

**Unofficial Translation**  
**With courtesy of the Association of International Banks**  
**This translation is for the convenience of those unfamiliar with the Thai language.**  
**Please refer to the Thai text for the official version.**

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**Notification of the Bank of Thailand**

**No. FPG. 89/2008**

**Re: Components of Capital of Branches of Foreign Commercial Banks**  
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## **1. Objectives**

The Bank of Thailand has revised regulation on the supervision of branches of foreign commercial banks' capital based on two major standards. The first reference standard is the International Convergence of Capital Measurement and Capital Standards – A Revised Framework (Comprehensive Version: June 2006) (Basel II Regulation) of Basel Committee on Banking supervision (BCBS), which has been revised from the 1988 Basel Capital Accord and the 1998 Amendment to the Capital Accord (Basel I Regulation) of BCBS, which had previously been applied as supervision regulation by the Bank of Thailand since 1993. The second reference standard is the International Accounting Standard – IAS 39 Financial Instruments: Recognition and Measurement, which has been applied since 2005 in other countries. The Federation of Accounting Profession plans to issue Thailand Accounting Standard (TAS) that is in line with the IAS 39 and to enforce such standards to all businesses and financial institutions in Thailand by 2011. In case that any business or financial institution is ready to adopt such standard before the enforcement date, they are allowed for such early adoption. This standard allows businesses and financial institutions to have choices to measure and recognize financial instruments at fair value at inception (fair value option). As a result, financial institutions are able to realize gains or losses from the issuance of financial instruments that are recorded as financial liabilities of financial institutions when credit ratings of such financial instruments are upgraded or downgraded, which are directly affected capital of financial institutions.

The objectives of the revision of the Notification of the Bank of Thailand Re: Components of Capital Funds of Branches of Foreign Commercial Banks are to make it in line with the Basel II regulation, which shall be applied to all foreign bank branches; and to make foreign bank branches intended to comply with IAS 39 ready before the enforcement by the Federation of Accounting Profession.

## **2. Statutory Power**

By virtue of Sections 29, 32 and 71 of the Financial Institutions Businesses Act B.E. 2551, the Bank of Thailand makes provision for the regulations on components of capital required to be maintained by branches of foreign commercial banks, as stipulated in this Notification.

### 3. Scope of Application

This Notification shall be applicable to all branches of foreign commercial banks established in accordance with the laws on financial institutions business.

### 4. Repeal of Notifications and Circulars

Details of Notifications and Circulars of the Bank of Thailand that shall be repealed are in Attachment 1.

### 5. Contents

#### 5.1. Definitions

“Branches of foreign commercial banks” refers to branches of foreign commercial banks that are granted a permission to undertake commercial bank business in Thailand.

“Financial institutions’ board of directors” refers to managers, persons with power of management, who are responsible for the administration and the management over branches of foreign commercial banks.

#### 5.2. Components of Capital

**5.2.1. Total capital of branches of foreign commercial banks consist of capital subtracted by items in 5.2.2.**

Capital of branches of foreign commercial banks consist of assets or securities that branches of foreign commercial banks shall maintain in accordance with Section 32 of the Financial Institutions Businesses Act B.E. 2551, i.e. those are assets that branches of foreign commercial banks shall maintain within Thailand or securities that branches of foreign commercial banks have in other foreign countries that are in accordance with the regulations prescribed by the Bank of Thailand, details are as set out in Attachment 2.

#### **5.2.2. Items deductible from capital**

**(1) Gain from adopting Fair Value Option according to the International Accounting Standard 39 Financial Instruments: Recognition and Measurement (IAS 39) under the following circumstances. However, the adoption of Fair Value Option shall be in accordance with the regulation specified in Attachment 3.**

**(1.1) Reduction in fair value of financial instruments recorded as financial liabilities due to the downgrade of financial instruments issued by such branches of foreign commercial banks.**

**(1.2) Increase in fair value of loans or financial instruments due to unreliable measurement of such fair value.**

(2) In case that branches of foreign banks undertake credit derivatives transactions, the capital shall be deducted in accordance with regulation stipulated in the Notification of the Bank of Thailand Re: Permission for Commercial Banks to Undertake Credit Derivatives Transactions.

(3) In case that branches of foreign banks undertake transactions related to securitization, the capital shall be deducted in accordance with regulation stipulated in the Notification of the Bank of Thailand Re: Permission for Commercial Banks to Undertake Securitizations Business.

**(4) In case that branches of foreign banks have failed trades and unsettled transactions and non-delivery versus payment positions, the capital shall be deducted in accordance with regulation stipulated in the Notification of the Bank of Thailand Re: Regulation on the Calculation of Credit Risk-Weighted Assets for Failed Trades, Unsettled Transactions, and Non-Delivery Versus Payment Transactions (Non-DvP) for Commercial Banks.**

**(5) In case that branches of foreign banks calculate equity exposures by using PD/LGD method, branches of foreign banks shall deduct the capital by the value such equity exposures or the expected loss (EL) of such equity exposures, whichever the case may be, in accordance with regulation stipulated in the Notification of the Bank of Thailand Re: Regulation on the Calculation of Credit Risk-Weighted Assets for Commercial Banks under Internal Ratings-Based Approach (IRB Approach).**

**(6) In case that branches of foreign banks have shortfall of provisions, the capital shall be deducted in accordance with regulation stipulated in the Notification of the Bank of Thailand Re: Regulation on the Calculation of Credit Risk-Weighted Assets for Commercial Banks under Internal Ratings-Based Approach (IRB Approach).**

Shortfall of provisions refers to total of eligible provisions only the part that is lower than expected loss (EL).

