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The Foreign Banks' Association

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THE BANK OF THAILAND

7 December 2005

To Managers

All Foreign Bank Branches^{*}

No.: PhorNorSor. (21) Wor. 23/2548 Re: Stipulation on Maintenance of Capital Funds by Branches of Foreign Banks

The Bank of Thailand (BOT) hereby submits the Notification of the Bank of Thailand Re: Stipulation on Maintenance of Capital Funds by Branches of Foreign Banks, which has already been published in the Government Gazette, General Issue, Vol. 122, Special Section 136 Ngor, dated 25 November 2005, and become effective from 25 November 2005 onwards.

The substance of such Notification is as follows:

1. To revoke the Notification of the Bank Thailand Re: Stipulation on Maintenance of Capital Funds by Branches of Foreign Banks dated 21 July 2004.

2. To add risk weight for mutual fund investment by allowing commercial banks to select risk weight computation between 2 methods as follows:

Method 1 To compute risk weight in accordance with type, proportion and amount of the assets in which the investment fund actually invests (Look-through) whereby the foreign bank branch must be able to calculate the net value of the said assets in each day, or

Method 2 To use risk weight of 1.0.

In reporting Mutual Fund Investment on data set of Risk Weighted Asset Items, foreign bank branches calculating risk weight by Method 1 shall report values in accordance with types, proportions and codes of assets of which the fund is holding. Foreign bank branches using Method 2 shall report in Item 4.29 under code 900092 Investment in Private Sector Securities.

Please be informed and comply accordingly.

Yours sincerely,

*
excluding BIBF

(Mrs. Tongurai Limpiti)
Senior Director, Financial Institutions Policy Group
Governor^{For}

Enclosures: Notification of the Bank of Thailand Re: Stipulation on Maintenance of Capital
Funds by Branches of Foreign Banks

Prudential Policy Department
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Note [] The Bank of Thailand will arrange a meeting to clarify on _____, at _____.
[X] No meeting for clarification will be arranged.

Notification of the Bank of Thailand
Re: Stipulation on the Maintenance of Capital Funds by Branches of Foreign Banks

1. Objective

Capital funds should indicate the ability of the financial institution in sustaining or compensating the unexpected losses. The financial institution that maintains high capital funds in proportion to its risk shall lend confidence to the depositors and creditors as it indicates that the financial institution has the ability to fulfill the commitments and creates solidity and stability to the financial institution system. Hence, the Bank of Thailand hereby sets stipulation for the financial institutions to maintain the ration between the assets and contingent liabilities.

The revision of the Notification Re: Stipulation on the Maintenance of Capital Funds by Branches of Foreign Banks is to specify risk weight of the mutual fund investment under risk assets.

2. Statutory Power

By virtue of Section 10 of the Commercial Banking Act B.E. 2505 as amended by the Commercial Banking Act (No. 3) B.E. 2535, the Bank of Thailand hereby issues a stipulation, under the approval of the Minister of the Finance, for the branches of foreign banks to maintain their capital funds as specified in this notification.

3. Scope of Application

This notification shall be enforceable on all branches of foreign banks under the law regarding commercial banking.

4. Rules for Maintenance of Capital Funds

4.1 The Notification of the Bank of Thailand Re: Stipulation on Maintenance of Capital Funds by Branches of Foreign Banks dated 21 July 2004 shall be repealed.

4.2 Capital funds of branches of foreign banks licensed to undertake the commercial banking business means the assets required to be maintained under Section 6 of the Commercial Banking Act B.E. 2505 as amended by the Commercial Banking Act (No. 2) B.E. 2522.

4.3 Branches of foreign banks licensed to undertake the commercial banking business shall maintain capital funds at the end of each day at not less than 7.5 per cent of the ratio of assets to contingent liabilities.

The maintaining of capital funds in accordance with paragraph one shall be in compliance with the rules and procedures stipulated from clauses 4.4 to 4.6.

Assets and contingent liabilities under paragraph one shall exclude the assets and contingent liabilities of the international banking facilities in accordance with the Notification of the Ministry of Finance Re: The operation of international

banking facilities by commercial banks dated 16 September 1992 or the subsequent amendments thereof, and the assets and contingent liabilities of the provincial international banking facilities under the Notification of the Ministry of Finance Re: The operation of provincial international banking facilities by commercial banks dated 4 May 1994 or the subsequent amendments thereof.

