

**Deposit Protection Agency Act  
B.E. 2551 (2008)**

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BHUMIBOL ADULYADEJ, REX.

Given on this 6<sup>th</sup> day of February B.E. 2551 (2008)

Being the 63<sup>rd</sup> Year of the Present Reign

By Royal Command of His Majesty King Bhumibol Adulyadej, it is hereby proclaimed that:

Whereas it is deemed appropriate to enact legislation relating to the Deposit Protection Agency;

This Act contains certain provisions in relation to the restriction of rights and liberties, in respect of which, Section 29, in conjunction with Section 31, Section 33, Section 36, Section 39, Section 41 and Section 43 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

Be it, therefore, enacted by His Majesty the King, by and with the advice and consent of the National Legislative Assembly, as follows:

**Section 1** This Act is called the “Deposit Protection Agency Act B.E. 2551 (2008)”.

**Section 2**<sup>1</sup> This Act shall come into force after the expiration of one hundred and eighty days from the date of its publication in the Government Gazette.

**Section 3** In this Act,

“Agency” means the Deposit Protection Agency.

“Financial Institution” means a commercial bank, finance company or credit foncier company under the Financial Institutions Businesses Act, or a specialized financial institution established under specific legislation as stipulated in a Royal Decree.

“Deposit” means money accepted by financial institutions from the people or any person which is subject to obligations to repay this money back to depositors.

“Control Committee” means the financial institution control committee under the Financial Institutions Businesses Act.

“Fund” means the Deposit Protection Fund.

“Board” means the Board of the Deposit Protection Agency.

“President” means the President of the Deposit Protection Agency.

“Officer” means the Deposit Protection Agency officer appointed by the President to carry out tasks under this Act. The appointment of the officers shall be published in the Government Gazette.

“Minister” means the Minister in charge of the enforcement of this Act.

**Section 4** Any specialized financial institution merited to be entitled to deposit protection under this Act shall be deemed as a financial institution upon enactment of a Royal Decree.

**Section 5** The Minister of Finance shall be in charge of the enforcement of this Act, and shall have the power to promulgate the ministerial regulations and notifications for the implementation of this Act.

The ministerial regulations and notifications shall be effective after being published in the Government Gazette.

## Chapter 1 Deposit Protection Agency

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### Part 1 Constitution and Capital

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**Section 6** The Agency shall be constituted as a juristic person and titled “Deposit Protection Agency”. Its objectives shall be as follows:

- (1) To provide protection for deposits in financial institutions;
- (2) To enhance confidence and stability in the financial institution system;
- (3) To manage financial institutions subject to control under the Financial Institutions Businesses Act and to liquidate financial institutions whose licenses have been revoked.

**Section 7** Within the objectives defined in Section 6, the Agency shall have the following powers and responsibilities:

- (1) To manage the Fund, capital, and assets of the Agency;
- (2) To collect premiums from financial institutions as prescribed in Section 49 and to provide compensation to depositors as prescribed in Section 53;
- (3) To hold property rights including creating any rights or entering into any juristic acts within and outside the Kingdom of Thailand;
- (4) To issue bills, bonds or other financial instruments according to the rules, procedures, and conditions as prescribed by the Board and approved by the Minister;
- (5) To invest in government bonds or debt securities where the principal and interest are guaranteed by the government or invest in other types of securities as prescribed by the Board and approved by the Minister;
- (6) To deposit money in financial institutions or the Bank of Thailand or specialized financial institutions for normal operations according to the rules, procedures, and conditions as prescribed by the Board;
- (7) To execute any tasks in relation to or in conjunction with the management to attain the objective of the Agency.

**Section 8** The headquarters of the Agency shall be located in Bangkok or its vicinities. Its branches or representative offices may be established anywhere in the Kingdom of Thailand.

**Section 9** The capital of the Agency shall be composed of:

- (1) Initial capital which is provided by the government;
- (2) Monies and assets which become the Agency’s ownership;
- (3) Donated monies and properties;
- (4) Earnings from the Fund allocated by the Board as mentioned in Section 48;
- (5) Earnings or income from monies and assets of the Agency.

**Section 10** The initial capital of the Agency shall not exceed 1 billion baht.

**Section 11** The Agency is a state agency but not a government agency or a state enterprise under the law on budget procedure and other laws.