**(7) Other items as stipulated in the Regulation of the Bank of Thailand.**

### **5.3. Period for counting to and deducting from capital**

**Period for counting each item as capital is set out in Attachment 4.**

## **6. Effective date**

This Notification shall be come into forced with effect from 31 December 2008 onwards.

Announced on the 27<sup>th</sup> day of November 2008

(Tarisa Watanagase)  
Governor  
Bank of Thailand

**Details of Notifications and Circulars of the Bank of Thailand that shall be repealed**

<b>No.</b>	<b>Issued Date</b>	<b>Type of Document</b>	<b>Document No.</b>	<b>Subject</b>
1	3 Aug 2008	Notification of the Bank of Thailand	SorNorSor. 51/2008	Components of Capital and Regulation on the Maintenance of Capital of Branches of Foreign Banks.

**Regulation on the Counting of Assets that Branches of Foreign Commercial Banks shall Maintain within Thailand or Securities that Branches of Foreign Commercial Banks Have in Other Foreign Countries as Capital of Branches of Foreign Commercial Banks**

At present, whereas foreign banks operated in Thailand must be in form of branches of foreign commercial banks that do not have capital accounts, the Law thus stipulates that branches of foreign banks permitted to undertake commercial bank business in Thailand shall maintain assets within Thailand or hold securities in foreign countries at the amount, types, procedures, and conditions prescribed by the Bank of Thailand. Such assets maintained by branches of foreign banks shall be deemed as capital to enhance stability and ability to support any possible future losses.

**Regulation on the Counting of Assets that Branches of Foreign Commercial Banks shall Maintain as Capital**

1. Maintenance of assets by branches of foreign commercial banks in accordance with Section 32 of the Financial Institutions Businesses Act B.E. 2551.

Branches of foreign commercial banks licensed to undertake commercial bank business in Thailand shall maintain assets within Thailand or hold securities in other countries at the amount not less than 125 million Baht or the amount prescribed in the license for operating branches of foreign commercial banks, whichever amount is higher.

Assets that branches of foreign commercial banks shall maintain according to Clause 1 are as follows:

1.1. Deposits with the Bank of Thailand, Thai government securities, bonds issued by the Bank of Thailand, bonds issued by the Financial Institutions Development Fund, and debt instruments issued by the Deposit Protection Agency;

1.2. Shares, debentures, or debt instruments issued by the Bank for Agriculture and Agricultural Cooperatives;

1.3. Debentures, bonds, or debt instruments **issued by** the Ministry of Finance or guaranteed by the Ministry of Finance in respect of both principles and interests;

1.4. Debentures, bonds, or debt instruments issued by state organizations or state enterprises established under specific laws or other state enterprises approved by the Bank of Thailand;

1.5. Deposits at state organizations or state enterprises established under specific laws or other state enterprises approved by the bank of Thailand;

1.6. Unit trusts where the proceeds from the issuances of such unit trusts are used for investing in assets under Clause 1.1 to 1.5.

1.7. Immovable properties or leasehold rights from immovable properties used for business operations or as accommodations or welfare for staff and employees that are deducted depreciation or amortized by maturity of the leasehold rights as approved by the Bank of Thailand.

If the value of assets to be maintained by branches of foreign commercial banks at the ending date of the accounting period (**6 months**) is lower than 125 million Baht or lower than the amount prescribed in the license to operating branches of foreign commercial banks, whichever amount is higher, branches of foreign commercial banks shall make a compensation for such assets to be in the stipulated level within 7 days from the ending date of the accounting period (**6 months**).

## 2. Procedures and conditions in the maintenance of assets of branches of foreign commercial banks

In maintaining assets in accordance with Clause 1, branches of foreign commercial banks shall comply with the following procedures and conditions:

2.1. Assets to be maintained shall be free from any encumbrances.

2.2. Assets to be maintained shall be separated from liquid assets required to be maintained under Section 65 of the Financial Institutions Businesses Act B.E. 2551.

2.3. Branches of foreign commercial banks shall declare assets required to be maintained in accordance with Clause 1 as capital to the Bank of Thailand and shall present together with documents and evidences necessary for declaration of assets as capital, as set out in details in Attachment 2.1.

2.4. Calculation of value of assets on the declaration date

(1) For assets in Clause 1.1 to 1.4 and 1.6, on the declaration date of the assets, the value of such assets shall be calculated based on market value or acquisition cost, whichever value is lower. In case that market value can not be obtained, the value of such assets shall be calculated based on acquisition cost. Besides, such assets shall also be assessed in accordance with currently adopted accounting standards at the ending date of the accounting period (**6 months**).

In calculating the value of unit trusts in Clause 1.6, the assets which are not assets in Clause 1.1 to 1.5 held by such unit trusts shall be deducted from the value of such unit trusts.

(2) For assets in Clause 1.7, on the declaration date of the assets, the value of such assets shall be calculated based on acquisition cost less accumulated depreciation and allowance for impairment loss compared with market value, whichever value is lower. In case that market value can not be obtained, the value of such assets shall be calculated based on acquisition cost less accumulated depreciation and allowance for impairment loss. However, impairment of the said assets shall be considered at the end of every accounting period (**6 months**) and shall comply with the relevant accounting standards.

Assets according to Clause 1.7 shall be counted as assets to be maintained at the amount not over 20% of total assets to be maintained.

2.5. Assessment of value of assets declared as capital at the end of every accounting period (**6 month**)

(1) Branches of foreign commercial banks shall assess the value of assets at the end of every accounting period (**6 month**), for assets denominated in both Baht currency and foreign currencies. The assessment shall be consistent with the accounting standards applied as at the ending date of such accounting period.

