

EMERGENCY DECREE
ON THE PROVISION OF FINANCIAL ASSISTANCE FOR ENTREPRENEURS
AFFECTED BY COVID-19 PANDEMIC, B.E. 2563 (2020)

HIS MAJESTY KING MAHA VAJIRALONGKORN PHRA VAJIRAKLAOCHAOYUHUA;
Given on the 18th Day of April B.E. 2563;
Being the 5th Year of the Present Reign.

His Majesty King Maha Vajiralongkorn Phra Vajiraklaochaoyuhua is graciously pleased to proclaim that:

Whereas it is expedient to have the law on the provision of financial assistance for entrepreneurs affected by COVID-19 pandemic;

By virtue of the provisions in section 172 of the Constitution of the Kingdom of Thailand, the King hereby issues the Emergency Decree as follows.

Section 1. This Emergency Decree is called the “Emergency Decree on the Provision of Financial Assistance for Entrepreneurs Affected by COVID-19 Pandemic, B.E. 2563 (2020)”.

Section 2. This Emergency Decree shall come into force as from the date of its publication in the Government Gazette.¹

Section 3. In this Emergency Decree:

“entrepreneur” means an operator of a small or medium enterprise;

“small or medium enterprise” means a enterprise having a credit line not exceeding five million bath with each financial institution and which does not belong to a business group having characteristics as determined by the Bank of Thailand;

* Translated by Rachanichol Pakdeesettakul, Legal Opinions and Translation Section, Foreign Law Division, Office of the Council of State. – Initial Version – pending review and approval by the Office of the Council of State.

¹ Published in the Government Gazette, Vol. 137, part 30a, page 6, dated 19th April B.E. 2563 (2020).

“financial institution” means a commercial bank under the law on financial institution business or a specialized financial institution under the law on financial institution business which conducts credit granting business;

“Committee” means the Committee Overseeing the Compensation;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 4. In order to alleviate the impact resulting from COVID-19 pandemic or the State measures requiring compliance by the people with a view to suppress, contain, and solve the problems resulting from such pandemic, actions shall be taken to financially assist entrepreneurs in accordance with the procedures provided in this Emergency Decree.

It shall be the duties and powers of the Ministry of Finance and the Bank of Thailand to collectively take actions in accordance with paragraph one.

Section 5. The Minister of Finance shall have charge and control of the execution of this Emergency Decree.

CHAPTER I

MEASURES SUPPORTING THE GRANTING OF ADDITIONAL CREDIT

Section 6. In addition to the granting of loans under the law on the Bank of Thailand, the Bank of Thailand shall have the power to grant loans to financial institutions on this specific occasion within the amount not exceeding five hundred billion baht, in order for financial institutions to grant loans to entrepreneurs as provided in this Emergency Decree.

The interest rate for the loans granted to financial institutions under paragraph one shall be zero point zero one percent per annum.

The granting of loans to financial institutions under paragraph one may be carried out by means of purchasing promissory notes issued by the financial institutions raising the loans.

The provisions in section 9 (4) of the Bank of Thailand Act, B.E. 2485 (1942), as amended by the Bank of Thailand Act (No. 4), B.E. 2551 (2008) shall not apply to the granting of loans of the Bank of Thailand under this Emergency Decree.

Section 7. A financial institution shall submit a request to raise a loan to the Bank of Thailand in accordance with the rules and conditions prescribed in the Notification

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of the Bank of Thailand within six months as from the date this Emergency Decree comes into force, but in the case where there is still a necessity to provide further assistance and there is remaining fund, the Bank of Thailand may extend such period of time for a period not exceeding six months each time but may not do so more than two times, in accordance with the rules and conditions prescribed in the Notification of the Bank of Thailand.

In granting a loan under paragraph one, the Bank of Thailand may also prescribe rules and conditions which the financial institution must comply with.

The rules and conditions under paragraph one and paragraph two shall not have a characteristic which creates an unnecessary burden on the request, or require that a relevant person must acquire any permission.

Section 8. The money the financial institutions received under section 7 must be used for granting loans to entrepreneurs who are not under the prohibitions prescribed in the Notification of the Bank of Thailand.

Section 9. In granting a loan to an entrepreneur under section 8, a financial institution must comply with the following conditions:

(1) the loan granted must be a granting of credit on top of the amount of existing debt, and must not exceed twenty percent of the outstanding debts on the 31st date of December, B.E. 2562, but does not include the outstanding debts of personal credit line under supervision, credit line for individual's occupation under supervision, and credit line of credit card, and the amount of the loan granted must not affect the existing credit lines;

(2) the interest rate of the additional credit under (1) for the first two years shall be two percent per annum, and interest shall not be collected from the borrower for the first six months as from the date the entrepreneur receives the additional credit.

For the interest not collected under (2), the financial institutions shall receive compensation together with the payment of compensation for loss under section 11 in accordance with the rules, procedures, and conditions prescribed in the Notification of the Bank of Thailand.