The income of the Agency shall not be submitted as government revenue.

**Section 12** Laws governing labor protection, labor relations, social security, and compensation shall not be applied to the Agency’s operations. The Agency shall have rules and regulations providing benefits for the President, officers, and employees of the Agency for not less than that specified in the laws governing labor protection, labor relations, social security, and compensation.

### Part 2 Finance, Accounting and Audit

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**Section 13** The Agency shall set up and maintain a proper accounting system as well as conduct regular internal audits.

**Section 14** The Agency shall prepare financial statements and submit them to an auditor within sixty days after the end of each fiscal year.

**Section 15** The Office of the Auditor General shall be the Agency’s auditor and shall audit and certify the Agency’s accounts including all categories of finances.

**Section 16** The auditor shall be empowered to examine the Agency’s accounts and records, and, for such purpose, enquire the President, officers, and employees of the Agency.

**Section 17** The auditor shall conduct an audit and report his opinion to the Agency as well as prepare and submit an audit report to the Agency within one hundred and twenty days after the end of each fiscal year.

The Agency shall publish the audited financial statements under the first paragraph in the Government Gazette within one hundred and fifty days after the end of each fiscal year.

**Section 18** The Agency shall prepare an annual report and present it to the Minister within one hundred and fifty days after the end of each fiscal year. The annual report shall include the Agency's performance for the preceding year with explanations about the Board's policies, projects, and future plans.

### **Part 3** **The Board**

**Section 19** A Board shall be established and called the "Deposit Protection Agency Board". The Board shall comprise a chairman, a representative from the Ministry of Finance, a representative from the Bank of Thailand, and at least three but not more than five experts. There shall be at least one expert each from the fields of finance and fiscal, and legal. The President shall be a Board member and serve as Secretary to the Board.

The Minister shall nominate candidates for the chairmanship and experts to the Cabinet for appointment.

**Section 20** Each term of office of the Chairman and experts appointed by the cabinet shall be four years.

At the end of the first two years of the first set of Board members, the Chairman and half of the experts will be withdrawn by means of drawing lots. In the event the number cannot be divided evenly, any residual shall be disregarded. Such withdrawal shall be deemed a regular withdrawal upon the expiration of the first term of office.

Upon the expiration of the term of office, the retired Chairman and experts shall remain in office and conduct their duties until a new appointment is made.

The retired Chairman and experts may be reappointed but shall not be eligible to serve in office for more than two consecutive terms.

**Section 21** The Chairman and experts shall have the following qualifications:

- (1) Have a Thai nationality;
- (2) Not over seventy years of age.

**Section 22** The Chairman and experts shall not possess any of the following characteristics:

- (1) Is a current or former political office holder, a person holding any position in a political party, or an official in a political party unless he or she has already vacated the position for no less than one year;
- (2) Is a shareholder of a financial institution whose shares exceeds five percent;
- (3) Is or was a director, advisor or a person holding any other position in a financial institution unless he or she has already vacated the position for no less than one year;
- (4) Has been discharged or dismissed from any government offices, government organizations, state enterprises, or financial institutions for malfeasance or serious misconduct;
- (5) Has been imprisoned by a final court judgment regardless of whether the term is waiting to be served unless such punishment is for an offence committed through negligence or petty offence;
- (6) Has been declared bankrupt or has been declared bankrupt with intent to deceive;
- (7) Is an incompetent or quasi-incompetent person.

**Section 23** Apart from the termination from office pursuant to Section 20, the Chairman and experts shall be terminated in the case of:

- (1) Death;
- (2) Resignation;
- (3) Termination order from the Cabinet under recommendation of the Minister for immoral conduct, neglect of duty or incompetence, whereby the justification of the termination must be clearly disclosed;
- (4) Disqualification under Section 21 or having any characteristics under Section 22.

In the case that the Chairman or experts cease to be in office before the expiration term, the term of office of the successor shall be limited to the unexpired term of the predecessor.

**Section 24** At any Board Meeting, no less than one-half of the board members shall attend the Meeting to constitute a quorum.

In the absence of the Chairman or if he/she is unable to perform the duty during a Board Meeting, a present Board member shall be selected as the Chairman to preside over the Meeting.

