of FinTech firms for having a significant role in promoting innovations in the financial sector. As such, the Bank of Thailand amended the regulations and methods on investment of financial institutions to address the holding or owning of trust certificates of private equity trust funds that invest in (1) SMEs; (2) FinTech firms; and (3) Venture capital firms that are neither subsidiaries in the financial business group nor other types of private equity business investing in FinTech firms.

2. Statutory Power

By virtue of the power conferred by **Section 30**, Section 33 and Section 34 of the Financial Institution Business Act B.E.2551, the Bank of Thailand hereby issued the regulations and methods on investment of financial institutions as prescribed herein.

3. Notification to be Repealed/Amended

The Bank of Thailand Notification No. FPG. 1/2556 Re: Regulations and Methods on Investment of Financial Institutions dated 12 February 2013

4. Scope of Application

This Notification shall apply to all financial institutions according to the Financial Institution Business Act.

5. Contents

5.1 Definitions

“Securities” means the securities according to the Securities and Exchange Act, both listed and non-listed securities, as well as overseas securities with similar features as securities according the law governing securities and exchange.

“Shares” means common stocks and preferred stocks.

“Investment units” means the investment units according to the Securities and Exchange Act.

“Fixed income fund” means a mutual fund that, according to the investment policy, invests in or holds deposits, debt securities, or other securities or assets, or seeks to generate profits by any other means as prescribed by the Office of the Securities and Exchange Commission.

“Non-fixed income fund” means a mutual fund that, according to the investment policy, invests in or holds other securities or assets, or seeks to generate profits by any other means apart from fixed income funds as prescribed by the Office of the Securities and Exchange Commission.

“Trust fund” means a fund that consists of properties stipulated under a trust agreement and shall include properties, earnings, debts and liabilities arising from management of trust according to the trust agreement or according to the regulations prescribed under the law governing trust for transactions in capital markets.

“Trust certificate” means a trust certificate and instrument issued under the trust for transactions in capital markets, which may be entitled otherwise, according to the law governing securities and exchange. This includes only a trust certificate and instrument with similar features as an investment unit.

“Capital funds” means the total capital funds of a financial institution according to the Bank of Thailand Notifications Re: Capital Components and Capital Requirements for Locally-Registered Banks, Foreign Bank Branches, Finance Companies or Credit Foncier Companies, as the case may be.

“Related party” means a person/entity that is related to another person/entity as:

- (1) Spouse,
- (2) Child or adopted child who has not yet reached legal age,
- (3) Company over which that person/entity or a person under (1) or (2) has management authority,
- (4) Company in which that person/entity or a person under (1) or (2) has power to control the majority of votes at shareholders’ meetings,
- (5) Company in which that person/entity or a person under (1) or (2) has power to control the appointment or removal of directors,
- (6) Subsidiary of a company under (3) or (4) or (5),
- (7) Affiliated company of a company under (3) or (4) or (5),
- (8) Principal, proxies, or
- (9) Other persons/entities with characteristics as prescribed by the Bank of Thailand

If any single person/entity holds, either directly or indirectly, 20 percent or more of total paid-up shares of the company, it shall be presumed that such person/entity is a related party of the company unless proved otherwise.

“Venture Capital” shall be as defined in the Bank of Thailand Notification Re: Supervision of Business Structure and Scope of Businesses of Financial Business Groups.

“FinTech firm” means a firm that utilizes new technology or innovation by integrating it into products or services of financial business or business supporting services to financial businesses.

“Private equity trust fund” means a private equity trust fund established according to the law governing trust for transactions in capital markets.

5.2 Regulations

5.2.1 Counting of shares, investment units or trust certificates in possession or under ownership

Financial institutions shall also aggregate shares, investment units or trust certificates in the possession or under the ownership of their related parties. In case of foreign bank branches, they shall include shares, investment units or trust certificates in the possession or under the ownership of the head office or other branches as well as related parties of the head office and other branches, but only for shares, investment units or trust certificates that are registered in Thailand.