(2) For assets denominated in foreign currencies that are recorded in foreign currencies, branches of foreign commercial banks shall convert such assets into Baht currency at the ending date of reporting month by using exchange rate stipulated in the Notification of Thailand Re: Guideline on Accounting of Financial Institutions. Profits (losses) from the differences of exchange rates shall also be recognized immediately in such accounting period except for the case that agreements on foreign exchange forwards have already been made in full amount which shall be recorded at forward exchange rate predetermined in the agreements.

#### 2.6. Holding period of assets that are eligible to be counted as capital

Branches of foreign commercial banks must hold assets in Clause 1 not less than 3 months from the date of declaration of such assets as capital (except for deposits at the Bank of Thailand).

#### 2.7. Source of funds for acquiring assets to be maintained

Assets or securities that branches of foreign commercial banks required to maintain in accordance with Clause 1 shall be acquired through capital under Section 32 of the Financial Institutions businesses Act B.E. 2551, as described in the following details:

(1) Money brought in from their head offices and/or any other branches outside Thailand, either in the form of capital or loans. However, in case of loans, such loans must be that loans that cannot be recalled before 5 years, or

(2) Various reserves excluding reserves for diminution of the value of assets and reserves for repayment of debts, or

(3) Net profits of the branches in each accounting after deducted all accumulated losses incurred in all accounting periods, including the profits that have been transferred to the accounts of head offices which have yet not been remitted abroad.

In case that branched of foreign commercial banks book money brought in in foreign currency, such money brought in shall be converted using the reference exchange rates as at the ending date of the period as specified in Clause 2.5 (2) in the same way as assets denominated in foreign currencies.

In case that the value of the money brought in increases due to the conversion of such money denominated in foreign currencies with the exchange rates on the importing date as compared with the value of the money brought in converted with the exchange rates on the reporting date, branched of foreign commercial banks shall not remit the increased value derived from the said conversion to the head offices but shall maintain it in Thailand for the benefits of further business operations and such increased value shall not be used to compensate operating losses. In case the conversion results in the reduction of money value, branches of foreign commercial banks shall deduct the said reduced value from the annual net profit or add it to annual net loss. If the result of which is in loss amount, the head offices shall then import money to fully compensate such loss if it desires to maintain the previous level of capital.

Examples of the considerations on the amount of money that the head offices shall import for the compensation are set out in Attachment 2.2, and regulation that branches of foreign commercial banks shall comply with on the remittance of profits to the head office are set out in Attachment 2.3.

2.8. As for the use of capital under Clause 2.7 for the maintenance of assets under Clause 1, any branches of foreign commercial banks having inter office accounts with head offices or any other branches of the same juristic person or parent and subsidiary companies shall, at any time, be in net debit balance in the amount not less than assets required to be maintained under Clause 1.

As for calculating the amount of such net debit balance in the first paragraph, the amount in which such branches of foreign commercial banks is in debt balance to the head offices or any other branches, or parent and subsidiary companies shall be deducted by (1) the amount of debt in which such branches are the creditors to head offices or any other branches of the same juristic person or parent and subsidiary companies (net inter office transaction) and (2) net operating loss of **the accounting period (6 months)**.

“Parent company” means a juristic person that is the owner or holds 50 per cent or more of the total distributed shares of foreign commercial banks and as indicated in the annual report of foreign commercial bank.

“Subsidiary company” means a juristic person of which the foreign bank holds 50 per cent or more of the total distributed shares and as indicated in the annual report of foreign commercial bank.

**The counting shall cover only parent and subsidiary companies that are immediate entities to the head office and only parent and subsidiary companies that are operated in the foreign countries.**

2.9. Conditions for depositing assets under Section 32 in foreign currency with commercial banks, finance companies, or securities companies registered in Thailand.

Branches of foreign commercial banks shall set forth in custody employment agreements that the disposal of such assets shall be informed to the Bank of Thailand prior to the disposal. The custodian of securities shall send confirmations of the existence of such securities to the Bank of Thailand every month and attach a copy of the said agreement with the application to maintain the said securities as assets under Section 32.

In case that securities in foreign currencies not being delivered to the purchaser (scripless system) due to the delivery of the securities being high in cost and consuming much time, foreign bank branches shall present the Bank of Thailand with evidence of purchase and confirmation of the existence of such securities from the custodian of securities to supplement the application of maintenance of such securities as assets under Section 32 instead of importing the securities into Thailand.

### 3. Considerations on the calculation of assets required to be maintained by branches of foreign commercial banks as capital

The value of assets required to be maintained as capital of branches of foreign commercial banks is considered from the lower amount between the assets maintained under Section 32 (details are specified in the aforementioned Item 1 and Item 2) and the result of the following:

3.1. Aggregate amount of the money brought in from the head office or any other branches abroad and reserves set aside from net profits and net profits transferred to the account of the head office but still maintained in Thailand, then deducted by net loss not yet compensated by the head office, or

3.2. Aggregate amount of the money brought in from the head office or any other branches abroad and reserves set aside from the net profits and net profits transferred to the account of the head office but still maintained in Thailand, then deducted by net loss not yet compensated by the head office and net balance of inter office accounts in the case where the branches are the creditors to the head office, any other branches of the same juristic person, parent, and subsidiary companies.

