

Policy Statement on Debt Restructuring

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BANK OF THAILAND

Prepared by

Risk Management Policy Office

Prudential Policy Department

Financial Institutions Policy Group

Bank of Thailand

Tel. 0-2283-5304, 0-2283-5303

Fax. 0-2283-5983

e-mail: SuwannJa@bot.or.th, ChuleekT@bot.or.th

Unofficial Translation

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

Policy Statement of the Bank of Thailand
Re: Policy Statement on Debt Restructuring

1. Rationale

Previously, the Bank of Thailand has issued policy statement on debt restructuring for the financial institutions to encourage financial institutions to set out a policy and procedures regarding debt restructuring, conduct an analysis and prepare adequate supporting documents in order to reflect debtor's actual repayment capability, as well as, establish an accounting policy which should be in line with the relevant accounting standards stipulated in the Accounting Profession Act B.E. 2547 (2004) which, currently, is the Accounting Standard No. 34 Re: Accounting for Troubled Debt Restructuring

This policy statement is issued in accordance with the Financial Institution Business Act B.E 2551 (2008) and is served as a consolidation of the Notifications of the Bank of Thailand in regard with debt restructuring. The essence of the policy statement has not been altered from the existing policy statement which stated that the debt restructuring of financial institutions should be conducted with the purpose to remedy debts whether general or troubled debts in order to maximize financial institutions' opportunity to obtain repayment and to maximize benefits of both financial institutions and debtors. However, such restructuring shall not be engaged in such a way as to avoid debt classification and provisioning or the avoidance of stopping interest accrual rules.

2. Scope of Application

This policy statement shall apply to all financial institutions according to the law on financial institution business.

3. Repealed/Amended Notification and Circulars

The repealed notifications and circulars are as prescribed in Attachment 1.

4. Content

4.1 In this Policy Statement

“Debt restructuring” means general debt restructuring and troubled debt restructuring (TDR).

“General debt restructuring” means debt restructuring whereby the financial institution has incurred no loss, for example, the reduction of interest rate to debtor according to respond to the market situation or to maintain relationship with debtors, or to extend the repayment period by granting a grace period whereby the debtor still pays interest at the original contractual interest rate and the financial institution has analyzed the matter and expected to receive principal and interest payment in full under the original loan contract.

“Troubled debt restructuring” means debt restructuring where the financial institution incurs loss resulting from:

(1) reduction, for debtor, of principal or accrued interest already recognized as income; or

(2) loss arising from accepting transfer of property at a fair price lower than the debt balance written off; or

(3) relaxation of term of repayment which causes present value of cash flows to be lower than the sum of credit outstanding and the accrued interest thereon that has already been recognized as income; or

(4) loss incurred from debt restructuring calculation based on the fair value of debt or the fair value of collateral or loss from debt restructuring due to other techniques in debt restructuring, such as debt-equity swap.

4.2 Rules

4.2.1 Objectives of debt restructuring

Debt restructuring is a form of remedy against general debts and troubled debts, to maximize the financial institution’s opportunity of getting repayment and to maximize the mutual benefits of both the financial institution and the debtor. In particular, debt restructuring should be carried out to help debtor who has difficulties in loan repayment problem as a result of the economic crisis but having the prospect of continuing its business. To do so, financial institutions must be careful not to engage in debt restructuring in such a way as avoiding rules on debt classification, maintenance of provisions or the avoidance of stopping interest accrual rules.

4.2.2 Establishing policies and measures on debt restructuring

Financial institutions shall proceed as follows:

(1) Policies and measures on debt restructuring must be established clearly in writing and approved by the financial institution's board of directors. Executives of the financial institution must participate in the establishment of such policies and measures.

(2) Such policies and measures must set forth the guidelines for the entire debt restructuring process, e.g., setting objectives and guidelines for analyzing and selecting debtors, monitoring, reporting on performance to ensure that the restructuring has been carried out in accordance with the objectives and accounting principles.