5.2.2 Shares holding or owning of financial institutions

In holding or owning shares of any company, financial institutions must comply with the following regulations.

(1) Limits on shares held or owned

Financial institutions are prohibited from holding or owning shares, directly or indirectly, in any company for more than the following percentages:

(1.1) 20 percent of total capital funds of the financial institution for shares held or owned in all companies,

(1.2) 5 percent of total capital funds of the financial institution for shares held or owned in a single company,

(1.3) 10 percent of total paid-up shares of such company.

(2) Exceptions to the calculation of the percentage

The following shares held or owned by financial institutions shall be excluded from the limits under Clause 5.2.2 (1).

(2.1) Shares held or owned in certain businesses, per official policy to facilitate the financial institution system on a whole, namely the National Credit Bureau and National ITMX Co., Ltd.

(2.2) Shares held or owned in companies that are not in the financial business group¹ by subsidiaries in the financial business group that are supervised by specific supervisory agencies or **under specific supervisory guidelines, namely securities companies, insurance companies and venture capital firms. Where, the investment must be in accordance with the guidelines prescribed by those supervisory agencies.**

(2.3) Shares held or owned by the head office or other branches of foreign bank branches acquired from transactions to facilitate capital raising of Thai corporations from abroad and to promote the development of the Thai capital markets, namely firm underwriting transactions, in both primary and secondary market, **securities lending transactions** in case where securities are given back before maturity; however, all of the following conditions must be satisfied.

(2.3.1) Foreign bank branches have neither recorded the transactions nor been transferred any risks that may affect their financial conditions and operating performance.

(2.3.2) Foreign bank branches have neither received fees or benefits from that the shares held or owned nor been affected in case of loss.

5.2.3 Holding or possession of investment units or trust certificates

In holding or owning shares of investment units or trust certificates, financial institutions must comply with the following regulations.

(1) In holding or owning investment units or trust certificates of each fund, **except private equity trust funds according to Clause 5.2.3 (2):**

Financial institutions are prohibited from holding or owning investment units or trust certificates, directly or indirectly, of each mutual fund or trust fund more than the following percentages:

(1.1) 20 percent of total paid-up investment units of the fixed income fund,

(1.2) 10 percent of total paid-up investment units of the non-fixed income fund,

¹ According to the Bank of Thailand Notification Re: **Supervision of Business Structure and Scope of Businesses of Financial Business Groups** and the Bank of Thailand Letter related to financial business group approved on a case by case basis

(1.3) 10 percent of total value of the investments of that trust fund.

(2) In holding or owning trust certificates of private equity trust funds

Financial institutions intending to hold or own trust certificates of private equity trust funds more than the percentages prescribed under Clause 5.2.3 (1.3) must comply with the following regulations:

(2.1) Scope of investment of private equity trust funds

Financial institutions must oversee the private equity trust funds to only invest in:

(2.1.1) SMEs according to the law governing promotion of SMEs,

(2.1.2) FinTech,

(2.1.3) Venture capital firms which are not in the financial business group or other types of private equity business that invest in FinTech.

(2.2) Time limit for holding or owning trust certificates of private equity trust funds

Financial institutions can hold or own trust certificates of private equity trust funds for no more than 10 years from the date that the financial institutions hold or take possession of those trust certificates, unless those trust funds stipulate in their investment policy that they will invest in the businesses according to Clauses 5.2.3 (2.1.1) or 5.2.3 (2.1.2) for no more than 10 years.

(2.3) Limit on trust certificates of private equity trust funds held or owned

(2.3.1) Limit on trust certificates of each private equity trust fund held or owned

Financial institutions must hold or own trust certificates of private equity trust funds to the extent that they have control over the investment policy of those trust funds.