4.4 In maintaining capital funds at the ratio of assets to contingent liabilities in accordance with 4.3, branches of foreign banks licensed to undertake the commercial banking business shall comply with the following rules and procedures.

(1) All items of assets and contingent liabilities in financial statements based on the book value as at the reporting date shall be computed with risk weights. The assets and contingent liabilities in foreign currencies shall be first converted into Thai baht by applying the average minimum buying rate and the average selling rate based on the reference exchange rate in accordance with the Notification of the Bank of Thailand Re: The average exchange rate of commercial banks as announced in the morning of the working day following the reporting date. The currencies, for which the Bank of Thailand has not announced the reference exchange rates, shall be computed on a cross rate basis.

(2) Each item of assets shall be multiplied by the risk weight specified in 4.5.

(3) Each item of contingent liabilities shall be multiplied by the credit conversion factor specified in 4.6, then again multiply the result derived by the risk weight of each type of assets specified in 4.5.

(4) The products of the multiplication of all assets under (2) and contingent liabilities under (3) shall be summed and then used for the calculation of the ratio of capital funds to the derived sum. The ratio of the capital funds to the said sum shall not be less than that specified in 4.3.

(5) In case that branches of foreign banks grant credit or invest in debt instruments whereby there are agreements to take the risk stipulating that repayment of such debt will be based on credit event of a reference asset; and such branches of foreign banks agree to take credit risk of such reference asset, the branches of foreign banks shall compare a multiplied result of risk weight of such credit or investment in such instruments with a multiplied result of risk weight of the agreement to take such risk. The higher multiplied amount shall be applied in computation of amount specified in (4).

4.5 Risk weights for each type of assets are as follows:

a. Risk weight 0

- (1) Cash in baht and foreign currencies;
- (2) Deposits at the Bank of Thailand;
- (3) Investments in the bond dealing market operated by the Bank of Thailand under repurchase or resale agreement;
- (4) Investments in Thai government securities, in securities guaranteed by the Ministry of Finance in respect of both the repayment of principal and of interest thereon, or in the Bank of Thailand securities, or credits secured by the said securities, as well as accrued interest receivable;

(5) Credits guaranteed by the Ministry of Finance in respect of both the repayment of principals and of interest thereon, or any credits for which the cabinet has passed resolutions to allocate budgets for debt repayment;

(6) Credits granted to or investments in securities of the governments or the central banks of the OECD countries¹, or credits or investments in securities only to the extent of the amount guaranteed unconditionally by such governments or central banks, or credits secured by securities of such governments or central banks, as well as accrued interest receivable;

(7) Credits granted to or investments in securities of the governments or the central banks of the non OECD countries, or credits or investments in securities only to the extent of the amount guaranteed unconditionally by such governments or central banks as well as accrued interest receivable, provided that such credits or investments shall be denominated in the national currency and is not in excess of the liabilities of such commercial bank in such currency;

(8) Deposits at, credits granted to or investments in securities of the Financial Institution Development Fund or a juristic person whereby all of its shares are held by the Financial Institution Development Fund, credits or investments in securities accepted, given aval or guaranteed by such juristic person, or loans secured by instruments issued by such juristic person as well as accrued interest receivable;

(9) Credits by rights represented by written instruments of deposits issued by such commercial bank or secured by cash held as security by such commercial bank, but only to the extent of the amount not exceeding the face value of such instruments or the amount of such cash;

(10) Inter-office balances of such commercial bank;

(11) Deferred income tax;

(12) Credits only to the extent of the allowance for lost debts;

(13) Prepaid expenses;

(14) Cash in the process of collection for the benefit of customers;

(15) Promissory notes issued by Krungthai Thanakit Finance and Securities Public Company Limited and a certificate of deposit issued by Krung Thai Bank Public Company Limited in accordance with the project of exchange of bills of the 56 finance companies that were shut down in respect of the principal amount as per the face value and accrued interest receivable;

(16) Credits only to the extent of such part secured by the pledge of promissory notes issued by the Krungthai Thanakit Finance and Securities Public Company Limited or certificate of deposit issued by Krung Thai Bank Public Company Limited in accordance with the project of exchange of bills of the 56 finance companies that were shut down as well as accrued interest receivable.

