

Unofficial Translation

with 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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**BANK OF THAILAND**

6 October 2004

To Manager

All Commercial Banks\*

No. SorNorSor(12) Wor.26/2547 Re: Dispatch of the Notification of the Bank of  
Thailand Re: Permission for Commercial Banks to Conduct Factoring Business

**1. Objective of the Circulation Letter**

To dispatch the Notification of the Bank of Thailand Re: Permission for Commercial  
Banks to Conduct Factoring Business

**2. Royal Gazette Issue**

General Section, No. 121, Special Edition 108 Ngor, on 29<sup>th</sup> September 2004

**3. Scope of Application**

All commercial banks according to the Commercial Banking Act, except the  
international banking facilities

**4. Essence of the Notification of the Bank of Thailand**

By virtue of Article 9 bis of the Commercial Banking Act B.E. 2505, as amended by  
the Commercial Banking Act (No.2) B.E. 2522, the Bank of Thailand hereby permits qualified  
commercial banks with readiness in personnel and operating system to conduct factoring business  
in accordance with principles and rules specified in the Notification.

**5. Effective Date**

This Notification shall be in effect from 30 September 2004 onwards.

With regards

(Mrs. Tongurai Limpiti)

Senior Director, Financial Institutions Policy Group  
for Governor

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\* Excluding BIBF

Enclosure : Notification of the Bank of Thailand Re: Permission for Commercial Banks to  
Conduct Factoring Business dated 27 September 2004

Financial Institutions Strategy Department

Tel: 0-2283-5876, 0-2283-5836

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

[X] No clarification meeting will be arranged

## **Notification of the Bank of Thailand**

### **Re: Permission for Commercial Banks to Conduct Factoring Business**

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#### **1. Objective of the Notification**

To encourage commercial banks to offer more financial services and to be a source of working capital to facilitate liquidity of small and medium enterprises (SMEs), the Bank of Thailand thereby permits commercial banks to conduct factoring business.

#### **2. Statutory Power**

By virtue of Article 9 bis of the Commercial Banking Act B.E. 2505, as amended by the Commercial Banking Act (No.2) B.E. 2522, the Bank of Thailand hereby permits commercial banks to conduct factoring business according to the rules specified in this Notification.

#### **3. Scope of Application**

This Notification is applicable for all commercial banks according to the Commercial Banking Act, except the international banking facilities.

#### **4. Content**

##### **4.1 Principle**

4.1.1 The Bank of Thailand permits commercial banks to conduct factoring business in accordance with the policy to encourage commercial banks to offer more financial services under the Financial Sector Master Plan. The Bank of Thailand has the intention for commercial banks to have business undertakings that are truly in accordance with the nature of transactions and to have appropriate risk management system.

4.1.2 Since credit granting in factoring business is short term credit for working capital of entrepreneurs, commercial banks must have in place the systems of credit analysis, risk management, debt collection, and data collection and analysis, similar to what employed for banks' credit granting business.

In addition, commercial banks must primarily consider the quality of clients and debtors, rather than concentrating only on increasing quantity of credit volume since these factors have direct impacts on the condition and operating performance of the bank.

4.1.3 The Bank of Thailand's prudential rules will aim at commercial banks having appropriate risk management system, for which, commercial banks must have good knowledge and understanding of the nature of transactions, clients' and debtors' business, and risks

associated. The commercial banks must have a policy and procedure for business undertakings, including clear and appropriate operating systems and procedures to manage the associated risks in order to support business undertakings and must have good internal control system such as having appropriate procedures and method in assessing credit quality of the clients and debtors.

## **4.2 Rules and Conditions**

### 4.2.1 In this Notification

“commercial bank” means a commercial bank as specified under the Law on Commercial Banking

“factoring business” means business under which a client agrees to transfer its trade receivables to a factor whereby that factor agrees to provide credits, which includes undertaking one of the following transactions:

- (1) account receivable management
- (2) collection of trade receivables
- (3) take responsibility for debt in case of past due debtors.