(2.3.2) Limit on trust certificates of private equity trust funds investing in FinTech

Financial institutions must hold or own trust certificates of private equity trust funds investing in FinTech, both as direct investment according to Clause 5.2.3 (2.1.2) and investment through venture capital firms that are not subsidiaries of the financial business group, or other types of private equity business according to Clause 5.2.3 (2.1.3), including shares or investments in FinTech firms according to the Bank of Thailand Notification Re: Supervision of Business Structure and Scope of Businesses of Financial Business Groups as prescribed below for no more than 3 percent of total capital funds of the financial institutions:

(1) Shares held by the financial institution or its parent company in FinTech subsidiaries,

(2) Subsidiaries' investments in FinTech Venture Capital firms,

(3) Investments of subsidiaries' operating venture capital business in other business or private equity trust funds or other types of private equity business investing in FinTech.

In this regard, the percentages exclude trust certificates of private equity trust funds that invest in FinTech held or owned by subsidiaries in the financial business group subject to specific supervisory agencies, namely securities companies and insurance companies. In addition, these investments must be in accordance with the guidelines as prescribed by those supervisory agencies.

(2.4) Reporting of information related to the holding or owning of trust certificates of private equity trust funds

Financial institutions must prepare reports on the trust certificates of private equity trust funds held or owned using the data as of the end of June and December and shall retain them for an examination by the Bank of Thailand. The report should at the minimum contain details as prescribed in Attachment 1.

(2.5) Actions in the event of failure to comply with the regulations prescribed under Clauses 5.2.3 (2.1) – 5.2.3 (2.3)

Financial institutions must reduce the trust certificates held or owned in the particular private equity trust fund to no more than 10 percent of total investments in the event of failure to comply with regulations under Clauses 5.2.3 (2.1) – 5.2.3 (2.3). For examples, the trust fund has

changed the investment policy or types of businesses in which it will invest; other parties have changed their investment proportion in the trust certificates rendering the financial institution to lose control over the investment policy of the trust fund; or the private equity trust fund has invested in one particular business for more than 10 years.

If financial institutions are unable to reduce the trust certificates held or owned in the particular private equity trust fund to no more than 10 percent of total investments in the trust fund, the financial institutions shall maintain capital requirements for the trust certificates held or owned in the private equity trust fund for the amount in breach of the regulations under Clauses 5.2.3 (2.1) – 5.2.3 (2.3), by applying the highest risk weight according to the Bank of Thailand Notification Re: Regulations on Calculation of Credit Risk-Weighted Assets by the Standardized Approach (SA). If the amount in breach of the regulations under Clauses 5.2.3 (2.1) – 5.2.3 (2.3) is indeterminable, financial institutions shall maintain capital requirements for the entire amount of the trust certificates held or owned in that private equity trust fund.

(2.6) Relaxation request

In the case that a financial institution has reasonable cause or necessity to hold or own trust certificates of private equity trust funds that breaches the regulations under Clauses 5.2.3 (2.1) – 5.2.3 (2.3), the financial institutions shall submit a request for relaxation specifying reasons and necessities to the Financial Institution Applications Department, Bank of Thailand. The Bank of Thailand will complete the consideration within 45 days from the day the application and related documents are fully and correctly received. In granting relaxation, the Bank of Thailand may prescribe additional regulations to the scope of investment and calculation of capital requirements.

(2) Exceptions to the calculation of the percentages for holding or owning of investment units or trust certificates

The calculation of the percentages according to **Clauses 5.2.3 (1) and 5.2.3 (2.3.1)** shall exclude the followings:

(3.1) The holding or owning of investment units of mutual funds or trust certificates of trust funds established according to the government policy or with the intention to remedy the economic and financial institution system e.g. Vayupak Fund, Property Fund for Resolving Financial Institution System Problems (Type-2 Fund), Mutual Fund for Resolving Financial Institution System Problems (Type-3 Fund), Property and Claims Fund (Type-4 Fund) and Asian Bond Fund (ABF),

(3.2) The holding or owning of investment units or trust certificates by subsidiaries in the financial business group subject to specific supervisory agencies or specific supervisory guidelines, namely securities companies and insurance companies. Where, the investments must be in accordance with the guidelines as prescribed by those supervisory agencies.