In granting a loan under paragraph one, the financial institution shall be exempted from the fees for the registration of mortgage of immovable property and condominium and the registration of business security which result from the granting of loans under the measures provided in this Emergency Decree.

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Section 10. A financial institution shall repay the loan granted under this Emergency Decree along with interest to the Bank of Thailand within two years as from the date the loan is received.

Section 11. In the case where a financial institution sustains a loss from the granting of loans under section 9, the financial institution sustaining a loss shall receive a compensation for the loss as determined by the Bank of Thailand with approval from the Council of Ministers, which shall not be less than:

(1) seventy percent of the amount of money that the financial institution needs to make additional provisions for the total amount of debts of the debtors multiplied by the ratio of the amount of new debts under this Emergency Decree to the total amount of debts, for entrepreneurs with a credit line not exceeding fifty million bath on the 31st date of December, B.E. 2562;

(2) sixty percent of the amount of money that the financial institution needs to make additional provisions for the total amount of debts of the debtors multiplied by the ratio of the amount of new debts under this Emergency Decree to the total amount of debts, for entrepreneurs with a credit line exceeding fifty million bath on the 31st date of December, B.E. 2562.

The method of calculation of loss and loss for which compensation should be received under paragraph one shall be in accordance with the rules, procedures, and conditions as prescribed in the Notification of the Bank of Thailand.

Upon the expiration of the two-year and six-month period as from that date this Emergency Decree comes into force, the Bank of Thailand shall undertake to calculate the compensations under section 9 paragraph two and this section and propose them to the Committee for further actions.

Section 12. There shall be a Committee Overseeing the Compensation, consisting of the Permanent Secretary of the Ministry of Finance as the Chairperson; the Secretary-General of the Council of State, a Deputy Governor of the Bank of Thailand as entrusted by the Governor of the Bank of Thailand, the Director-General of the Public Debt Management Office, and the Director-General of the Fiscal Policy Office as members; and a staff of the Bank of Thailand as entrusted by the Governor of the Bank of Thailand as a secretary.

The Committee shall be dissolved once the exercise of the duties and powers of the Committee is complete.

Section 13. The Committee shall have the following duties and powers:

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(1) to prescribe rules and procedures for the payment of compensations to the financial institutions under section 9 paragraph two and section 11;

(2) to examine the calculation of the compensations to ensure compliance with the rules, procedures, and conditions prescribed by the Bank of Thailand under section 9 paragraph two and section 11;

(3) to inform the Ministry of Finance of the amount of compensations and the financial institutions that receive the compensations.

Where a financial institution raise a challenge in relation to loss, the amount of loss, or compensation, such challenge shall be submitted to the Committee within thirty days as from the date the notification of compensation is received. The decision of the Committee shall be final.

Section 14. Once being informed under section 13 (3), the Ministry of Finance shall propose it to the Council of Ministers for consideration, and once the Council of Ministers adopts a resolution, relevant persons shall act accordingly.

In the case where compensation must be paid, the Ministry of Finance shall undertake to complete such payment expeditiously in order not to create an unreasonable burden on the relevant financial institution.

CHAPTER II POSTPONEMENT OF DEBT REPAYMENT

Section 19. In order to alleviate the impact resulting from COVID-19 pandemic, the Bank of Thailand shall have the power to order financial institutions to postpone the repayment of principal and interest of entrepreneurs having a credit line not exceeding one hundred million baht with each financial institution or other debtors.

The postponement of debt repayment under paragraph one shall not be deemed a time extension granted by the creditor to the debtor, or a default by the debtor.

The rules, procedures, and conditions in the postponement of debt repayment, the period of postponement, and the procedures for the repayment of principal and interest postponed shall be as prescribed in the Notification of the Bank of Thailand.

Countersigned by

General Prayut Chan-o-cha

Prime Minister

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Remark: The grounds for the promulgation of this Emergency Decree are as follows. Whereas COVID-19 pandemic has a widespread impact and is likely to aggravate, it is necessary to have measures in place to provide additional assistance to entrepreneurs which are a business sector that drives the economy of the country and which constitute an important source of employment in the economic system, whereby additional credit is granted in order to increase the liquidity, and debt repayment is postponed in order to be aligned with the ability to repay debts of the entrepreneurs which is expected to decrease drastically as a result of COVID-19 pandemic. Such measures must be carried out urgently in order to prevent the business sector from facing a state of liquidity shortage or defaults which may affect the financial status and the performance of duties relating to credit of financial institutions, which may then have an impact on the stability of the economic system of the country, resulting in an exacerbation of the problem and rendering it difficult to be solved later. This constitutes an emergency of unavoidable and urgent necessity for the provision of financial assistance to entrepreneurs affected by COVID-19 pandemic for the purpose of maintaining the economic security of the country. It is therefore necessary to enact this Emergency Decree.

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