The resolution of the Board Meeting shall be adopted by a majority vote. One Board member shall have one vote. In the event of a tie, the Chairman of the Meeting shall vote as the casting vote.

**Section 25** The Board shall have the powers and duties to formulate policy and supervise the course of conduct of the Agency's businesses under the objectives stipulated under Section 6. Such powers and duties include the following:

(1) To issue rules and procedures regarding the remittance of premiums as specified in Section 49, and the surcharge as specified in Section 50;

(2) To issue regulations concerning the delegation of authority under Section 33, and representing or acting as the President under Section 35;

(3) To issue regulations for financial institutions to display the Agency's statements, signs or symbols to indicate that their deposits are being protected by the Deposit Protection Agency under Section 38;

(4) To specify the types of protected deposits under Section 51;

(5) To issue rules, procedures, and conditions for depositors in filing claims and exercising their rights under Section 52;

(6) To prescribe rules, procedures, and conditions concerning the compensation to depositors under Section 53;

(7) To approve the Agency's annual report;

(8) To issue regulations regarding the financial, accounting, budgeting, and procurement of the Agency;

(9) To issue regulations regarding the general operations and human resource management of the Agency;

(10) To provide recommendations to the Minister regarding the enactment of a Royal Decree or issuance of ministerial regulations under this Act;

(11) To report the Agency's quarterly operating results to the Minister;

(12) To carry out any other actions in order to achieve the Agency's objectives.

**Section 26** The Board shall be empowered to appoint a sub-committee or an advisory committee to conduct any tasks as assigned by the Board.

Section 20, Section 23, and Section 24 shall apply to the appointment and the meeting of the sub-committee *mutatis mutandis*.

**Section 27** No less than sixty percent of all investments specified under Section 7 (5) shall be made in highly-secure securities as well as subject to the rules and procedures prescribed by the ministerial regulations. The Board may assign any person to make the investment under paragraph one as deemed appropriate; whereas the qualification of the assignee, methods, and expenses incurred from such undertaking shall be as prescribed by the ministerial regulations.

#### **Part 4** **The President**

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**Section 28** The Cabinet, with the recommendation of the Minister, shall appoint a President. The President shall serve a term of four years and may be reappointed, but no more than two consecutive terms.

**Section 29** The President shall possess the following qualifications:

(1) Have a Thai nationality;

(2) Not over sixty years of age on the day that the Cabinet passes a resolution to make the appointment;

(3) Able to work for the Agency on a full-time basis.

**Section 30** The President shall not possess any of the prohibited characteristics specified under Section 22.

**Section 31** In addition to retirement from office on the expiration of the term prescribed under Section 28, the President shall be terminated upon:

- (1) Death;
- (2) Resignation;
- (3) Termination order from the Cabinet under the recommendation of the Minister for immoral conduct, neglect of duty or incompetence, whereby the justification of the termination must be clearly disclosed.

In the event where urgency is required to enhance the stability of the financial institution system, the Cabinet may pass a termination resolution under the recommendation of the Minister upon recommendation of the Board;

(4) Disqualifications specified under Section 29 or having any prohibited characteristics stipulated in Section 30.

**Section 32** The President shall have the powers and duties to execute the tasks of the Agency prescribed in this Act as well as to implement policies, regulations, and rules as prescribed by the Board, and to manage all of the personnel affairs of the Agency.

**Section 33** In relation to a third party, the President shall act on behalf of the Agency and may delegate, in accordance with the regulations imposed by the Board, the power of attorney to any officers of the Agency.

**Section 34** Senior Executive Vice Presidents and Executive Vice Presidents may be appointed as the Board deems appropriate.

Senior Executive Vice Presidents and Executive Vice Presidents are considered officers of the Agency and have the powers and duties as the President may assign.

**Section 35** In the event where the President is unable to perform certain duties or when the President's position is vacant, one of the Senior Executive Vice Presidents or Executive Vice Presidents shall assume the position of acting President. If there is no such person or if that person exists but is unable to perform the duties, the Board shall appoint a Board member or one of the officers of the Agency to fill the position of acting President depending on the situation. However, such an assignment shall comply with the regulations imposed by the Board.

## **Part 5**

### **Remuneration and Protection of Exercise of Official Duty**

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**Section 36** The Chairman, Board members, and President shall receive remuneration fixed by the Minister.

