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Notification of the Bank of Thailand

No. FPG. 8/2559

Re: Permission for Commercial Banks to Undertake Private Repurchase Transactions
(Private Repo)

1. Rationale

The Ministry of Finance has continuously developed the domestic bond market in order to serve as an alternative source of fund for businesses other than loans from financial institutions and to provide a channel for financial institutions in managing their liquidity more efficiently. An important measure to increase liquidity to Thai bond market is to encourage commercial banks to undertake private repurchase transactions (Private Repo), which are collateralized interbank lending or borrowing transactions. This will also benefit the interest rates in the repurchase market in causing them to better reflect market conditions. Thus, the Bank of Thailand has allowed commercial banks to undertake Private Repo transactions since Year 2000 and has **gradually expanded the types of counterparties and collateralized securities** in line with the relaxation of exchange control regulations of the Bank of Thailand that allows commercial banks to undertake transactions with counterparties not having residence in Thailand (Non-resident) or transactions denominated in foreign currency. The Bank of Thailand also allows commercial banks to expand the scope of transactions when it deems necessary for commercial banks operation.

Due to financial market development and the increasing need of liquidity fund flow of commercial banks, under this revision, the Bank of Thailand widens the scope of business operations for commercial banks by allowing those wishing to undertake private repurchase transactions outside the scope of the Notification to be able to apply for permission from the Bank of Thailand on a case by case basis where the Bank of Thailand may prescribe additional rules and conditions for permitting the undertaking of the additional transactions.

2. Statutory Power

By virtue of Section 36 of the Financial Institutions Business Act B.E. 2551 (2008), the Bank of Thailand hereby allows commercial banks to undertake private repurchase transactions (Private Repo) as prescribed under this Notification.

3. Scope of Application

This Notification shall apply to all commercial banks according to the law on financial Institutions business.

4. Repealed/Amended Notification and Circulars

4.1 The Bank of Thailand Notification No. FPG. 19/2552 Re: Permission for Commercial Banks to Undertake Private Repurchase Transactions (Private Repo) dated 26 October 2009.

5. Content

5.1 Definition

In this Notification,

“Commercial bank” means commercial bank as specified under Section 4 of Financial Institution Business Act B.E. 2551 (2008).

“Retail bank” means retail bank as specified under Section 4 of Financial Institution Business Act B.E. 2551 (2008).

“Private Repo” means securities trading with an agreement to sell or purchase back for the purpose of lending or borrowing, as the case may be, with collateralized securities. Private Repo is classified as a credit-like transaction under Section 4 of Financial Institution Business Act B.E. 2551 (2008).

“Fund” means a fund established under the Law on the Securities and Exchange.

“Trust fund” means a trust fund established under the Law on the Trust for Transactions in the Capital Markets.

5.2 Regulation on private repurchase transactions for commercial banks

5.2.1 Scope of transactions and counterparties for Private Repo transactions

(1) Lending

(1.1) Commercial banks shall be able to lend Baht using Baht denominated debt securities through Private Repo to any individual person or juristic person having residence in Thailand.

(1.2) Commercial banks shall be able to lend foreign currency using foreign currency denominated debt securities through Private Repo to financial institutions in Thailand authorized to conduct business relating to foreign means of payment according to the Exchange Control Act B.E. 2485 (1942) and as amended, institutional investors prescribed under the Notice of the Competent Officer on Rules and Practices regarding investment in securities issued abroad and derivatives and as amended, and individuals or juristic persons not having residence in Thailand (Non-residents).

(1.3) Commercial banks shall be able to lend Baht using foreign currency denominated debt securities or lend foreign currency using Baht denominated debt securities through Private Repo to financial institutions in Thailand authorized to conduct business relating to foreign means of payment according to the Exchange Control Act B.E. 2485 (1942) and as amended.

(2) Borrowing

(2.1) Commercial banks shall be able to borrow Baht using Baht denominated debt securities through Private Repo from any juristic person having residence in Thailand, fund, **trust fund**, international financial institution that issues Baht denominated debt securities as stipulated by the Ministry of Finance, and foreign government or foreign government-owned financial institution that issues Baht denominated debt securities as stipulated by the Ministry of Finance.

(2.2) Commercial banks shall be able to borrow foreign currency using foreign currency denominated debt securities through Private Repo from financial institutions in Thailand authorized to conduct business relating to foreign means of payment according to the Exchange Control Act B.E. 2485 (1942) and as amended, institutional investors prescribed under the Notice of the Competent Officer on Rules and Practices regarding investment in securities issued abroad and derivatives and as amended, and non-resident individuals or juristic persons.

(2.3) Commercial banks shall be able borrow Baht using foreign currency denominated debt securities or borrow foreign currency using Baht denominated debt securities through Private Repo from financial institutions in Thailand authorized to conduct business relating to foreign means of payment according to the Exchange Control Act B.E. 2485 (1942).