(3) Financial institutions must establish clear and complete written procedures concerning the authority and responsibilities of those involved in debt restructuring, including the authorizations, reporting, supervision and various steps of action plans.

(4) Financial institutions must set up a work unit or a team of officers with debt restructuring experience, who are independent from the credit officer in charge of the debtor, to carry out the debt restructuring process in accordance with the procedures as prescribed in Clause (3) or the financial institution may contract out another financial institution or a third person with debt restructuring expertise to carry out the debt restructuring., Except in case the financial institution does not have sufficient officers, the credit officers may carry out the debt restructuring process but they must strictly comply with the regulations and procedures set forth in Clause (3)

(5) In respect of the debt restructuring for major shareholders or businesses with related interest, another financial institution or third person unrelated to or having no interest in the financial institution and debtor shall be appointed to conduct an analysis on the debtor's status, repayment capacity including the projected cash flows. Such financial institution or third person shall, however, be a specialist undertaking financial or management consulting business, or a financial consultant or a financial consultancy company with recognized expertise and experience.

In the case where a financial institution becomes affiliated with or has related interest in a debtor as a result of solving the debtor's trouble debt difficulties, whether before or after this policy statement became effective, or in case of debt restructuring for the asset management company which the financial institutions holds shares in excess of 75% of total company's shares sold of such asset management

company, another financial institution or a third person to conduct an analysis on the debtor's status, repayment capability and cash flows is not required.

In this regard, the definition of major shareholder and business with related interest shall be in accordance with Section 4 and Section 49 of Financial Institution Business Act B.E. 2551 (2008).

4.2.3 Debt restructuring procedures and Support Documentary Preparation

The preparation of the restructuring plan and related documents in each stage shall be proceeded as follows:

(1) In the process of analysis and preparation of debt restructuring documentation, An analytical report on the debtor and related documents to assist in debt restructuring consideration shall be prepared and shall include:

(1.1) Cause of debtors' credit difficulties and reasons of delayed payment of interest and/or principal;

(1.2) Problem severity and financial risk of the debtor, considered from its financial statements, cash flows statement and financial projection, whichever the case may be, including necessary analysis of the market and the environment relating to the debtor's status and operation whereas necessary;

(1.3) The expectations or likelihood of full debt repayment, both principal and interest, under the original loan and under the restructured loan contracts;

(1.4) Debtor's management quality assessment, focusing on organizational efficiency, in case of reorganization that may be necessary, such as the restructure of shareholders, directors, executives, reorganization management system, etc;

(1.5) Completeness of documentation for debt restructuring consideration;

(1.6) Financial institutions collateral appraisal (if any) according to the rules on collateral valuation set by the Bank of Thailand;

(1.7) Methodological approach or assumptions using in projecting cash flows shall be based on a foundation of reasonableness and probability;

However, for the said projected cash flows, a financial institution shall not include cash flows that are not yet certain to be received, such as the principal, or the right to increase interest rates in case the debtor's business is revived

or the right to convert convertible debentures, etc., in the computation of the present value of cash flows.

(1.8) Consideration, conclusion and authorization with respect to the relaxation of conditions which should be given for the purpose of debt restructuring such as reduction of interest rate, reduction of principal, reduction of default interest and extension of debt payment period, etc., however, such conditions must be consistent with the economic life of the debt or the service period of the economic life of the debt; The modified condition must be consistent with the debtor's ability for debt repayment; and help improve the debtor's financial standing until the debtor is perpetually capable of making payments under the new conditions;

(1.9) Prepare debt payment schedule after the change in debt payment conditions and consistent with the debtor's ability to repay;

(1.10) Details on financial conditions such as no dividend payment , no capital decrease so that the existing shareholders will bear the present incurred obligations prior to debt restructuring, capital increase, reservation to raise interest rates commensurate with the debtor's ability to repay, etc.;

(1.11) Prepare various documentation and contracts relating to debt restructuring so that they are fully valid and enforceable under the law;

(1.12) For any extension of loan to the debtor after debt restructuring, the financial institution must clearly specify the objectives for which the additional loan is intended, that it must not be purposely used for paying off the existing loan.