The sub-committees and advisory committees shall receive remuneration fixed by the Board.

**Section 37** The law concerning tortious liability of officials shall be applied to the conduct in line with the powers and responsibilities of the Chairman, Board members, subcommittee members, advisors of the Board, President, officers, and employees of the Agency.

## **Chapter 2**

### **Monitoring Financial Institutions**

**Section 38** The Board is empowered to set regulations prescribing financial institution to display the Agency's statement, sign or logo to represent that their deposits are being protected under this Act.

**Section 39** In order to monitor financial institutions' standings and performance, the Bank of Thailand or other supervisory authorities and the Agency are empowered to provide or exchange, between each other upon request, examination reports or other information regarding the financial institution.

**Section 40** Where it is necessary in the course of monitoring a financial institution's standing and performance, the Agency is empowered to require the financial institution to submit, either periodically or occasionally, confidential reports containing particular items as specified by the Agency or any document, together with notes explaining or elaborating such confidential reports or documents.

The financial institution must prepare such confidential reports or documents and explanatory notes in the above paragraph in full and with complete truth and accuracy.

**Section 41** In the event where there is reasonable suspicion that the financial condition or performance of any financial institution may cause damage to the public, the Agency may request any general or specific information regarding assets, liabilities, conditions or operations of the financial institution from the Bank of Thailand, or any authority entrusted to supervise the financial institution.

The Bank of Thailand or other supervisory authorities shall comply with the request of the Agency and on such occasion, the Agency may request to participate in the examination process of the financial institution concurrently with such authorities.

**Section 42** Where there is evidence to the Agency that the condition or operation of any financial institution may cause damage to the public interest, the Agency shall notify the Bank of Thailand, or any supervisory of the financial institution, so that actions as prescribed by relevant laws can be taken.

The Agency shall have the power to appoint representatives to participate in the relevant discussion with the Bank of Thailand or other supervisory authorities of the financial institution and may access information about measures imposed or to be imposed on the financial institution.

**Section 43** For the purpose of effective enforcement of this Act, the appointed officers shall have the power to order the director, officer, employee, or auditor of a financial institution and any person who collects or compiles information of the financial institution by using computers or any other instruments, as well as any other person who holds or is privy to information about the financial institution to testify, deliver copies, or disclose accounting records, documents or other evidence concerning the affairs, assets, and liabilities of the financial institution that such person has in possession.

If, by other means, evidence cannot be found, the officers shall have the power to order any person who formerly held the position or used to perform the tasks as mentioned in paragraph one and has retired from such positions or ceased from performing such tasks for no more than five years, to testify or deliver copies or disclose the actual books of accounts, documents or other evidences concerning the affairs, assets, and liabilities of the financial institution that such person has in possession.

**Section 44** The Agency, with approval from the Board, shall have the power to disclose any information related to offences and penalties of any person who committed said offence including any other information received while performing any tasks under this Act.

**Section 45** In the case where the Bank of Thailand places any financial institution under control in accordance with the Financial Institutions Businesses Act and has notified that financial institution, the Agency shall submit a list of nominees to the Bank of Thailand to be appointed as members of the control committee as stipulated thereof.

**Section 46** The officers shall be deemed as officers under the Penal Code.

### **Chapter 3** **Deposit Protection**

#### **Part 1** **Deposit Protection Fund**

**Section 47** A fund shall be established in the Agency and called “Deposit Protection Fund”.

The Fund shall be composed of:

- (1) Premiums collected from financial institutions under Section 49 and surcharges under Section 50;
- (2) The fund’s earnings;
- (3) Monies or assets received from the liquidation process as prescribed in Chapter 4;
- (4) Monies or assets given by Donors;
- (5) Loans for making compensation to depositors.

The Fund shall be used only for:

- (1) Allocating money to the Agency under Section 48;
- (2) Making compensation to depositors under Section 53;
- (3) Paying fund management fees as prescribed by the Board;
- (4) Repaying principal and interest.

**Section 48** Each year, the Board shall allocate a specified amount of money to the Agency as necessary that does not exceed half of the net earnings of the Fund after the deduction of the Fund management fees as specified under Section 47 third paragraph (3).