**In case that any branches of foreign commercial banks adopt fair value option and becomes loss on the following circumstances:**

**(1) Increase in fair value of financial instruments recorded as financial liabilities due to the upgrade of financial instruments issued by such branches of foreign commercial banks.**

**(2). Reduction in fair value of loans or financial instruments due to unreliable measurement of such fair value.**

**Branches of foreign commercial banks shall add such loss back to net profits of each accounting period (6 months), which have been transferred to the accounts of the head office and not yet remitted outside Thailand for the calculation under the aforementioned Clause 3.1 and 3.2.**

4. Increase and decrease of capital of branches of foreign commercial banks

4.1. Increase of capital

The increase of capital shall take place only in the case when branches of foreign commercial banks have **money brought in as specified in Clause 2.7** and declare assets specified in Clause 1 as assets under Section 32 **together with the document and evidence as set out in Item A. of Attachment 2.1.**

In case where the value of assets increase due to the revaluation or the conversion, it shall not be deemed as an increase of capital unless (1) branches of foreign commercial banks maintain money brought in in foreign currencies and the value of which increase from the conversion, or (2) **branches of foreign banks already have money brought in to support such increase**, or (3) branches of foreign commercial banks bring money in accordance with Clause 2.7 in at the amount equal to the value of assets increase from such revaluation or conversion and completely and correctly submit documents or evidence as set out in Item A. of Attachment 2.1.

4.2. Decrease of capital

The decrease of capital shall take place only in the case when assets maintained under Section 32 of branches of foreign commercial banks are lower; or the value of assets decrease due to the revaluation or the conversion; or capital in Clause 2.7 decrease due to conversion; or branches of foreign commercial banks have operating loss which has not been yet compensated by the head office; or the balance of inter office accounts reveal that branches of foreign commercial banks are the creditors to the head office, any other

branches of the same juristic person, parent, and subsidiary companies; or any other cases prescribed by the Bank of Thailand.

If branches of foreign commercial banks still desire to maintain the capital level, not to be decreased as the conditions above, additional amount of assets in accordance with Clause 1 or addition capital in accordance with Clause 2.7 shall be declared in order to maintain the value not to be less than the stipulated value within 7 working days from the ending date of the accounting period (**6 months**). The capital reduction resulting from operating losses based on preliminary financial statements of branches of foreign commercial banks shall be compensated first. Upon the financial statements having been audited and certified by an auditor, the compensation for losses shall then be promptly and duly adjusted as soon as possible.

In addition, branches of foreign commercial banks shall clearly indicate reasons for the increase or decrease of capital or money used in maintaining the assets under Section 32, separately on a case by case basis, in the application for declaration of assets as capital (in case of requests for declaration for the increase or the decrease of assets under Section 32 or capital) and **indicate the value of capital in accordance with laws and also of money used in maintaining the assets under Section 32** in the Report ThorPor. 1.2 and as required for the Data Management System (DMS).

**Attachment 2.1**

**Documents and Evidences Required for the Declaration of Assets  
as Assets under Section 32 of the Financial Institutions Businesses Act, B.E. 2551  
which are Counted as Capital of Branches of Foreign Commercial Banks**

**A. Documents and evidences required for the declaration of assets as assets under Section 32**

Branches of foreign commercial banks are required to declare assets in Clause 1 of Attachment 2 as capital of branches of foreign commercial banks to the Bank of Thailand, together with documents and evidences necessary for declaration of assets as follows:

1. Application for the declaration of assets as capital shall, at minimum, disclose the following information:

1.1. Type of money used to acquire assets as specified in Clause 2.7 of Attachment 2;

1.2. Details of assets;

1.3. Price of assets as stipulated in Clause 2.4 of Attachment 2;

1.4. Reasons for requesting declaration of increase or decrease of capital.

2. Confirmation letter of increase of capital from the head office.

3. Evidence of money remittance from the head office or any other branches outside Thailand in order to increase capital, in the case that the money used for acquiring assets obtained from the head office or any other branches outside Thailand whether in the form of money brought in or loans, as stipulated in Clause 2.7 (1) in Attachment 2.

4. Evidence of approval from the head office in case money used in acquiring assets is from any reserves excluding reserves for impairment of assets value and reserve for debt repayment, or from net profits of each accounting period (**6 months**) of the branches, which are transferred to the accounts of head offices but have yet not been remitted aboard as stipulated in Clause 2.7 (2) or 2.7 (3) in Attachment 2.

5. Evidence showing ownership of the assets so declared.

6. Letter indicating the net maintained balance as at the date of capital increased (may be submitted afterward).

In case of notifying of changes of types of assets under Section 32 (excluding changes of assets if there is increase or decrease of capital), only the documents and evidences specified in the aforementioned Clause 1.2, 1.3, and 5 of this Attachment shall be required. Branches of foreign commercial banks shall prepare a report of changes of assets under Section 32 whenever there is a change of such assets in accordance with the form of report attached herewith. Upon receiving the letter notifying of the changes of assets, if the Bank of Thailand does not raise any objection within 15 days from the receiving date of such letter, it shall be deemed that the Bank of Thailand acknowledges and affects the said changes.

**B. Documents required to submit together with application for a registration of proprietary right over units in condominiums as assets under Section 32**

Branches of foreign commercial banks, which are granted permission from the Bank of Thailand to purchase units in condominiums to use as workplaces or as residential purposes, or as welfare for employees and staff of such branches of foreign commercial banks under Section 80 (2)(a) of the Financial Institutions Businesses Act B.E. 2551, are allowed to register their proprietary rights over the bought condominium units as assets under Section 32. Branches of foreign commercial banks shall attach relevant documents for the Bank of Thailand's consideration, as follows:

1. Photocopy of the sale-purchase contract specifying sale-purchase units, price, and other details as set out in letter of proprietary rights in condominium units.