In lending and borrowing transactions with Non-resident individuals or juristic persons, commercial banks shall comply with relevant regulations on measures to prevent Thai baht speculation.

5.2.2 Securities eligible for Private Repo transactions

(1) Commercial banks shall be able to use the following Baht denominated debt securities for undertaking Private Repo transactions.

(1.1) Public sector debt securities with low risk and having referable market price for transparency which are:

(1.1.1) Treasury bills and government bonds,

(1.1.2) Bank of Thailand bonds,

(1.1.3) State-owned enterprise bonds and government-guaranteed debentures,

(1.1.4) Other bonds or securities issued by state-owned enterprises or Specialized Financial Institutions, which should be prior approved by the Bank of Thailand.

(1.2) Baht-denominated debt securities issued in Thailand which are:

(1.2.1) Baht-denominated debt securities issued by international financial institutions as stipulated by the Ministry of Finance,

(1.2.2) Baht-denominated debt securities issued by foreign governments or foreign government-owned financial institutions as stipulated by the Ministry of Finance,

(1.2.3) Baht-denominated debt securities whose credit rating is one level above the investment grade; namely, higher than BBB or equivalent, and rated by a reputable credit rating agency approved by the Office of the Securities and Exchange Commission.

(2) Commercial banks shall be able to use the following foreign currency denominated debt securities for undertaking Private Repo.

(2.1) Foreign currency-denominated bonds issued by Thai government

(2.2) Foreign currency-denominated bonds issued by foreign governments

(2.3) Foreign currency-denominated debt securities issued by locally registered juristic persons or foreign registered juristic persons whose credit rating is one level above the investment grade; namely, higher than BBB or equivalent, as rated by a reputable credit rating agency approved by the Office of the Securities and Exchange Commission or other credit rating agency internationally recognized such as Fitch Ratings, Standard & Poor's and Moody's

(2.4) Securities issued abroad as prescribed under the Notice of the Competent Officer on Rules and Practices regarding investment in securities issued abroad and derivatives and as amended.

5.2.3 Legal contract

Commercial banks shall use the contract approved by the Securities and Exchange Commission. Annex is permitted but it must not create more risk to the counterparties.

5.3 **Supervisory guideline for Private Repo**

5.3.1 Internal control system

Commercial banks shall establish an internal control system with the following requirements, at the minimum.

- (1) Policy and procedures for undertaking **Private Repo**
- (2) Policy on credit analysis and credit limits for counterparties
- (3) Risk management policy and procedures and internal control system, such as:

(3.1) Guidelines on credit analysis and credit limits for counterparties prior to undertaking transactions and credit review process subsequent to the transactions, which are in line with general practices when granting credit or lending,

(3.2) Risk management,

(3.3) Operations manuals,

(3.4) Separation of duties of the dealer and back office, particularly, separation of counterparties credit review function and valuation of securities or collateral function (Mark to Market) from dealer function,

(3.5) Establishment of registration control for securities or collaterals received from Private Repo.

5.3.2 Capital requirement

Commercial banks shall comply with the Bank of Thailand Notification Regarding Components of Capital and Notification Regarding Capital Requirements for Locally Registered Commercial Banks or for Foreign Bank Branches, as the case may be, and the Bank of Thailand Notification Regarding Calculation of Credit Risk-Weighted Assets for Commercial Banks.

5.3.3 Liquidity requirement

Commercial banks shall comply with the Bank of Thailand Notification Regarding Liquidity Coverage Ratio (LCR) standard

Commercial bank which is the lender (securities buyer) and a transferee of ownership of the securities at the end of the day shall be able to count such security, as prescribed under the Notification mentioned above, as liquid asset from the date that the ownership is transferred (settlement date); whereas, a borrower (securities seller), which is the transferor must not count such securities as liquid asset on the same day. Upon the maturity date of Private Repo agreement, the lender **must not count** such securities as liquid asset and the borrower having received the securities shall then count such securities as liquid asset on the same day.

5.3.4 Large exposure calculation

Commercial banks shall aggregate Private Repo with other normal transactions undertaken with a borrower, in accordance with Section 50 and Section 52 of the Financial Institutions Business Act B.E. 2551 (2008) as follows:

(1) Lender (securities buyer) shall include such lending amount in the calculation of large exposure as prescribed under **the Bank of Thailand Notification Regarding Supervisory Guidelines of Large Exposures (Single Lending Limit)**.

(2) Borrower (securities seller) shall include the value of securities transferred to the lender that exceeds borrowing amount in the calculation of large exposure as prescribed under **the Bank of Thailand Notification Regarding Regulation of Large Exposures (Single Lending Limit)**.

(3) In case where, a commercial bank which is the borrower (securities seller) has duly complied with Clause **5.3.4 (2)** but subsequently the value of securities transferred as collateral has changed causing the ratio under Clause **5.3.4 (2)** to exceed the limit, the commercial bank shall not be allowed to undertake additional Private Repo with such counterparty. However, the existing Private Repo are still binding as agreed under the contracts.