**Section 49** Financial institutions shall remit premiums to the Fund at the rate specified by a Royal Decree. However, the rate shall not exceed one percent per annum of the average amount of deposits of protected accounts.

The rules and calculation method of the average amount of deposits of protected accounts according to paragraph one shall be set by the Board and published in the Government Gazette.

The initial premium rate as specified by a Royal Decree shall be a flat rate. The differential rate according to the type or performance of a financial institution may be adopted afterwards.

The regulation regarding remittance to the Financial Institutions Development Fund under the Bank of Thailand Act shall not be applicable to financial institutions that remit premiums to the Fund under this Section.

**Section 50** Any financial institution which fails to remit premiums to the Fund or fails to remit the full amount of premiums within a specified period shall pay a surcharge not exceeding two percent per month of the unpaid amount based on the rules and regulations prescribed by the Board.

The Agency shall order any financial institution which fails to remit premiums to the Fund or fails to remit the full amount of premiums, and fails to pay the surcharge under paragraph one, to pay such amounts within a specified period.

The premiums and surcharges shall have a preferential rank subordinate to the tax liabilities of the financial institution.

## **Part 2**

### **Deposits under Protection**

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**Section 51** Deposits under protection shall consist of all types of deposits of a financial institution subject to the calculation of the average amount of deposits and accrued interests from such deposits calculated up to the date that the financial institution's license is revoked under the Financial Institutions Businesses Act, subject to the following conditions:

- (1) Must be deposits and accrued interest denominated in Thai baht;
- (2) Must be deposits in accounts opened in the Kingdom of Thailand, excluding Non-Resident Baht Accounts that are defined in the Foreign Exchange Control Act.

The Board shall publish the details of protected deposits under paragraph one in the Government Gazette.

## **Part 3**

### **Compensation to Depositors**

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**Section 52** Upon the revocation of a financial institution's license in accordance with the Financial Institutions Businesses Act, the control committee or the representative of the juristic person of such financial institution, as the case may be, shall transfer all the money and assets as well as documents to the Agency, who will be responsible for liquidation within seven days after the license has been revoked.

Within forty days after the license has been revoked, the Agency shall make an announcement to the public to submit a claims request form for compensation.

Within ninety days after the Agency has made the announcement, eligible depositors shall submit their claims request form to the Agency. The deadline may be extended by the Minister if considered necessary but not exceeding two times of such period extension, and each extension shall not exceed ninety days.

For any depositor who fails to submit the claims request form before the expiration period stipulated in paragraph three, it shall be deemed that the right to receive money under such claim shall expire unless under *force majeure* and the depositor submits the request within ninety days from the date that the *force majeure* has ended. Depositors will still have the right to file their claims according to the liquidation process under Chapter 4.

The Board shall prescribe the rules, procedures, and conditions regarding the submission of the claims request form and the exercising of depositors' rights.

**Section 53** Within thirty days after the submission of the claims request form, the Agency shall provide compensation to each depositor of each financial institution for the aggregate sum of all deposit accounts. If the aggregate sum of all deposit accounts exceeds one million baht, only one million baht shall be paid out.

When a depositor has an outstanding debt of a determinable amount to the financial institution, the debt shall be deducted from the aggregate sum of all deposit accounts at that financial institution first.

The Agency shall compensate any depositor whose name appears as the owner of the deposit account or his/her heir only. In the case of a multi-party account, each holder shall be considered individually as an eligible depositor and entitled to their share for payment, proportionate to their right in the deposit amount as clearly stated in the depository document. Where the portion is unknown, the deposit amount will be divided between all depositors equally.

Compensation shall be made according to rules, regulations, and conditions prescribed by the Board.

**Section 54** For fairness reasons, the amount of protected deposits paid to general depositors or to a particular type of depositor may be set higher than the amount stipulated in Section 53 paragraph one by enacting a Royal Decree.

**Section 55** The Agency shall be subrogated to the rights of the paid depositors and entitled to receive their shares from a receiver or a liquidator, as the case may be. The preferential rights shall be ranked above creditors of the financial institution.

#### **Chapter 4**

#### **Liquidation of Financial Institutions**

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**Section 56** After the license of a financial institution has been revoked, the Agency shall act as the liquidator of the financial institution, and any powers and responsibilities of the shareholder's meeting shall be carried out by the Agency.