(17) Credit or investment in debt instruments where other persons enter into an agreement with a branch of foreign bank agreeing that they will take credit risk in such credit or instrument, for an amount not exceeding the amount a risk

¹ The OECD countries in this notification shall mean member countries of the Organization for Economic Co-operations and Development and the countries of equivalent financial status which are Australia, Austria, Belgium, Canada, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, South Korea, Luxemburg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Slovak Republic, Spain Sweden, Switzerland, Turkey, United Kingdom, the United Sates of America and Saudi Arabia.

taker has placed as a collateral, or for an amount such branch of foreign bank has a right to set off with the risk taker.

b. Risk weight 0.2

(1) Deposits at, credits granted to, investments in securities issued by commercial banks; credits or investments in securities accepted, given aval or guaranteed or agreed to guarantee credit risk by commercial banks; and credits secured by instruments issued by commercial banks as well as accrued interest receivable;

(2) Deposits at, credits granted to, investments in securities issued by the Government Housing Bank, Government Savings Bank, Bank for Agricultural Cooperatives or Export-Import Bank of Thailand, or credits or investments in securities accepted, given aval or guaranteed or agreed to guarantee credit risk by such banks as well as accrued interest receivable;

(3) Deposits at, credits granted to, investments in securities issued by finance companies, finance and securities companies, credit foncier companies or the Industrial Finance Corporation of Thailand; credits, investments in securities accepted, given aval or guaranteed or agreed to guarantee credit risk by such institutions; and credits secured by such institutions as well as accrued interest receivable;

(4) Credits granted to or investments in securities issued by state organizations or state enterprises; credits or investments in securities accepted, given aval or guaranteed or agreed to guarantee credit risk by such institutions; and credits secured by instruments issued by such organizations as well as accrued interest receivable;

(5) Deposits at, credits granted to or investments in securities issued by commercial banks incorporated in OECD countries; credits or investments in securities accepted, given aval or guaranteed or agreed to guarantee credit risk by such commercial banks; including credits secured by instruments issued by such commercial banks as well as accrued interest receivable;

(6) Credits granted to or investments in securities issued by the state organizations in the OECD countries; credits or investments in securities accepted, given aval or guaranteed by such institutions; and credits secured by instruments issued by such institutions as well as accrued interest receivable;

(7) Credits granted to or investments in securities issued by international organizations²; credits or investments in securities accepted, given aval or guaranteed by such organizations; and credits secured by instruments issued by such organizations as well as accrued interest receivable;

(8) Deposits at, credits granted to or investments in securities issued by commercial banks incorporated in non OECD countries, or credits or investments in securities accepted, given aval or guaranteed or agreed to guarantee credit risk by such commercial banks; and credits secured by instruments issued by such commercial banks as well as accrued interest receivable, the residual maturity of which shall not exceed 1 year;

² International organizations shall mean the European Investment Bank (EIB), European Bank of Reconstruction and Development (ERBD), International Bank of Reconstruction and Development (IRBD) including International Finance Corporation (IFC), Inter-American Development (IADB), African Development Bank (AfDB), Caribbean Development Bank (CDB) and Nordic Investment Bank (NIB).

(9) Export credits under the letters of credit or export credits as per such other types of documents under which the commercial bank abroad is responsible for payment of goods on behalf of the purchaser. In the case where the issuer of the letters of credits or the commercial banks responsible for payment of goods are incorporated banks in non OECD countries, the residual maturity of the letters of credit or period of time for the commercial banks to make payment of goods shall not exceed 1 year;

(10) Any credits for which the cabinet has passed resolutions to allocate budgets for debt repayment but the Bureau of the Budget has not allocated such budgets for more than two years after maturity;

(11) Export credits secured by the Export-Import Bank of Thailand only to the extent of such part, which the right of claim has been transferred in accordance with the policy to branches of foreign banks.