2. Photocopy of letter of proprietary rights in condominium units indicating that branches of foreign commercial banks have ownership in such condominium units.

3. Photocopy of evidence showing that funds have been transferred to purchase condominium units in accordance with Section 32, Paragraph 2 of the Financial Institutions Business Act B.E. 2551, together with photocopy of forms on undertaking foreign currency transactions.

4. Documents showing details of land price, personal assets, common assets (excluding interior decoration equipments) and expenses on acquiring such condominium units.

**5. Estimation on annual depreciation over the condominium units**

However, all of the aforementioned documents shall be certified for the correctness by the authorized person of the branches of foreign commercial banks.

**Bank ..... Bangkok Branch**  
**Report on Changes of Assets under Section 32**

1. Details of assets requested to be maintained under Section 32

Unit: THB

<b>Assets</b>	<b>Series/ Installment</b>	<b>Par Value</b>	<b>Market Value</b>	<b>Cost</b>	<b>Amount Maintained</b>	<b>Date of Redemption</b>
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
Total		.....	.....	.....	.....	

2. Details of assets requested to be removed from maintenance under Section 32

<b>Assets</b>	<b>Series/Installment</b>	<b>Par Value</b>	<b>Amount Maintained</b>	<b>Date of Redemption</b>
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
Total			<u>.....</u>	

To be effective from:.....

Upon effecting such changes, the assets under Section 32 shall have details as follows:

Unit: THB

<u>Assets under Section 32</u>	<u>Before Changes*</u>	<u>After Changes*</u>	<u>Value as at the Date of Maintenance</u>
Thai Government Securities			
- Treasury bills .....	.....	.....	.....
- Bonds .....	.....	.....	.....
- Others (specify) .....	.....	.....	.....
The Bank of Thailand			
- Deposits .....	.....	.....	.....
- Bonds .....	.....	.....	.....
- Others (specify) .....	.....	.....	.....
Bank of Agriculture & Agricultural Cooperatives			
- Deposits .....	.....	.....	.....
- Bonds .....	.....	.....	.....
- Others (specify) .....	.....	.....	.....
Government Housing Bank			
- Deposits .....	.....	.....	.....
- Debentures .....	.....	.....	.....
- Others (specify) .....	.....	.....	.....
Other securities (specify)			
.....	.....	.....	.....
Immovable properties used as business premises			
.....	.....	.....	.....
Total	.....	.....	.....

3. Net amount of brought in capitals

as at the date of declaration = ..... THB and

is counted as capital funds in accordance with laws = ..... THB

This report is certified to be complete and true.

Signature of authorized person

(.....)

Title

**\* Value of assets under Section 32 which is derived from the revaluation or the conversion in accordance with the Accounting Standard as at the latest six month accounting period, except assets under Section 32 declared during this six month accounting period which can be disclosed in the declared value.**

Enclosure: Photocopy or evidence of ownership of the securities maintained as assets under Section 32 herein.

1. ....

2. ....

3. ....

**Attachment 2.2**

**Example of considerations on the amount of money the head office shall import for compensation:**

**Case 1**

- |  |     |     |         |
|--|-----|-----|---------|
| 1. Loss from operation   | THB | 100 | million |
| 2. Increase value from conversion of capital on the importing date | THB | 50  | million |
| 3. The head office shall import money for compensation of          | THB | 100 | million |

(This is because the increase from the conversion cannot be utilized as compensation of the loss. However, such increase can be declared as additional assets under Section 32.)

**Case 2**

- |   |     |     |         |
|---|-----|-----|---------|
| 1. Loss from operation  | THB | 100 | million |
| 2. Reduced value from conversion of capital on the importing date                                       | THB | 50  | million |
| 3. The head office shall import for compensation of such loss to maintain its previous level of capital | THB | 150 | million |

**Case 3**

- |  |     |     |         |
|--|-----|-----|---------|
| 1. Profit from operation   | THB | 100 | million |
| 2. Reduced value from conversion of capital on the importing date  | THB | 50  | million |
| 3. The head office does not have to import for compensation of the loss since it can utilize the profit from operation to compensate such loss in order to maintain its previous level of capital. Nevertheless, the profit remittance tax must have already been paid on such profit. |     |     |         |

**Case 4**

- |   |     |     |         |
|---|-----|-----|---------|
| 1. Profit from operation  | THB | 100 | million |
| 2. Increment from conversion of capital on the importing date   | THB | 50  | million |
| 3. Branch of foreign commercial bank is prohibited from remitting the increment resulting from conversion of imported capital abroad. |     |     |         |

Branches of foreign commercial banks shall disclose the increase (reduction) in value from conversion of brought in capital on the importing date and the value of the declared increase (reduction) of assets under Section 32, as prescribed in the Data Management System (DMS).

**Regulations on remittance of foreign bank branches' profits to the head office**

In order to be in line with the relaxation on exchange control supervision, branches of foreign commercial banks are allowed to remit profits to their head offices without request for permission from the Bank of Thailand, upon their compliances to the following regulations:

1. Branches of foreign commercial banks shall remit profits to the head offices not more than twice a year (only profits of the six month accounting period). In addition, the remitted profits must be from the real operating performance and are reviewed and audited prior to remittance. For the profits of the first six month of the year of any branches of foreign commercial banks that have their financial statements audited only once a year, such branches of foreign commercial banks shall have their profits from the first six-month accounting period reviewed and audited prior to any remittance. Furthermore, there must not be qualify opinion or be no conditional remarks upon reviewing or auditing of such financial statements.