**Section 57** In the case where the Agency deems that the deposits of the financial institution under liquidation bear interest rates that are higher than reasonable and unfair, the Agency shall have the power to reduce such interest rates with the approval of the Board. However, depositors shall be notified first and the reduction shall take effect after 7 days from the date of the notification.

**Section 58** In the case where the Agency deems that the contractual obligations of the financial institution under liquidation exceed due benefits, the Agency may negotiate with asset owners, counterparties or relevant persons to reduce such obligations with the approval of the Board.

**Section 59** In the case where the Agency deems that the employment contract of any executives of the financial institution under liquidation contains inappropriate conditions or stipulates higher than reasonable remuneration or benefits, or the financial institution incurs losses from the mismanagement or negligence of the executive, the Agency shall be empowered to dismiss, suspend or reduce the remuneration or benefits granted to such executives with the approval of the Board.

**Section 60** When the Minister orders the revocation of any financial institution's license, if the Agency, as the liquidator, has disposed or transferred any assets, liabilities or contingent liabilities of that financial institution to other parties, Sections 237 and 306 of the Civil and Commercial Code as well as Sections 114 and 115 of the Bankruptcy Act B.E. 2483 shall be inapplicable, as the case may be.

Where any person suffers losses in the course of conduct in accordance with the above paragraph, the financial institution which has had its license revoked and the person who made the purchase, or to whom the transfer of assets, liabilities or contingent liabilities is made, shall be mutually liable for such losses.

**Section 61** In the sale or transfer of assets of the financial institution under Section 60, any security attached to the assets being sold or transferred, other than a mortgage, pledge, or surety due to the transferee under Section 305 of the Civil and Commercial Code shall be transferred to the purchaser or transferee.

**Section 62** In the sale or transfer of assets of the financial institution under Section 60 where a claim is being made in court, the purchaser or transferee of the asset, liability or obligation shall subrogate to become the litigant of the lawsuit, and new evidence may be presented to challenge formerly submitted documents, to question witnesses who have already given statements, and to object to given evidence. However, the court may not grant permission if the objection or challenge causes injustice to the other party of the lawsuit. In the event where the court has reached a judgment to enforce the rights to the transfer of claims, the purchaser or transferee shall subrogate the rights of the creditors of that judgment.

**Section 63** In the event where depositors have been compensated, the Agency as the liquidator shall have power to manage any assets to be paid for the compensation amount the Agency had made itself, and to pay any other creditors with higher preferential rights. The remaining monies, if any, shall be fairly apportioned among common creditors with the consent of the afore-mentioned common creditors prior to filing a request for a court order to declare the financial institution insolvent.



When there is a court order for the absolute and immediate control over the debtor's properties, the Agency shall transfer the money, assets, and all documents to the appointed official receiver and the Agency shall be relieved from all powers and duties as the liquidator onwards. The liquidation process shall be continued in accordance with the bankruptcy law.

**Section 64** From the day that the license of the financial institution is revoked to the time that the court has declared for the absolute and immediate control over the debtor's assets in accordance with Section 63:

- (1) No person shall be allowed to file a bankruptcy case against the financial institution;
- (2) The court shall temporarily cease trials concerning any claims against the financial institution that have been submitted to the court.

## Chapter 5 Penal Provisions

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**Section 65<sup>2</sup>** Anyone other than financial institutions who use a statement, sign or logo representing that their deposits are protected under this Act shall be liable to imprisonment for a term not exceeding two years or a fine not exceeding two hundred thousand baht or both. A fine in an amount not exceeding five thousand baht per day shall be further imposed during which such violation continues.

In the event where the violator under the first paragraph is a juristic person, if the offence of such juristic person is committed due to the order or action of any director or manager or any person who is responsible for the course of conducting its business, or in the event where such person has a duty to make an order or to act or omit to make an order which causes such juristic person to commit any offence, such person shall be liable to the penalty as stipulated for such offence.

**Section 66<sup>3</sup>** Any financial institution that violates the provision of Section 40 shall be liable to a fine not exceeding five hundred thousand baht and a fine in the amount not exceeding five thousand baht per day shall be further imposed during which such violation continues.

