

**Unofficial Translation**  
**by the courtesy of 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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T H E B A N K O F T H A I L A N D

3<sup>rd</sup> January 2002

To the Manager  
BIBF Offices of all banks

Ref. No: TorPorThor. SorNorSor. (11) Wor 16/2545 Re: Notification of the Bank of Thailand Regarding Rules, Procedures, and Conditions for Operating International Banking Facilities by Commercial Banks

The Bank of Thailand hereby dispatches the Notification regarding rules, procedures, and conditions for operating international banking facilities of commercial banks dated 28<sup>th</sup> December 2001 which was published in the Royal Gazette, General Edition, Vol. 119, Special Section 1 Ngor. dated 3<sup>rd</sup> January 2002.

The salient points of the Notification are as follows:

1. Reduction of the annual fee of international banking facilities from THB 500,000 per year to THB 100,000 per annum,
2. Extension of the duration for conducting business of hire purchase and leasing on properties transferred in accordance with debt restructuring an additional year, from the original deadline of 31<sup>st</sup> December 2001 to 31<sup>st</sup> December 2002.

The foregoing is for acknowledgement and compliance

Yours sincerely,  
[signed]  
(Mr. Thirachai Phuvanatanarubala)  
Assistant Governor, Financial Institutions Policy Group  
For  
Governor

Enclosure: The Notification of the Bank of Thailand Regarding Rules, Procedures and Conditions for Operating the International Banking Facilities of Commercial Banks dated 28<sup>th</sup> December 2001

Strategy and International Relations Department  
Tel. 0-2283-6875, 0-2283-6876

Note [ ] The Bank will arrange a clarification meeting on..... at .....

[ X ] There will be no clarification meeting

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**NOTIFICATION OF THE BANK OF THAILAND**  
**RE: RULES, PROCEDURES AND CONDITIONS FOR OPERATING**  
**INTERNATIONAL BANKING FACILITIES BY COMMERCIAL BANKS**

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In accordance to the Notification of the Finance Ministry regarding operation of international banking facilities of commercial banks dated 16<sup>th</sup> September 1992, *and correspondence to the local economic downturn as well as to facilitate the continuity of debt restructuring of the international banking facilities of commercial banks by permitting them to continue the business of hire purchase and leasing on properties transferred in accordance with debt restructuring*; by virtue of the provisions of Section 9 bis of the Commercial Banking Act B.E. 2505 and its amendment in the Commercial Banking Act (No. 2) B.E. 2522, the Bank of Thailand hereby prescribes and issues the following:

Article 1      The Notification of the Bank of Thailand Re: Rules, Procedures and Conditions for Operating International Banking Facilities by Commercial Banks dated 7<sup>th</sup> August 2001 shall be repealed.

Article 2      A commercial bank licensed to operate international banking facilities shall separate the activities of the international banking facilities from other commercial banking activities as if they were separate juristic entities in terms of assets, documentation, records and accounting, etc.

Article 3      A commercial bank licensed to operate international banking facilities shall separate the facilities for offshore lending from the facilities for domestic lending.

Article 4      No international banking facilities for offshore lending of any commercial bank shall transfer their funds to the international banking facilities for domestic lending of the same bank, or lend to or deposit funds with the international banking facilities for domestic lending of other commercial banks.

Article 5      No international banking facilities for off-shore lending of any commercial bank shall repay with respect to any contingent liabilities resulting from any aval, bill acceptance or debt guarantee on behalf of the international banking facilities for domestic lending of the same bank or other commercial banks.

Article 6      In operating international banking facilities,

(1) deposits and borrowed funds shall come from sources outside Thailand;

(2) repayments of deposits, borrowed funds and the payment of interest by the international banking facilities shall be done outside Thailand.

The disbursement and the repayment of borrowed funds and the payment of interest thereof by the international banking facilities for offshore lending shall be done outside Thailand. Further, if such repayment of borrowed funds and payment of interest is done by any person other than the borrower, such person shall also reside abroad.

The provisions in (1) and (2) shall not apply in cases where the Ministry of Finance, the Bank of Thailand, the Exchange Equalization Fund or other international banking facilities is the counterpart.