(2) In the follow-up procedures after debt restructuring, financial institutions must establish an especially close follow-up system after debt restructuring to ensure that the debtor is capable of fulfilling the conditions of the new contract. For example,

(2.1) The debtor shall be required to prepare a progress report to be presented to executives. Such report shall address the most recent developments, the current action plans and the prospect for complete debt repayment

(2.2) The debtor shall be required to submit financial statements as well as a report on its compliance with various financial conditions such as no dividend payment, capital decrease, capital increase etc.

(2.3) Financial institutions must establish solutions to the problem in case where the debtor is unable to make payments as agreed or fails to fulfill any debt restructuring condition.

4.2.4 Accounting Procedures Concerning Debt Restructuring

Financial institutions, with regards to accounting procedures for debt restructuring, shall comply with the relevant accounting standards stipulated in the Accounting Profession Act.

4.2.5 Calculation of Loss in Debt Restructuring

In calculating loss derived from debt restructuring, financial institutions shall comply with the following:

(1) For the troubled debt restructuring through the relaxation of payment conditions granted to debtor, financial institutions shall record any loss arising from the calculation of the new book value of outstanding loans according to the Accounting Standard No. 34 Re: Accounting Procedures for Troubled Debt Restructuring, by using any of the following values:

(1.1) The present value of expected future cash flows under the new repayment conditions of debt restructuring shall be calculated by applying the discount rate set forth in the above-mentioned accounting standard;

(1.2) Fair value of debt;

(1.3) Where debt restructuring relies on collateral, the fair value of collateral shall then be used.

Where the new book value is calculated at such value lower than the current book value plus accrued interest receivables recorded in the account, financial institutions must recognize all losses incurred in its profit and loss statement in that period. In making provision for such losses as doubtful debts, financial institutions shall comply with the Notification of the Bank of Thailand Re: Regulations on Classification and Provisioning of Financial Institutions.

(2) In case loan repayment is made to financial institutions through the transfer of assets or financial instruments or accepting debtor's capital arising from a debt-equity swap, the financial institution must write off all debts and record the assets received at the fair value of the assets deducted by the estimated selling expense. Losses shall immediately be recorded in the profit and loss statement at the time of transfer, by taking into consideration the existing provision for doubtful debts. Financial institutions shall not record the assets received at the higher of the book value of debt plus accrued interest to which financial institutions are entitled according to the law.

For partial debt repayment made to a financial institution through the transfer of assets or financial instruments or accepting debtor's capital arising from a debt-equity swap, proceedings shall be done in accordance with clause (2) before proceeding according to clause (1) for the debt remaining.

(3) Upon completion of the debt restructuring, financial institution shall classify the debts and make provision for such debtor under the Notification of the Bank of Thailand Re: Regulations on Classification and Provisioning and the amendment.

(4) During the period of monitoring the outcome of the debt restructuring conditions under the new debt restructuring agreement of no less than 3 consecutive months or 3 consecutive payment installments, whichever is longer, the financial institution shall recognize its income on a cash basis.

For the debtor having had its debt restructured and has been reclassified as Pass in accordance with the Notification of the Bank of Thailand Re: Regulations on Classification and Provisioning and the amendment, financial institutions may again recognize income on an accrual basis.

(5) After debt restructuring, a financial institution must review the quality of the debt at least once a year. If a financial institution discovers any significant changes in the amount or due date of cash flows and interest rate or fair value of debt or fair value of collateral from previously recorded valuations, the financial institution must revalue the book value of the debt by applying clause (1). The revaluation of book value shall be made against the provisions for doubtful debt. In any event, the book value of the restructured loan must never exceed the book value previously recorded or the investment in the debtor (the amount given by the financial institution to acquire the debt where the debt acquired is subject to restructuring).