A factor in paragraph 1 shall include other factors that receive transfers or agree to receive transfers of trade receivables from the factor in paragraph 1 and agree to undertake the transactions in (1) (2) or (3) in paragraph 1 as well.

“factoring contract” means a contract between a commercial bank and a client, in which a client agrees to transfer and a commercial bank agrees to receive transfers of trade receivables that the client has the right of claim over a debtor for the purpose of factoring business, including the case where a commercial bank receives transfers or agrees to receive transfers of trade receivables from other factors as well.

“with-recourse factoring contract” means a factoring contract that a commercial bank has the right to claim or the right to recourse on clients to pay for debtors’ debt in case of past due debtors.

“without-recourse factoring contract” means a factoring contract that a commercial bank does not have the right to claim or the right to recourse on clients to pay for debtors’ debt in case of past due debtors.

“client” means a person who sells goods or services to debtors and has the right to receive payment of trade receivables from debtors.

“debtor” means a person who purchases goods or services from clients and has an obligation to pay trade receivables to clients, for which such right to receive payment of trade receivables is then transferred from clients to a commercial bank under a factoring contract.

“trade receivable” means the amount of money for goods or services that a debtor must pay a client due to selling of goods or services.

“account receivable management” means filing of and/ or reporting of account receivable that is transferred to a commercial bank in accordance with a factoring contract, verifying credit data and debtor status, monitoring the turnover and the outstanding balance of debtors.

“the Minister” means the Minister of Finance

4.2.2 The Bank of Thailand permits commercial banks to conduct factoring business. The commercial banks who wish to conduct factoring business must have the qualification and comply with the rules specified as follows:

1) have good financial condition and operating performance, be able to set provision and maintain the capital adequacy ratio of no less than the requirement of the Bank of Thailand, and be able to maintain any other financial ratios that the Bank of Thailand specifically stipulates.

2) have sufficient operating system, data system, and personnel to efficiently support transactions. Such personnel must have adequate knowledge, understanding, expertise, and experience in factoring business.

3) cooperate with the authorities’ policy regarding the implementation of the Financial Sector Master Plan, Commercial banks that have more than 1 form of deposit taking entities in the same business group must submit plans for acquisition, merger, sale of business, return of a license, and transfer of assets and liabilities from other financial institutions in order to comply with the One Presence policy as specified by the Bank of Thailand.

Commercial banks who wish to conduct factoring business must submit a letter of intent approved by the board of director of the commercial banks to show the intention to conduct such business to the Bank of Thailand. Commercial banks who have to comply with the One Presence Policy of the Financial Sector Master Plan must certify in the letter of intent that they will comply with the plan, which will be approved by the Minister, to acquire, merge, sell a business, return of a license, transfer of assets and liabilities from other financial institutions in compliance with the One Presence policy, as well as any other conditions that the Minister may impose in the approval.

In this respect, the commercial banks shall submit the letter of intent to Supervision Group, the Bank of Thailand. Once the commercial banks have submitted the letter of intent, the permission shall be in effect after 30 days from the submission date, except that the Bank of Thailand has any objection or request, in writing, for clarification. In the case where the Bank of

Thailand has any objection or request for clarification, the commercial banks shall be permitted to conduct the business when it is approved by the Bank of Thailand.

4.2.3 Commercial banks wishing to conduct factoring business must have risk management system that is effective and appropriate to the business as follows:

(1) bank's board of directors or management committee with related authority and responsibility (in case of a branch of a foreign bank) must have knowledge and understanding of the business nature and risks associated.

(2) bank's board of directors or management committee with related authority and responsibility (in case of a branch of a foreign bank) must arrange to have an operating system in a clearly written manner and must specify, approve, or give consent to the policy, strategy, operating procedures, rules and procedures of risk management, internal control system, management system, and accounting system.