(3) Each disbursement from international banking facilities for domestic lending shall be in an amount not less than USD 2,000,000 or the equivalent, except for the disbursement by financial institutions, for the last disbursement, in case the where the outstanding balance after previous disbursement of not less than USD 2,000,000 or equivalent were made, or where it is a lending related to debt restructuring under the guidelines of the Bank of Thailand with a provision that such lending derive ensues the original loan agreement.

Each disbursement from international banking facilities for domestic lending by any borrower who is an exporter whose revenue from exports exceeds one-half of the total revenue during prior accounting period or a customer whose greater than one-half revenue derived from sales or services to exporter with export revenue exceed one-half of all revenue during prior accounting period, shall be not less than USD 500,000 or equivalent unless it is the final disbursement or where the outstanding balance after previous disbursements of not less than US\$ 500,000 or equivalent were made.

(4) Any transactions between international banking facilities and customer, the international banking facilities shall require from the customer the name, address and other information that are truthful. In preparation of any document or evidence relating to a customer, the international banking facilities shall prepare such document and evidence with accurate truth.

(5) Deposits for which cheques are used for withdrawals of funds shall not be permitted.

(6) Acceptances, avals or guarantees of any debt payment to other international banking facilities shall clearly specify the facilities for which these acceptances, avals or guarantees of the other international banking facilities are.

(7) Receivables from the operation of international banking facilities shall be in foreign currencies unless they are receivables from international banking facilities for offshore THB lending or are receivables from transactions under Article 15.

Article 7 International banking facilities may accept transfers of assets, debts or other business arisen from any similar operation as international banking facilities from other units of the commercial bank that owns the international banking facilities. Nonetheless, the proceedings shall be completed within 3 months from the commencement date of the international banking facilities operations unless otherwise permitted by the Bank of

Thailand. In addition, the international banking facilities shall notify the transfer as in the first clause to the relevant debtors of the businesses transferred at not less than 15 days prior to the date of acceptance of transfer.

Article 8 International banking facilities may hold following assets denominated in THB in Thailand.

(1) Assets to maintain liquidity as per Article 11 ter.

(2) Assets reserved for expenses in operating business valued not exceeding THB 200 Million in the following forms.

1) Premises for conducting business or for officers and employees including office equipment after deduction of depreciation as approved by the Bank of Thailand.

2) Thai Government securities or securities guaranteed by the Thai Government, both of principal and interest, calculated at market price or at cost, whichever is lower.

3) Non-convertible debentures, certificates of deposits or debt instruments issued by juristic persons or financial institutions established under Thai laws and offered for sale in Thailand calculated at market price or at cost, whichever is lower.

4) Cash or deposit accounts in THB at financial institutions in Thailand.

5) Advances to employees, prepaid expenses relating to business and deposits.

(3) Assets issued by financial institutions under exchange program of notes issued by finance companies or finance & securities companies whose operations have been officially suspended.

(4) Special Government bonds.

(5) Investment in common shares, preferred shares or warrants to purchase shares from juristic persons registered in Thailand obtained directly or indirectly from debt restructuring under the guidelines of the Bank of Thailand.

Article 9 International banking facilities may exchange THB into foreign currencies or vice versa in the following cases.

(1) Exchange of THB income after tax at the end of an accounting period for the purpose of remitting profits to other units of the commercial bank incorporated under foreign law that owns the international banking facilities. Such units shall also be located abroad.

(2) Exchange of THB obtained from the sale of assets under Article 8 or from the sale acquired as a result of debt settlement to be remitted for activities under Article 11.

(3) Exchange foreign currencies for the purpose of reserving for administrative expenses under Article 8 or for maintaining as liquid assets under Section 11 ter and exchange THB for the purpose of reducing the amount of liquid assets required to be maintained under Article 11 ter to be remitted for activities under Article 11. This includes entering into hedging agreements to the extent of the amount of such liquid assets.

(4) Exchange foreign currencies to comply with under exchange program of notes issued by finance companies or finance & securities companies whose operations have been officially suspended and to exchange THB to be remitted for activities under Article 11.

The exchange of THB or foreign currencies under the first paragraph shall be permitted only with an authorized bank under the exchange control laws within the scope of business other than the international banking facilities.