(6) With respect to non-performing consumer debts that have been restructured, such as credit card debt, hire-purchase debt, etc., financial institution may compute the losses cumulatively through statistics or may proceed in accordance with Clause (1).

4.2.6 Examiner's Orders

If an examiner of the Bank of Thailand deems the restructuring of any debt to be influenced by an intention to delay asset classification and the maintenance of provisions or avoiding the recognition of accrued interest as income; that the documentation and analysis of financial standing and debt repayment ability have been improperly prepared; that it is clearly seen that a debtor is incapable of fulfilling the terms of the debt restructuring agreement; or that there has been any act inconsistent with the rules of the Bank of Thailand, the examiner of the Bank of Thailand may

consider ordering the financial institution to reclassify that debt and make adequate provisions or cease the interest recognition as income and also to remove the record of accrued interest from its accounts.

5. Effective Date

This policy statement shall come into force as from 4 August 2008.

Attachment 1

Bank of Thailand's repealed Notifications and Circulars related to debt restructuring

No.	Issued Date	Type of Document	Document No.	Subject
1	22 Jun 1998	Circular	BOT.Ngor.(Wor) 2384/1998	Policies, Procedures and Methods in Relation to Debt Restructuring and Revaluation of Collateral of Financial Institutions
2	21 Jul 1998	Circular	BOT.Ngor.(Wor) 2635/1998	Clarification for Regulation on Debt Restructuring and Regulation on Collateral Revaluation for Foreign financial Affairs of Foreign Bank Branch
3	16 Oct 1998	Circular	BOT.Ngor.(Wor) 4213/1998	Request for Cooperation in Disseminating of Regulations on Debt Restructuring
4	25 Dec 1998	Circular	Ngor.(Wor) 2524/1998	Preparation of Policies, Procedures and Methods in Relation to Debt restructuring and Revaluation of Collateral
5	21 May 1999	Circular	Ngor.(Wor). 691/1999	Dispatch of the Tax and Fee Privileges Manual for Debt Restructuring to Financial Institutions
6	19 Jun 2000	Circular	BOT FPG (12) C. 1380/2000	Tax Benefits in Case of Debt Restructuring under Agreement to Compromise Debt Consented in the Court
7	19 Jun 2000	Circular	BOT FPG (12) C. 1381/2000	Tax Benefits in Case of Debt Restructuring under Agreement to Compromise Debt Consented in the Court
8	24 Jan 2001	Circular	BOT FPG (21) C. 157/2001	Tax Benefits in Case Where Financial Institutions' Debtors

No.	Issued Date	Type of Document	Document No.	Subject
				Transfer Immovable Properties to Other Persons
9	5 Nov 2001	Circular	FPG (12) C. 606/2001	Tax Benefits in Case of Debt Restructuring
10	13 Jan 2003	Circular	FPG (21) C. 1/2003	Dispatch of the Royal Decree Issued by the Virtue of the Revenue Code regarding Revenue Exemption (No.410) B.E. 2545 and Notification of the Ministry of Interior concerning Reduction of the Fee for Registration of Rights and Juristic Acts in cases of Debt Restructuring and Compliance with Bankruptcy Law
11	26 Mar 2003	Circular	FPG (21) C. 47/2003	Dispatch of the Notification of the Institute of Certified Accountants and Auditors of Thailand regarding Accounting Practices
12	13 Feb 2004	Circular	FPG (21) C. 14/2004	Dispatch of the Notification of the Bank of Thailand Re: Permission for Commercial Banks to Conduct Hire Purchase and Leasing Business due to Debt Restructuring
13	3 Apr 2006	Circular	BOT RPD (21) C. 480/2006	Regulations on Debt Restructuring of Financial Institutions