2. The remitted profits shall be the profits upon complete compliance to laws and regulations. For example, completely making a provision for assets or liabilities in accordance to the laws and regulations as prescribed by the Bank of Thailand, or completely making a provision for taxes and taxes reserved for remitting profits in accordance with laws and regulations as stipulated in the Revenue Code.

3. Branches of foreign commercial banks using deferred tax accounting may remit to the head office only the outstanding amount of profits after deducted deferred tax asset account arising from the following transactions:

3.1. Unused tax losses carryforward

3.2. Temporary differences between book value of assets or liabilities in balance sheet and tax base, or temporary differences in accounting profit and tax profit.

3.3. Unused tax credit carryforward.

Branches of foreign commercial banks shall submit documents and evidences relating to the compliance to the prescribed regulations to the Bank of Thailand within 7 days from the date of remitting profits to the head offices. In case that the Bank of Thailand finds any non-compliances, branches of foreign commercial banks are required not only to correctly comply with the regulation but also required to submit documents to request for permission at each time that the branches of foreign commercial banks would like to remit profits to the head offices. Such requirement has to be complied by the non-compliance branches of foreign commercial banks until the Bank of Thailand notifies any changes regarding the remittance of profits to such branches of foreign commercial banks.

Any foreign bank branches are not able to comply with the aforementioned regulations and intend to remit profits to the head offices, the said foreign bank branches are to send application for permission to the Bank of Thailand for considerations.

**General Guidelines for Financial Institutions Adopting Fair Value Option: FVO Method in accordance with the IAS39 : Financial Instruments: Recognition and Measurement**

Financial institutions that are capable and ready to adopt the fair value option in accounting record with respect to the IAS 39 shall notify and submit the notification letter along with minimum required documents to the Financial Institution Applications Department, Supervision Group, the Bank of Thailand, within 15 days prior to the adoption of fair value option. The Bank of Thailand may later consider requesting for additional information and documents. To adopt the fair value option under IAS39, financial institutions must consider the following minimum requirements:

**A. Guidelines for the consideration of financial institutions when adopting the fair value option :**

**1. Financial institutions shall fully comply with conditions and guidelines regarding fair value option as set out in the accounting standards where the key principles are summarized as follows:**

**1.1. Financial institutions shall set clear policy on designating financial assets or liabilities to adopt the fair value option as at the inception date and shall not able to cancel or revise policy during the lifetime of such financial assets or liabilities. Financial institutions shall act in accordance with one of the following conditions:**

**1.1.1. Financial institutions shall adopt fair value option to reduce volatility in their profits or losses caused by accounting mismatch of financial assets and liabilities, or**

**1.1.2. Financial institutions shall adopt fair value option to manage and assess performance of groups of financial assets or liabilities as set out in the written risk management or investment policies approved by financial institutions' Board of Directors, or**

**1.1.3. Financial institutions shall adopt fair value option for embedded derivatives.**

**1.2. Financial institutions shall disclose information related to the adoption of the fair value option as stipulated in the International Financial Reporting Standard 7 (IFRS 7) or in the Thailand's Accounting Standards which the Federation of Accounting Profession will announce to be in line with IFRS 7.**

**1.3. Financial institutions shall study and appraise the consequences to value of financial assets and liabilities arising from the adoption of fair value option since inception date of the adoption and the impacts from profits and losses that will consequently affect accumulated profits and capital of the financial institutions.**

**1.4. Financial institutions shall discuss with certified public accountants (auditors) of such financial institutions regarding the adoption of fair value option.**

**2. Prior to the adoption of fair value option on financial instruments for any purpose, financial institutions shall have appropriate risk management system in place and comprehensively indicate the adoption of fair value option and the method to manage profit (loss) fluctuation in such risk management policy so as to ensure that:**

- **The purpose of risk management when adopting fair value option shall relevant to risk management framework and risk levels approved by the financial institutions' Board of Directors.**

- **The fair value evaluation method that financial institutions use to assess the value of financial instruments is suitable and relevant to the guidelines set out in the Notifications of the Bank of Thailand.**

- **The fair value of financial instruments is reliable.**

- **The financial institutions regularly act in accordance with the risk management and control policy as well as the related evaluation method.**

- **Financial institutions' Board of Directors and executive management are regularly and appropriately informed about the adoption of fair value option as well as the consequences on financial and operation performances.**

**In addition, financial institutions shall have in place risk management upon the adoption of fair value option as follows:**

**2.1. Financial institutions shall have policy related to the adoption of fair value option for financial instruments both financial assets and liabilities that are approved by the financial institutions' Board of Directors and shall develop a written operating procedures for the adoption of fair value option and the evaluation of fair value of such financial instruments and shall inform all parties involved for compliance.**

**2.2. Financial institutions shall determine procedures on the approval of the adoption of fair value option for any transactions or new products as well as shall describe characteristics and risks associated to such transactions and new products in risk management policy, product program, and existing fair value evaluation process.**

**2.3. Financial institutions shall audit the adoption of fair value option to ensure the compliance with related accounting standards and review the accuracy of the models used to assess fair value under the adoption of fair value option, which shall be a part of normal model validation process,. The model accuracy review shall also be an integral part of model validation and effective test of the model. The back testing shall also be performed regularly. In addition, financial institutions shall report the audit review to the executive management.**

**2.4. Financial institutions shall periodically have the internal auditors review the appropriateness of the adoption of fair value option. This should include the inspection of accounting policy to be in compliance with IAS 39 and the specific transaction testing to realize the actual operations in accordance with the policy.**

**3. Financial institutions shall not apply fair value option to financial instruments that their fair value cannot be fairly evaluated.**

