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**Notification of the Bank of Thailand**

**No. SorNorSor. 37/2008**

**Re: Guidelines on Making Investment of Financial Institutions**

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## **1. Rationale**

In the past, the Bank of Thailand had prescribed regulation on investment of financial institutions in other companies in order to prevent financial institutions from having too much interest in Non-financial businesses or Non-supporting businesses. Throughout that period, most of financial institutions' investment were direct investment in common stocks, preferred stocks, or other uncomplicated forms. However, since the circumstances of the money and capital market have changed, investments in the market have developed to more complicate forms. This Notification aims to compile the related Notifications of the Bank of Thailand into one Notification, without making any substantial change from the previous guidelines and in line with two main following objectives:

**Objective 1** To conduct the prudential supervision for all types of financial institutions to be the same standard, in accordance with the Financial Institutions Businesses Act B.E. 2551. since previously there were some differences in the supervisory guidelines on making investment for commercial banks, finance companies, and credit foncier companies in terms of investment ratios and regulation on type of investment.

**Objective 2** In accordance with Financial Institutions Businesses Act B.E. 2551, the Bank of Thailand has prescribed the guidelines on consolidated supervision, which exclude investments via regulated entities such as securities companies and insurance companies since companies in such financial businesses are already supervised by specific regulatory bodies. In additional, to prevent an overlapping in supervision, the Bank of Thailand has also excluded the investments, either by holding or possessing shares, of securities companies or insurance companies, which authorized by the Bank of Thailand to establish financial business group, in companies outside the financial business group as prescribed in this Notification. In case that financial institutions obtain an approval to invest before this Notification takes effect, such investment shall still be valid. Financial institutions do not have to request for another approval.

## **2. Statutory Authority**

By virtue of Sections 33 and 34 of the Financial Institutions Businesses Act B.E. 2551, the Bank of Thailand hereby issues guidelines on making investment of financial institutions as prescribed on this Notification.

### **3. Scope of Application**

This Notification shall apply to all financial institutions in accordance with the laws governing financial institutions businesses.

### **4. Notifications and Circulated Letters that were Revoked**

Notifications and Circulated Letters that were revoked are listed in Attachment 1.

### **5. Contents**

#### **5.1 In this Notification,**

“Share” means common stock and preferred stock

“Investment unit” means investment unit as prescribed in the laws governing Security and Security Exchange.

**“Security” means security as prescribed in the laws governing Security and Security Exchange.**

“Fixed income fund” means mutual fund with investment policy to invest in or possess deposits, bonds, securities or other assets, or to seek to generate profit by other means, as prescribed by the Securities and Exchange Commission.

“Other mutual fund” means mutual fund with investment policy to invest in or possess securities or other assets, or to seek to generate profit by other means, besides investment in fixed income fund, as prescribed by the Securities and Exchange Commission.

**“Capital Funds” means total capital funds in accordance with the Notifications of the Bank of Thailand on capital composition and maintenance of capital funds by locally incorporated commercial banks, branches of foreign banks, finance companies, or credit foncier companies, as the case may be.**

**“Related Party” means a person who is related to the other person in the following manners:**

- (1) Spouse,**
- (2) Child or adopted child who is not yet reached adulthood,**
- (3) Company in which that person or person under (1) or (2) has managing authority,**
- (4) Company in which that person or person under (1) or (2) has power to control the majority voting rights in the shareholders’ meeting,**
- (5) Company in which that person or person under (1) or (2) has power to control the appointment or dismissal of directors,**
- (6) Subsidiary company of the company under (3) or (4) or (5),**
- (7) Affiliated company of the company under (3) or (4) or (5),**
- (8) Principal or agent, or**

**(9) Other persons with characteristics as specified by the Bank of Thailand.**

**In case where a person holds, directly or indirectly, 20 percent or more of total shares sold in a company, it is assumed that such company is a related to such person, unless it can be proven otherwise.**

## **5.2 Rules**

### **5.2.1 Holding or possessing shares**

In case financial institutions hold or possess shares of any company, financial institutions shall comply with following rules and procedures;