Article 10 Assets acquired, as a result of debt settlement, from the international banking facilities for offshore lending or from the international banking facilities for domestic lending shall be considered as assets of such international banking facilities, as the case may be. In case the assets acquired, as a result of debt settlement, are in THB, such assets shall be excluded from the THB assets, which the international banking facilities may retain under Article 8.

Assets according to the first paragraph that are in THB shall be exchanged into foreign currencies to be remitted for all types of activities which the international banking facilities is permitted to undertake in accordance with Article 11.

Article 11 Income after tax at the end of an accounting period or foreign currencies exchanged from THB under Article 9(2) shall be treated as funds from abroad which can be used in any transaction the international banking facilities is permitted to undertake in accordance to the Notification of the Ministry of Finance regarding the international banking facilities by commercial banks and this Notification. However, this excludes offshore THB lending of international banking facilities.

Article 12 In remitting of income after tax at the end of an accounting period to the commercial bank that owns the international banking facilities, the international banking facilities shall notify the Bank of Thailand of such remittance within 30 days from the remittance date.

Article 13 International banking facilities for offshore lending may open non-interest-bearing accounts with other units, in Thailand, of the commercial bank, which owns the international banking facilities. It is to be lieu of opening nostro accounts with commercial bank directly, provided that at the close of day such deposit accounts shall not show any outstanding balance.

Article 14 International banking facilities may invest in common shares, preferred shares or warrants to purchase shares from juristic persons registered abroad, which obtained directly or indirectly from debt restructuring under the guidelines of the Bank of Thailand.

Article 15 In addition to undertaking business specified in the Notification of the Ministry of Finance regarding international banking facilities by commercial banks, the international banking facilities may undertake any business which is connected with or incidental to its activities as follows:

(1) Providing news service and information on financial and economic matters in general.

(2) Providing service of preparing or analysing investment projects.

(3) Act as consultants for acquisitions, mergers or amalgamations of businesses.

(4) Acting as financial advisers.

(5) Arranging or underwriting debt instruments denominated in foreign currencies for sale abroad. However, in cases where the issuer of the instruments is in the country, international banking facilities of commercial banks incorporated under foreign law shall undertake such activities jointly with the international banking facilities of commercial banks incorporated under Thai law.

(6) Acquiring or accepting transfer of foreign currency debts shall be subject to the following stipulations:

1) BIBF activities may acquire or accept the transfer of foreign currency debts from local financial institutions, financial institutions incorporated abroad or the Assets Management Corporation, provided that each disbursement of the domestic loans acquired or transferred from borrower shall be not less than USD 2,000,000 or equivalent unless it is a disbursement by a financial institution, or a final disbursement, or where outstanding balance after previous disbursements of not less than USD 2,000,000 or equivalent were made.

Each disbursement from international banking facilities for domestic debts acquired or transferred from any borrower who is an exporter whose revenue from exports exceeds one-half of the total revenue during prior accounting period or a customer whose greater than one-half revenue derived from sales or services to exporter with export revenue exceed one-half of all revenue during prior accounting period, shall be not less than USD 500,000 or equivalent unless it is the final disbursement or where the outstanding balance after previous disbursements of not less than US\$ 500,000 or equivalent were made.

2) In acquiring or accepting transfer of any debt, the acquisition be final based on the existing status of the debt with regard to both the classification and the period of overdue interest or principal.

3) In acquiring or accepting transfer of any debt, international banking facilities shall strictly comply with laws relating to lending.

(7) Guarantee on any lending from Thai commercial banks or from abroad denominated in foreign currencies to local customers shall have a minimum guarantee limit

of not less than USD 2,000,000 or equivalent. Exception shall be where the domestic customer is an exporter whose revenue from exports exceeds one-half of the total revenue in the prior accounting period or a customer whose revenue exceeds one-half of income derived from sales or services to the exports whose export revenue is in excess of one-half of the total revenue in the previous accounting period. Then the minimum limit of the guarantee shall not be less than USD 500,000 or equivalent.