(3) the operating system regarding rules and procedures of risk management to be used for factoring business must at least include the following topics:

(a) a system to analyze clients' and debtors' credit especially in the case of without-recourse factoring business that requires adequate analysis of credit information of every client and debtor to be transferred as well as a system to set client's line of credit by taking into consideration the rules or guidelines on credit granting as specified by the Bank of Thailand, for example, specification on necessary credit documentation such as invoice and other trading documents.

(b) a tracking system for receivables received due to a factoring contract, where such system will assist a commercial bank in knowing the data of clients and debtors such as true existence of trade receivables received, payment quality of debtors, quality of goods delivered, and compliance with trade agreement.

(c) risk management through a use of tools such as insurance or advance insurance deposit in accordance with clients' payment quality and types of transactions, as well as diversification of risk from concentration of clients in each industry.

(d) data collection and reporting system for monitoring, analysis, and performance evaluation so as to be inspected by the Bank of Thailand.

4.2.4 In order to disclose information and promote clients' understanding of transactions, commercial banks must prepare written factoring contracts and give the client 1 copy of such contract. The contract must at least specify the following detail:

(1) the amount of credit line

(2) the right to claim on receivables to be received or the selection method of such right to claim

(3) the clear calculation method of interest rates, returns and benefits that the commercial banks will request from a client. The details of such method must be attached with the contract given to the client

(4) expenses and fines in various cases

(5) duration of contract

The commercial banks may prepare the detail of (3) and (4) as attachments that forms a part of the contract.

4.2.5 In modification, addition, and change of the rate of interests, returns, benefits that commercial banks request from clients, expenses or fines according to factoring contracts, commercial banks must inform the clients in writing at least 14 days before such modification, addition or change. Otherwise, commercial banks can only request for rate of interests, returns, benefits, expenses or fines from the clients according to the amount specified in the contract.

4.2.6 Commercial banks must strictly comply with associated accounting standards, laws, and regulations.

4.2.7 In calculating the maximum amount that a commercial bank can engage in factoring transactions with each individual person, a commercial bank must count the exposure to any person arising from granting of credits, investment in business, and incurring of contingent liabilities to be included with the exposure from factoring transactions, hire purchase, leasing, private repurchase agreement, and securities borrowing and lending of that individual person. The total exposure must not exceed 25 percent of tier 1 capital of a commercial bank at the end of any given day.

Regarding the aforementioned calculation of the exposure to each individual person, a commercial bank must follow the guidelines below:

(1) in case of with-recourse factoring contract, the calculation must include the clients who transfer the right to receive debt payment to the commercial bank

(2) in case of without-recourse factoring contract, the calculation must include such debtors.

4.2.8 In undertaking factoring business, commercial banks must comply with the rules on the classification and provisioning of assets, the maintenance of capital adequacy ratio, the review of credit extensions and liabilities and related report forms, and the accounting procedures for the recognition of interest income as specified by the Bank of Thailand.

4.2.9 The Bank of Thailand has the authority to stop or revoke the permission to conduct the factoring business in the following cases:

(1) a commercial bank violates or does not comply with the rules and conditions as specified above.

(2) a commercial bank does not act in accordance with the plan, as approved by the Minister, to acquire, merge, sell a business, return of a license, transfer of assets and liabilities from other financial institutions to be in line with the One Presence policy.

(3) a commercial bank does not comply with the conditions stipulated by the Minister in approving the plan to acquire, merge, sell a business, return of a license, transfer of assets and liabilities from other financial institutions to be in line with the One Presence policy.

(4) other cases that the Bank of Thailand considers public security or interest are affected.

#### **5. Effective Date**

This notification shall come into effect on the day after the announcement in the Royal Gazette onwards.

Given on 27<sup>th</sup> September 2004

(M.R. Pridiyathorn Devakula)

Governor

Bank of Thailand