**(1) Ratio of shares held or possessed**

Financial institutions shall not hold or possess shares, directly or indirectly, in a company more than the following specified ratios:

**(1.1) 20 percent of financial institutions' capital fund in case of aggregated investment**

**(1.2) 5 percent of financial institutions' capital fund in case of investment in each individual company**

**(1.3) 10 percent of the company's shares sold**

The calculation of ratios mentioned above should include the shares held by financial institutions' related parties. In case of branches of foreign banks, the calculation should include shares of companies registered in Thailand held by head office or other oversea branches.

**(2) Exception for the calculation of ratios**

The calculation of ratios, under 5.2.1 (1), shall exclude

**(2.1) holding or possessing shares in specific businesses under the government policy to promote benefits to the overall financial system, which are the National Credit Bureau and the National ITMX Co., Ltd.;**

**(2.2) holding or possessing shares by financial institutions' related party, which is a regulated entity, such as securities company and insurance company, in a company which is not part of a financial business group as prescribed on the Notification of the Bank of Thailand regarding Consolidated Supervision and the Circulated Letter of the Bank of Thailand regarding Request for Financial Business Group Establishment which obtains approval on a case by case basis.**

### **5.2.2 Holding or possessing investment units**

Financial institutions shall comply with rules and procedures in investing in investment units as follows:

(1) Ratio of investment units held or possessed

(1.1) Holding or possessing investment units in a mutual fund

Financial institutions shall not, directly or indirectly, hold or possess investment units in or outside the Stock Exchange of Thailand (SET) or Thailand Securities Depository (TSD) in amount exceeding the following ratios:

(1.1.1) In case of holding or possessing investment unit in fixed income fund, financial institutions shall not hold or possess more than 20 percent of total investment units sold of such fixed income fund.

(1.1.2) In case of holding or possessing investment unit in other mutual fund other than fixed income fund prescribed in (1.1.1), financial institutions shall not hold or possess more than 10 percent of total investment units sold of such mutual fund.

(1.2) Holding or possessing investment units, together with common stocks or preferred stocks

Financial institutions shall not hold or possess investment units, together with common stocks or preferred stocks more than 30 percent of the financial institution's capital fund, whether as an investment in or outside the Stock Exchange of Thailand (SET) or Thailand Securities Depository (TSD).

(2) Exception

The calculation of ratios under 5.2.2 (1) shall exclude mutual funds established according to the government policy, or with the objective to restore economic and financial institution system which are Vayupak Fund, Property Fund for solving financial institution system problems (Fund 2), Mutual Fund for solving financial institution system problems (Fund 3), Property and Loan Fund (Fund 4), and Asian Bond Fund (ABF)

**5.2.3 Rules and procedures for valuation of investment in securities**

Financial institutions shall conduct valuation of investment in securities according to the laws governing Accounting Profession.

Valuation of investment in securities, mentioned above, shall be applied to the single lending limit's ratio calculation, as prescribed in Notification of the Bank of Thailand regarding large exposure (Single Lending Limit), and to the ratio calculation of transactions with major shareholders or businesses with beneficial interest, as prescribed in Notification of the Bank of Thailand regarding conducting transactions with major shareholders or businesses with beneficial interest (Related Lending)

**5.2.4 Regulation on this Notification is not applicable to investments in financial business group that was authorized by the Bank of Thailand on its establishment. However, such financial business group shall comply with regulation on consolidated supervision, as prescribed in Notification of the Bank of Thailand regarding Consolidated Supervision, and shall follow rules and conditions for obtaining relaxation on a case by case basis as prescribed in the Circulated Letter of the Bank of Thailand regarding Request for Financial Business Group Establishment.**

**5.2.5 In case there is a violation to Sector 34, if financial institutions are able to prove that they have already performed the examination on the related parties with caution, however, the violation is still incurred; it should be considered as financial institutions do not violate Section 34.**