(4) In calculating the ratios under Clauses **5.3.4 (1)** and **5.3.4 (2)** during the transaction, the securities used as collateral must be Mark to Market. In this regard, commercial banks shall comply with the following requirements.

(4.1) If the value of collateralized securities declines and a commercial bank who is the borrower subjected to a margin call in cash, the borrowing amount shall be reduced in an amount equal to the additional margin call. However, if a commercial bank is requested to deliver securities to meet the margin call, the value of collateralized securities shall be adjusted by including the value of securities transferred to cover a margin call.

(4.2) If the value of collateralized securities increases and commercial bank who is the borrower receives margin in cash, the borrowing amount shall be increased in an amount equal to the margin received. However, if a commercial bank receives the margin in securities, the value of collateralized securities shall be decreased in an amount equal to the value of returned securities.

However, if there is a change in exposure resulting from the change in mark to market price of the securities prior to the additional margin or collateral call, commercial banks shall use the exposure amount calculated at the start of the contract in the calculation of large exposure ratios (Total Exposure) as prescribed under Clauses **5.3.4 (1)** and **5.3.4 (2)**. In other words, although the exposure amount may change constantly due to the mark to market securities value, such change in exposure amount shall not be reflected in the large exposure calculation. Instead, the value of the exposure calculated at the start of the contract will be used in the calculation.

5.3.5 Transactions undertaken with major shareholders or businesses with beneficial interest

Commercial banks shall comply with the Bank of Thailand Notification Regarding Regulation on Undertaking Transactions with Major Shareholders or Businesses with Beneficial Interest (Related Lending).

5.3.6 Accounting record

Commercial banks shall account for the transaction in accordance with the **Financial Reporting Standards or Guidelines** stipulated by the **Federation of Accounting Professions** as the case may be. In addition, commercial banks shall establish registration records of Private Repo to monitor and control the correctness of transactions. At the minimum, the register should include contract date, maturity date, settlement date, transaction amount, margin deposited, and other information related to securities such as security reference number, issuer name, and outstanding amount, etc.

5.3.7 Reporting procedure

Reporting of Private Repo transactions in relevant reporting forms shall be presented on financial statement under the following items, granting credits, borrowing, interbank and money market transactions, **claims on securities, liabilities to deliver securities**, other assets or other liabilities, as the case may be, until the relevant reporting forms have been amended and enforcement announced by the Bank of Thailand.

5.3.8 Suspension and revocation of transactions

The Bank of Thailand has the authority to revoke or suspend the permission to engage in Private Repo in the following events.

(1) A commercial bank violates or fails to comply with the rules, regulations and conditions prescribed by the Bank of Thailand.

(2) Other events that the Bank of Thailand deems to affect the security and welfare of the public.

5.4 **Guideline on Private Repo for retail banks**

In undertaking Private Repo, retail banks shall comply with the requirements under Clauses 5.2 – 5.3. Except for the scope of **Private Repo** transactions and the calculation of large exposure, retail banks shall comply with the following requirements.

5.4.1 Scope of Private Repo

(1) Lending

Retail banks shall be able to lend Baht using Baht denominated debt securities through Private Repo to counterparties within the scope prescribed in the Bank of Thailand Notification Regarding the Scope of Business and Scope of Transactions for Retail Banks.

(2) Borrowing

Retail banks shall be able to borrow Baht using Baht denominated debt securities through Private Repo from any juristic person having residence in Thailand, fund, **trust fund**, international financial institution that issues Baht denominated debt securities as stipulated by the Ministry of Finance, and foreign government or foreign government-owned financial institution that issues Baht denominated debt securities as stipulated by the Ministry of Finance.

5.4.2 Large exposure calculation

Retail banks shall comply with the requirements under Clause 5.3.4 in calculating of the maximum amount that a retail bank can undertake Private Repo with any person. In this regard, the aggregate of the retail bank's credit granted, investments, contingent liabilities or other credit-like transactions for any single person or project at the end of the day must not exceed the limit permitted to the retail bank under the Bank of Thailand Notification Regarding Regulation of Large Exposures (Single Lending Limit).

5.5 Private Repo requiring prior permission

Commercial banks intending to undertake Private Repo beyond those prescribed within this Notification shall submit an application specifying reasons and relevant information to the Financial Institution Applications Department, Financial Institutions Policy Group, Bank of Thailand on a case by case basis. The Bank of Thailand will finalize the consideration within 30 business days upon receiving the application together with the complete relevant documents.

In granting the permission, the Bank of Thailand may set additional guideline or conditions for undertaking Private Repo.

6. Effective Date

This Notification shall come into force as from the day following the dates of its publication in the Government Gazette.

Announced on 6th July 2016

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BOT Notification No 8-2559 (1 September 2017)-check