(8) In discounting any foreign currency denominated instrument relating to exports specifically where the seller of goods is the exporter and is domiciled or registered in Thailand is permitted as follow:

1) Discounting of bill of exchange relating to exports either with a letter of credit (Export Bill under L/C) or without any letter of credit (Export Bill under D/A or D/P)

2) Discounting of promissory note arising from exports and issued under any one of the following documents:

2.1) Letter of credit in foreign currency

2.2) Purchase/Sale contract or purchase order

2.3) Warehouse receipt, goods warrant or document of pledge over goods of a commercial bank evidencing that the exporter has goods ready for export in safe custody of the warehouse or storage place deemed reliable by the commercial bank.

2.4) Bill of exchange ensuing from the exporter having effected shipment of goods.

(9) Issuing letters of credit denominated in foreign currencies specifically where the buyer of the goods is domiciled or registered in Thailand with an amount of not less than USD 2,000,000 or equivalent. Exception shall be where the buyer is an importer whose production is for export and whose export income is more than half of total income of the previous accounting period or where the buyer is a supplier with more than half of total income derived from sales or services to any exporter whose export income is more than half of the total income of the previous accounting period. Then the amount shall not be less than USD 500,000 or equivalent.

(10) Lending in foreign currencies against trust receipt to any buyer of goods domiciled or registered in Thailand with or without a letter of credit. Such lending shall be in an amount not less than US\$ 2 Million or equivalent. Exception shall be where the buyer is an importer whose production is for export and whose export income is more than half of total income of the previous accounting period or where the buyer is a supplier with more than half of total income derived from sales or services to any exporter whose export income is more than half of the total income of the previous accounting period. Then the amount shall not be less than USD 500,000 or equivalent.

(11) Risk guarantee against interest rate fluctuation with financial institutions for their own borrowing and lending and risk guarantee from interest rate fluctuation for their lending to overseas customers, other international banking facilities, the Ministry of Finance, the Bank of Thailand, or domestic customers whom they have granted foreign currency loans.

(12) Hire-purchase or leasing under the following conditions:

1) In this regulation,

“Lessee” means a hire-purchaser or a lessee

“Installment” means an amount payable to international banking facilities by lessee at a specific interval comprised of interest from the lease and the periodic payment in cash according to the conditions of the lease agreement

“Rental Payment” means payment under the leasing contract

“Debt Restructuring” means a debt restructuring under the guidelines of the Bank of Thailand

“Hire-purchase” means a hire-purchase in accordance with the Civil and Commercial Code

“Leasing” means a lease of any asset for use by the Lessee in industrial, agricultural, commercial business or other services in normal course of business where the lessee is obligated to maintain and repair the leased asset. Additionally, the Lessee cannot terminate the agreement prior to the expiry date, but it is entitled to continue hire-purchase or leasing of such asset at the agreed price or the Rental Payment.

2) International banking facilities may grant hire-purchase or leasing of any asset transferred from its debtor or guarantor for repayment under Debt Restructuring agreement.

3) For termination of hire-purchase agreement or leasing agreement, when the Lessee fails to make two consecutive Installment payments or Rental Payments or when the Lessee breaches any material provision of the agreement, the international banking facilities shall give a prior termination notice specifying the reason thereof to the Lessee no less than 30 days from the date of receipt of the said notice by the Lessee. The termination notice shall also specify that if the Lessee makes payment on the outstanding Installments or remedies the said breaches, as the case may be, within 30 days from the date of receipt of the said notice, such termination shall be revoked.

In case of a default of two consecutive Installments or breach of any material provision of the agreement, if the Lessee makes payment of the accrued Installments or remedies the said breaches within 30 days from the date of receipt of the said notice, such termination shall be revoked.

4) International banking facilities shall not engage in additional hire-purchase or leasing business after **31<sup>st</sup> December 2002**.

International banking facilities shall separate the accounts of the business under this Article 15 distinctively from other accounts.

Article 16 International banking facilities shall be conducted at only one location and on the same premises used for the business of the commercial banking that owns it.

Article 17 International banking facilities shall pay an annual fee of THB **100,000**.

Payment of the fee under the first paragraph shall be made at the Bank of Thailand within the first 7 banking days of each year except for the first year when payment shall be made upon receipt of the license.

Article 18      This Notification comes into force *as from 1<sup>st</sup> January 2002* onwards.

Given on the 28<sup>th</sup> December 2001  
[signed]  
(M.R. Pridiyathorn Devakula)  
Governor  
Bank of Thailand