**3.1. The reliance of fair value will be considered from having market prices or using reliable valuation techniques. In case that market prices are used for the financial instruments, financial institutions shall take market liquidity into account. Market price must be actual trading price. In case that valuation models are used, financial institutions shall consider that the models are suitably used for such valuation and information used in such model must refer to the markets according to the guidelines stipulated in the Notification of the Bank of Thailand regarding derivative risk management. Moreover, financial institutions shall be conservative in value assessment through analyzing the accuracy of fair value calculated by the models and have them be examined by internal auditors of the financial institutions.**

**3.2. For illiquid financial instruments of which its value can be referred to by financial institutions with confidence, financial institutions can also adopt fair value option. For example, similar financial instruments which can be traded in liquid markets or illiquid financial instruments but financial institutions are reasonably decompose the components and there are market prices of such components or the value of such components can be appropriately evaluated by using reliable valuation method. In addition, financial institutions should perform back testing for such evaluation, especially for illiquid financial instruments.**

**4. At present, IAS39 determines reliable fair value evaluation approaches as follows:**

**4.1. If there are quoted prices available in an active market, such prices can be used in the fair value assessment because they are the most reliable price references.**

**4.2. In case that quoted prices are not available, financial institutions shall apply the following valuation techniques:**

**4.2.1. Latest trading prices used between knowledgeable parties who are willing to make trading decisions on regular business purpose and can independently negotiate prices as a separate party.**

**4.2.2. Fair value of other financial instruments that have similar characteristics to financial instruments that financial institutions would like to make valuation.**

**4.2.3. Discounted cash flow method**

**4.2.4. Option pricing model, or**

**4.2.5. Valuation techniques widely used among market players that are already proved that they are techniques that provide reliable prices quoted in actual market trading.**

The aforementioned evaluation techniques must have the following characteristics:

- Covering all factors that market players consider for pricing
- Using market data as much as possible and self judgments as least as possible.
- Relevant to techniques and methods accepted by and relevant to academics.
- 
- Regularly back testing

#### **B. Documents related to fair value option required by the Bank of Thailand**

Financial institutions shall notify and submit documents and information relevant to fair value option as listed below, to the Bank of Thailand and the Bank of Thailand may request for additional information or documents.

1. Reasons for the adoption of fair value option including product categories or transactions that financial institutions choose to apply fair value option with
2. Risk management policy and operating procedures relevant to the adoption of fair value option for financial instruments both financial assets and liabilities
3. Policies, procedures, fair value valuation methods, and information sources that financial institutions use for evaluate fair value of financial assets and liabilities.
4. Procedures and testing and validation of fair value evaluation method
5. Scopes of the adoption of fair value option for embedded derivative
6. The impacts of fair value option on profit (loss) or important financial ratios, for example, net interest margin (NIM) including information related to economic hedging when the adoption of fair value option greatly impact components of profit or risk indicator over a period of time.
7. Information related to the estimation of unrealized profit (loss) from items recorded at fair value and total unrealized profits categorized by types of financial instruments to evaluate the ratio of such unrealized profits on equity and capital.
8. Information that financial institutions must disclose in accordance with the International Financial Reporting Standard 7 (IFRS 7) or the Thai Accounting Standards that the Federation of Accounting Profession will announce in accordance with IFRS 7.
9. Discussion results between financial institutions and certified public accountants (auditors) regarding the adoption of fair value option.

**Period for the Count and Deduction of Transaction Related to Capital**

Item	Immediate	Quarter	6-month	Annual
1. Assets declared to be maintained under Section 32	✓			
2. Brought in capitals	✓			
3. Profits transferred to the head office's account but have not yet been remitted abroad and require approval from the head office.	✓			
4. Net inter-office balance, where the branch is the creditor of the head office or other branches that are the same juristic person, parent and subsidiary companies.	✓			
5. Assets conversion or reevaluation under Section 32 or brought in capitals (if the brought in capitals are in foreign currencies) in accordance with accounting standard.			✓	
<b>Deducting Items</b>				
1. Losses arising from any accounting period (with no audit review) in case that there is no retained earnings, which have not yet been transferred to the head office or not yet counted as capital and still maintain in Thailand.			✓	
2. Profits gained from adoption of Fair Value Option in accordance with International Accounting Standard Financial Instruments: Recognition and Measurement when financial statements are already audited.			✓	✓
3. Credit derivatives transactions stipulated in the Notification of the Bank of Thailand regarding Credit Derivatives.	✓			
4. Securitization transactions stipulated in the Notification of the Bank of Thailand regarding Securitization.	✓			
5. Exposures related to failed trades and unsettlement, and non-DvP stipulated in the Notification of the Bank of Thailand regarding Failed Trades and Non-DvP Transactions.	✓			
6. Value of equity exposures under PD/LGD or EL of equity exposures calculated by PD/LGD method, whichever case may be.		✓		
7. Shortfall of provisions (EL > total eligible provisions).		✓		

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**Questions – Answers related to the Notification of the Bank of Thailand No. SorNorSor.89/2008**  
**Re: Components of Capital Funds of Foreign Bank Branches**