5.2.4 Shares, investment units and trust certificates held or own by financial institutions

Shares, investment units and trust certificates held or own by financial institutions according to Clauses 5.2.2 and 5.2.3 including investments of subsidiaries that operate venture capital firms investing in other venture capital firms, private equity trust funds or other types of venture capital firms investing in FinTech according to the Bank of Thailand Notification Re: Supervision of Business Structure and Scope of Businesses of Financial Business Groups must not exceed 30 percent of total capital funds of the financial institutions.

5.2.5 Guidelines and valuation method of investments in securities

Financial institutions shall conduct valuation of investments in securities according to the law governing accounting professions.

The aforementioned valuation of investments in securities shall apply to the calculation of the single lending limit according to the Bank of Thailand Notification Re: Supervision of Large Exposures (Single Lending Limit) and the calculation of the ratio of transactions with major shareholders or associated entities according to the Bank of Thailand Notification Re: Supervision of Transactions with Major Shareholders or Associated Entities (Related Lending).

5.2.6 Regulations prescribed under this Notification shall not apply to investments within the financial business groups approved by the Bank of Thailand. In this regard, those financial business groups shall comply with **the Bank of Thailand Notification Re: Supervision of Business Structure and Scope of Businesses of Financial Business Groups**, and shall also comply with regulations and conditions or relaxation of regulations as prescribed in the Bank of Thailand Letter Re: Request for Establishment of Financial Business Group, approved on a case by case basis.

5.2.7 In event of a breach of Section 34 of the Financial Institution Business Act B.E. 2551, whereby the financial institution is able to prove that caution and prudence was exercised in examining the relevant parties; however, the breach was unbeknownst to or unpreventable by the financial institution, it shall be deemed that the financial institution did not commit the infraction of Section 34, in accordance with Section 129 of the Financial Institution Business Act B.E.2551.

6. Effective Date

This Notification shall come into effect from the day following the date of its publication in the Government Gazette.

Announced on 13th September 2016

(Mr. Veerathai Santiprabhob)
Governor
The Bank of Thailand

Regulatory Policy Department

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**Report on Trust Certificates of Private Equity Trust Funds Held or Owned
according to the Law Governing Trust for Transactions in Capital Markets**

Name of financial institution: Data as of (date):

Table 1: Report of investments of private equity trust funds

| (1) Name of investor (Name of private equity trust) | (2) Name of business invested in by private equity trust fund | (3) Industrial classification according to economic activity (ISIC – BOT) | (4) Details of business | (5) Date of investment (Date / Month / Year) | (6) Investment period (Number of years / months / days) (from the date of investment to reporting date) | (7) Amount of investment (Baht) (Number of shares x share price on date of investment) | (8) Shareholding percentage in the business (%) | (9) Exit strategy |
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Table 2: Report on investments of private equity trust funds in venture capital firms that are not subsidiaries in the financial business group, private equity trust funds, or other types of private equity businesses that invest in FinTech

| (1) Name of investor (Name of private equity trust fund) | (2) Name of venture capital business that is not a subsidiary in the financial business group / private equity trust fund / other types of private equity business | (3) Country in which (2) is incorporated | (4) Amount of investment in (2) (Baht) (Number of shares x share price on date of investment) | (5) Percentage of investment in (2) (%) | (6) Date of investment (Date / Month / Year) | (7) Investment period in (2) (Number of years / months / days) (from the date of investment to reporting date) | (8) Number of businesses invested by (2) (entities) | (9) Total value of all businesses invested by (2) (Baht) | (10) Number of FinTech firms invested by (2) (firms) | (11) Total value of all FinTech firms invested by (2) (Baht) |
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