

THAILAND
Developments in the legal and regulatory framework

This paper summarizes recent developments in the legal and regulatory framework pertaining to financial institutions, which have aided Thailand’s steady recovery from the 1997 Asian financial crisis over the past few years

Figure I: Changes in the Thai banking sector

	31 December 1996	14 July 2008
Commercial banks:		
Thai banks	15	14
Majority Thai owned	15	12
Majority foreign owned	0	2
Branches of foreign banks	14	16
Finance companies:		
		5
Majority Thai owned	91	4
Majority foreign owned	0	1
Credit foncier companies:	12	3

Five new Acts of importance to the Thai financial market were enacted during the past year by the National Legislative Assembly of the last government, but four took effect only after being published in 2008.

1. Financial Institutions Businesses Act, B.E. 2551 (2008)

The Financial Institutions Businesses Act unifies the regulatory framework and strengthen the BoT’s powers of supervision, monitoring and enforcement. The bill laws given priority importance in letters of the MoF/BoT to the IMF. The Act defines “financial institution business” as commercial banking business, finance business and credit foncier business. The Act permits regulators to assign to the BoT supervision of specialized parastatal financial institutions, such as the Export-Import Bank of Thailand. It retains the existing ceilings on foreign ownership and foreign directors (both set at 25%), but allows for relaxation on a case-by-case basis to have foreign shareholdings up to 49% and number of foreign directors up to 1/2 of all directors.

Any person who holds shares in a financial institution in the amount of five percent or more of the total issued shares, either directly or indirectly, must report such holding to BoT. Shares held by “related person” must be included in the amount of shares held by such person, but preferred shares which do not carry voting rights are excluded.

Except with authorization by BoT, no person can hold, either directly or indirectly or by “related person”, more than ten percent of the total issued shares of a financial institution.

Licensed commercial banks, finance companies and credit foncier companies are deemed financial institutions which have licenses under the new Act.

All ministerial regulations and notifications of the MoF, and notifications of the BoT remain in force.

All relaxations granted relating investment, purchasing or holdings of shares in excess of ratios prescribed by BoT will continue for a period not exceeding 5 years.

The durations of other relaxations granted under various Sections of the Act are prescribed.

2. Deposit Protection Institution Act, B.E. 2551 (2008)

This Act creates a Deposit Protection Agency with a limited guarantee on deposits to replace existing blanket guarantee schemes. It aims to stabilize financial institutions during a crisis and also secure the confidence and trust of depositors. Financial Institutions that are members will pay insurance premiums and report to the Deposit Protection Agency. This Act came into force on 11 August 2008.

3. Bank of Thailand Act (No. 4), B.E. 2551 (2008)

This amendment to the Bank of Thailand Act redefines the mission, responsibilities and powers of the BoT, which include issue and management of currency, managing foreign exchange and international reserves, supervising and examining financial institutions, acting as the government's banker and determining and conducting monetary policy. Under the amendment, the BoT will be able to request information from any source to facilitate its monetary policy, and will have the authority to supervise all financial products that may affect the public. This amendment came into force on 4 March 2008.

4. Securities and Exchange Act (No. 4), B.E. 2551 (2008)

Supervision of the capital markets will change with the enactment of this amendment to the SEC Act. Under the amendment, a new capital markets supervision board will be added to the Securities Exchange Commission office, new guidelines for corporate governance will be set out to companies that issue securities to the public, and requirements for approval of initial public offerings (IPOs) from the Stock Exchange Commission will be stated, as will the requirements for operating securities companies. This amendment came into force on 5 March 2008.

5. Committee for Supervision and Promotion of Insurance Business Operation Act, B.E. 2550 (2007)

This Act established an independent Insurance Supervision Office to promote the expansion of insurance to cover a wider range of individuals, businesses and property. This Act came into force on 1 September 2007. The two insurance acts were amended in 2008 to lift the ceiling on foreign ownership from 25% to 49%, subject to conditions.

FINANCIAL SECTOR MASTER PLAN

The Bank of Thailand (BoT) aims to promote stability by forming monetary policy. It is responsible for all central banking activities, including supervising financial institutions, providing banking facilities and recommending economic policies to the government. The Bank drafts rules and regulations for financial institutions. The Ministry of Finance oversees all general financial affairs.

In conjunction with the BoT, the Ministry prepared a two-phase Financial Sector Master Plan in 2004, an initiative to broaden general access to financial services and increase their efficiency. The plan was designed to guide the development of Thailand's regulatory framework for 10 years and has helped to increase competition in the financial sector, expand the scope of commercial banks' business, and develop mechanisms to protect consumers.

Other Recent Legislation applicable to Banks, Finance Companies, Security Companies and Insurance Companies:

- The Trust for Transaction in Capital Market Act, B.E. 2550 (2007)
- Contractual Parties' Interest Caretaking Act, B.E. 2551 (escrow accounts)
- Money Laundering Prevention and Suppression Act (No. 2), B.E. 2551 (2008)

Important Websites for current information

The Bank of Thailand (BoT)	www.bot.or.th
Legal Execution Department	www.led.go.th
The Department of Insurance	www.doi.go.th
The Ministry of Finance (MoF)	www.mof.go.th
The Office of the Council of State	www.krisdika.go.th
The Securities and Exchange Commission (SEC)	www.sec.or.th
The Stock Exchange of Thailand (SET)	www.set.or.th