## **6. Transitional Provision**

**In case that financial institutions invest, purchase or hold shares or investment units in an amount exceeding the ratio prescribed in 5.2.1(1) and 5.2.2(2) before the Financial Institutions Businesses Act B.E. 2551 takes effect, the Bank of Thailand has granted a temporary relaxation to financial institutions under the following conditions:**

**6.1 Financial institutions, who obtained relaxation to invest, purchase or hold shares or investment units in an amount exceeding the specific ratio before the Financial Institutions Businesses Act B.E. 2551 takes effect, may continue to hold or possess their shares or investment units up to 5 years starting from the date the Financial Institutions Businesses Act B.E. 2551 takes effect.**

**6.2 Financial institutions, who invested, purchased or held shares or investment units in an amount exceeding the ratio prescribed in 5.2.1(1) and 5.2.2(2) before the Financial Institutions Businesses Act B.E. 2551 takes effect and such transactions do not violate the laws on commercial banking, or the laws on undertaking of finance business, securities business, and credit foncier business, shall not increase the investments in shares or investment units. In addition, such financial institutions must proceed to have those investments to be in compliance with Section 33 and Section 34 and the rules prescribed in 5.2.1(1) and 5.2.2 (1) with out delay, and shall not be longer than 5 years from the effective date of the Financial Institutions Businesses Act B.E. 2551.**

## **7. Effective Date**

**This Notification shall be effective the day after its publication in the Royal Gazette onward.**

Announced on 3 August, 2008

(Mrs. Tarisa Watanagase)

Governor  
Bank of Thailand

**Notifications of the Bank of Thailand and Circulated Letters that are Revoked**

<b>No.</b>	<b>Issued Date</b>	<b>Type of Document</b>	<b>Document No.</b>	<b>Subject</b>
1	25 Dec 1987	Circulated Letter	ThorPorTor. NorWor.(Wor) 1935/1987	Commercial banks Purchase or Hold Shares of a Limited Company Exceeding 10 Percent of the Total Amount of Such Company's Shares Sold
2	26 May 1994	Attachment to the Notification of the BOT	ThorPorTor. NgorGor. (Wor) 950/1994	Guidelines to Consider Granting an Approval for Commercial Banks to Purchase or Hold Shares in a Limited Company Exceeding 10 Percent of the Total Shares Sold of that Company.
3	14 Dec 1995	Circulated Letter	ThorPorTor. NgorPhor.(Wor) 2693/1995	Purchase or Holding of Shares in a Limited Company Exceeding the Legal Limit in the Manner of Agent Shareholding
4	28 Dec 1995	Circulated Letter	ThorPorTor. NgorGor.(Wor) 2815/1995	Purchase of Shares of Other Company Beyond the Legal Limit Through Use of nominees
5	25 Apr 2003	Notification of the BOT		Prescription on Purchasing or Holding Shares at an Aggregate Value in Proportion to Capital Funds (Circulated Letter of the BOT No. SorNorSor. (21) Wor. 63/2003 dated 2 May 2003)
6	25 Apr 2003	Notification of the BOT		Guidelines and Procedures for Investment in Securities of Finance Company and Finance and Securities Company (Circulated Letter of the BOT No. SorNorSor. (21) Wor. 64/2003 dated 2 May 2003)
7	5 Aug 2003	Circulated Letter	SorNorSor.(21) Wor.105/2003	Authorization for the Holding of Shares of Limited Company Beyond the Legal Limit by Commercial Banks

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		<b>Document</b>	<b>No.</b>	
8	4 May 2005	Circulated Letter	ThorPorTor. ForSorWor.(21) Wor.798/2005	Amendment of the Regulations Pertaining to Purchasing or Holding of Shares of a Limited Company in an Amount Exceeding the Rate Prescribed by Law
9	4 May 2005	Circulated Letter	ThorPorTor. ForSorWor.(21) Wor.799/2005	Amendment of the Regulations Pertaining to Purchasing or Holding of Shares of a Limited Company in an Amount Exceeding the Rate Prescribed by Law

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