(12) Investments in securities or mutual funds including any accrued earnings for the amount which the Ministry of Finance has entered into the protection scheme whereby the Ministry of Finance agreed to undertake or to accept the risk.

c. Risk weight 0.5

(1) Credits granted to or investments in securities issued by municipalities; credits or investments in securities accepted, given aval or guaranteed by municipalities; and credits secured by instruments issued by municipalities;

(2) Credits for providing dwelling houses for natural persons, for which commercial banks take a first mortgage on land and/ or structures as security, the value of such land and structures shall not be less than the outstanding granted credit, as well as accrued interest receivable;

(3) Contingent liabilities under the agreement relating to foreign exchange or interest rate which have been multiplied by credit conversion factors as specified in 4.6 except where the party is classified in the group with the risk weight less than 0.5.

d. Risk weight 1.0

(1) Credits granted to private sectors and accrued interest receivable;

(2) Deposits at, credits granted to, investments in securities issued by commercial banks incorporated in non OECD countries; credits or investments in securities accepted, given aval or guaranteed by such commercial banks as well as credit secured by instruments issued by such commercial banks, the residual maturity of which shall not exceed 1 year;

(3) Credits or investments in securities of governments or central banks of non OECD countries; credit or investments in securities unconditionally secured by such governments or central banks as well as accrued interest receivable denominated in other currency other than the national currency or is of an amount beyond the liabilities for which the commercial banks have in such currency;

(4) Mutual fund investment

In cases where foreign bank branch is able to calculate daily net value of any mutual fund in accordance with the net value of assets of which the mutual fund is holding, it may select the risk weight of the said assets in accordance with the proportion, type and amount that the fund actually invests in each cases as stipulated by this Notification instead of the risk weight in d.

- foreclosed;
- (5) Land, premises, equipment, other fixed assets and properties
 - (6) Other assets not specified the risk weight in 4.5.

Deposits and credits in each of the aforementioned items shall include other accounts receivable (legal right of claim) arising from the transactions of instrument sale and purchase under resale or repurchase agreement (Repo) and the transactions of securities borrowing and lending such as debt under repurchase agreement, debt under securities lending agreement, transferred margin debt and debt secured by cash.

4.6 Credit conversion factors for each type of contingent liabilities are as follows:

a. Credit conversion factor 1.0

- (1) Giving aval to bills, accepting bills, guaranteeing loans and guaranteeing the selling, discounting and rediscounting of bills;
- (2) Endorsing bills for which the endorsees have the right of recourse;
- (3) Asset purchasing agreements with which commercial banks shall comply unconditionally;
- (4) Guaranteeing, taking guarantee or creating contingent liabilities in any forms of commercial banks due to the sale of assets;
- (5) Contingent liabilities in accordance with the agreements to sell instruments under repurchase agreement on the computation basis required by the Bank of Thailand;
- (6) Contingent liabilities in accordance with the securities borrowing and lending agreements on the computation basis required by the Bank of Thailand.
- (7) contingent liabilities in accordance with contracts or agreements of risk guarantee; namely, a contract which branch of foreign bank agrees to be transferred of credit risk or to guarantee credit risk of a contractual party, where it consents to pay an amount of money or to take damage arising from the event that the other party not receive credit or investment in debt instruments in return or a credit event take place.

b. Credit conversion factor 0.5

- (1) Contingent liabilities, which depend on the operation result of customers such as performance guarantee of the construction contract, tender guarantee and etc.;
- (2) Instrument and securities underwriting.

c. Credit conversion factor 0.2

Contingent liabilities for import of goods under letter of credit with or without supporting document.

d. Credit conversion factor 0

- (1) Bills for collection;
- (2) Line of credit unused by customers;
- (3) Shipping guarantee;
- (4) Contingent liabilities which commercial banks can cancel any time;
- (5) Other contingent liabilities not specified the credit conversion factor in this 4.6.

e. Credit conversion factor for contracts related to exchange rate and interest rate

<u>Residual maturity</u>	<u>Exchange rate contracts</u>	<u>Interest rate contracts</u>
Not over 14 days	0	0
Not over 1 year	0.02	0.005
Over 1 year	0.05	0.01

Exchange rate contracts as follows:

- Cross currency interest rate swaps
- Forward foreign exchange contracts
- Currency futures
- Currency option purchase
- Other agreements with the same characteristics

Interest rate contracts as follows:

- Single currency interest rate swaps
- Basis swaps
- Forward rate agreements
- Interest rate futures
- Interest rate option purchase
- Other agreements with the same characteristics

In the case where the same customer enters into the exchange rate or interest rate agreement in respect of both buying and selling, first multiply the buying and selling amount by the credit conversion factor then offset the result. The net result after the offsetting shall be multiplied by the risk weight of assets of each type stipulated in 4.5.

5. Effective Date

This Notification shall be effective as from the date of its publication in the Government Gazette.

Given on 3 November 2005.

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