If the offence under the first paragraph is committed due to the order or action of any director, manager or any person who is responsible for the course of conduct of such financial institution, or in case where such person has a duty to make an order or to act or omit to make an order which causes such financial institution to commit any offence, such person shall be liable to the penal provision according to the first paragraph.

**Section 67** Whoever violates or fails to comply with the order of the officer in the performance of his/her duty under Section 43 or gives a false statement, false document, account or evidence shall be liable to imprisonment for a term not exceeding two years or a fine not exceeding two hundred thousand baht or both. A fine in an amount not exceeding five thousand baht per day shall be further imposed during which such violation continues.

**Section 68** The control committee or the representative of the financial institution which violates Section 52 shall be liable to imprisonment for a term not exceeding one year or a fine not exceeding one hundred thousand baht or both. A fine in the amount not exceeding five thousand baht per day will further be imposed during which such violation continues.

**Section 69** Whoever perceives the affairs of any financial institution from the performance of his duty under the authority prescribed in this Act, or perceives any information of the business, or any confidential or classified information disclosed by a person who is empowered under this Act, and discloses this to other persons shall be liable to imprisonment for a term not exceeding one year or a fine not exceeding one hundred thousand baht or both.

The provision under paragraph one shall not apply in the following cases:

- (1) Disclosure in the performance of his/her duty;
- (2) Disclosure for the purpose of investigation or procession;
- (3) Disclosure concerning violation against this Act;
- (4) Disclosure for the purpose of rectifying the condition or operation of the financial institution or of the financial institution in general;

<sup>2</sup> *Expressing the amendment by the Act Amending the Provision of Laws Governing the Criminal Liability of the Representatives of the Juristic Persons B.E. 2560 (2017) which came into force on 12 February B.E. 2560 (2017)*

- (5) Disclosure to the accounting auditor of the financial institution;
- (6) Disclosure to the authorities or international and domestic agencies responsible for the supervision of that financial institution's business;
- (7) Disclosure upon written consent given by the owner of the information.

**Section 70** In the case of an offence under this Penal Provision, if no lawsuit has been filed or no fine has been imposed by the Penal Committee under Section 71 within one year from the date of an officer found to have committed an offence or within five years from the date of its commission of offence, such offence shall no longer be subject to prosecution.

**Section 71** For any offence under Section 65, Section 66, Section 67, and Section 68, the Penal Committee appointed by the Ministry shall be empowered to fine an offender for his/her violation.

The Penal Committee appointed by the Ministry as specified in paragraph one shall consist of three members, one of which must be an inquiry official according to the Criminal Procedure Code.

When the fine has been settled according to the Penal Committee's order, such lawsuit shall be terminated in accordance with the law regarding the Criminal Procedure Code.

### **Transitional Provisions**

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**Section 72** Upon establishing the Deposit Protection Agency, the blanket guarantee provided by the government to depositors of financial institutions shall be abolished. During the first four years of the enforcement of this Act, depositors shall be paid in accordance with regulations stipulated under Section 53 where the amount under protection shall not exceed the following amount:

- |                 |  |
|-----------------|--|
| (1) First year  | Full amount as appears on the account book |
| (2) Second year | One hundred million baht                   |
| (3) Third year  | Fifty million baht                         |
| (4) Fourth year | Ten million baht                           |

Nonetheless, during the first four years of the enforcement of this Act, if there is any significant change in the economic situation and financial system which is good reason for increasing the amount of deposits protected from those prescribed under paragraph one, it shall be legislated in a Royal Decree.

Countersigned by  
General Surayut Chulanont  
Prime Minister

**Remarks:** The rationale for the enactment of this Act is that deposits with financial institutions are beneficial to the savings of the general public and are favorable to the economy of the country. At present, deposit protection under the resolution of the Cabinet covers the full amount of deposits at a financial institution, which imposes excessive financial obligation on the State. In addition, a suitable mechanism is still lacking. Hence, in order to reduce the State's financial obligation, it is appropriate to adopt a limited coverage as well as to stipulate various mechanisms to protect deposits systematically. This shall enhance public confidence in the financial institution system as well as encourage domestic savings and strengthen the stability of the financial institution system as a whole. This Act is therefore enacted.

Amended by Chuleemas  
On 20 February 2017

Reviewed by Pintip  
On 21 February 2017