<b>Questions to be discussed</b>		<b>Guided Answers</b>
1	<p><b><u>Assets under Section 32</u></b>            Can debentures of State Enterprises which have been privatized as Public Company Limited entities (but still categorized as State Enterprise) be registered as assets under Section 32?</p>	<p>Debentures of State Enterprises which have been privatized as Public Company Limited entities can not be registered as assets under Section 32 because they are not debentures of State Enterprises established under specific law.</p>
2	<p><b><u>Assets under Section 32</u></b>            Does the term “State Enterprises established under specific law” include state enterprises established under any other relevant rules and regulations?</p>	<p>“State Enterprises established under specific law” specified under Section 32 include all state enterprises established under Act, Royal Decree, Declaration of the Revolutionary Party, Rules and Regulations, as set out in details in the Attachments 1.1 item 1.2 : the name list of non-financial institutions state enterprises established under specific law to the Notification of the Bank of Thailand Re: Regulation on Credit Risk-Weighted Asset Calculation under the Standardised Approach for Commercial Banks.</p>
3	<p><b><u>Items deductible from capital funds</u></b>            In case foreign bank branches gain profits in the first six month accounting period and experience losses in the last six month accounting period, can foreign bank branches immediately deduct losses in the last six month accounting period from the capital funds with no attention to the whole annual accounting period?</p> <p>For example, the first six month accounting period gaining profits of Baht 100 million and the last six month accounting period encountering losses of Baht 80 million, in this case can the foreign bank branch immediately deduct losses of Baht 80 million from capital funds as on December 31<sup>st</sup> ?</p>	<p><u>No.</u> Losses encountered in any six month accounting period (with no auditor’s review) can be deducted from capital funds under the following circumstances:</p> <p style="padding-left: 40px;">1. <u>In case there are no retained earnings which have not been transferred to the head office or not counted as capital funds to be maintained in Thailand.</u></p> <p>Foreign bank branches shall immediately deduct net losses for the six month accounting period from net fund upon calculating capital funds.</p>

Questions to be discussed	Guided Answers
	<p data-bbox="1240 177 2083 280">2. <u>In case there are retained earnings which have not been transferred to the head office or not counted as capital funds to be maintained in Thailand.</u></p> <p data-bbox="1240 360 2130 651">Foreign bank branches shall calculate capital funds after deducting net losses from retained earnings and after having transferred such retained earnings to the account of the head office and have done the tax payment upon exporting funds to the head office. But in case the retained earnings are not sufficiently reserved the amount of net losses, foreign bank branches shall immediately deduct the remaining losses (after deducting from the retained earnings) from net fund upon calculating capital funds.</p> <p data-bbox="1240 695 2114 759">These aforementioned approaches are currently complied by foreign bank branches.</p>
<p data-bbox="286 770 1211 1134">4 <b><u>In case of gaining profits upon adopting Fair Value Option (FVO) method</u></b> Foreign bank branches adopting fair value option method in accordance with International Accounting Standard regarding Financial Instruments: Recognition and Measurement and gaining profits or becoming losses, are foreign bank branches gaining profits allowed to immediately deduct profits from the net fund on that accounting period, or are foreign bank branches becoming losses allowed to immediately add such losses to the net fund, upon capital fund calculation?</p>	<p data-bbox="1240 807 2114 911"><u>No.</u> Considerations on deducting (adding) profits (losses) to the net funds for foreign bank branches' capital fund calculation, upon adopting FVO method shall be in line with the following guidelines:</p> <p data-bbox="1429 959 2114 1023">1. <u>In case foreign bank branches gaining profits upon adopting FVO method:</u></p> <p data-bbox="1294 1102 1899 1134">1.1 <u>Gaining net profit in that accounting period</u></p> <p data-bbox="1384 1182 2130 1398">(1) In case foreign bank branches have transferred such operating profits to the account of the head offices and have done the tax payment in exporting such transfer, foreign bank branches shall immediately deduct profit upon adopting FVO method from the net fund for capital fund calculation.</p>

(2) In case foreign bank branches have not transferred such operating profits to the account of the head offices and have not counted as net fund for capital fund calculation, foreign bank branches shall deduct profit upon adopting FVO method from operating income before calculating capital fund.

1.2 Becoming losses in that accounting period In this case, foreign bank branches shall immediately deduct profit upon adopting FVO method from net fund for capital fund calculation.

2. In case foreign bank branches becoming losses upon adopting FVO method:

2.1 Gaining net profit in that accounting period

(1) In case foreign bank branches have transferred such operating profits to the account of the head offices and have done the tax payment in exporting such transfer, foreign bank branches shall immediately add losses upon adopting FVO method to the net fund for capital fund calculation.

(2) In case foreign bank branches have not transferred such operating profits to the account of the head offices and have not counted as net fund for capital fund calculation, foreign bank branches shall add losses upon adopting FVO method to operating income before calculating capital fund.

2.2 Becoming losses in that accounting period In this case, foreign bank branches shall immediately add losses upon adopting FVO method to net fund for capital fund calculation.

	<b>Questions to be discussed</b>	<b>Guided Answers</b>
5	<p><b><u>Adopting Fair Value Option (FVO) Method</u></b>  According to the Attachment 3, Clause 2 of the Notification of the Bank of Thailand, any branches having potentiality and readiness in adopting FVO method in accordance with International Accounting Standards 39 shall inform the Bank of Thailand within 15 days prior to the starting date of adoption. In case any branches have adopted such method prior to the Notification of the Bank of Thailand enforcement, are foreign bank branches required to submit letter of FVO method adoption notification to the Bank of Thailand?</p>	<p>In case any foreign bank branches have adopted FVO method prior to the enforcement of the Notification of the Bank of Thailand, foreign bank branches <b><u>are required to notify the Bank of Thailand together with relevant documents</u></b>. The Bank of Thailand requires foreign bank branches to develop related document adopting FVO method including the objective or rationale adopting FVO method, risk management policy, operating procedures, impacts of FVO method adoption on financial statements and capital fund maintenance, fair value assessment method to the products, etc. Consequently, the Bank of Thailand can closely monitor adopting FVO method since the fair value assessment on items adopting FVO is very significant and can affect branches' operating performance.</p>

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