

Client Alert

April 2021

Asset Warehousing: A Silver Lining for Thailand Banking Industry

On 10 April 2021, the Emergency Decree on Provisions of Assistance and Recovery for Entrepreneurs Affected by COVID-19 Pandemic B.E. 2564 has been published in the Government Gazette and became effective following the Cabinet approval last month. Subsequently, the Bank of Thailand (the "BOT") issued details on these provisions on 19 April 2021.¹

These additional financial measures inject liquidity worth THB 350 billion to business sectors to help financially-troubled businesses overcome the impacts of the COVID-19 pandemic, this includes THB 250 billion in soft loans and THB 100 billion for asset warehousing. This Client Alert intends to focus on the asset warehousing campaign for debtors that have collateral assets with financial institutions.

I. Distressed Asset Management through Asset Warehousing

a. Financial apparatus during tough times

With the slow economic recovery, entrepreneurs in Thailand, particularly for those in property and tourism-related sectors, have endured a prolonged loss for over a year. Meanwhile, banks have implemented a greater cushion against deteriorating loan and asset quality in their portfolio. To limit the damages arising from the debtors unable to make repayments due to a cash flow shortage, an asset warehousing initiative has been introduced.

The idea is to recognize the intrinsic value of collateral over credit facility as the partial repayment of outstanding debts by still reserving the chance for entrepreneurs to own their collaterals once again. Asset warehousing could support employment, and also prevent defaults, fire sales, assets devaluation, and non-performing loan (NPL) spikes for the economy as a whole.

b. Key mechanisms

The asset warehousing program in principle allows qualified debtors to voluntarily pay off debt via the temporary transfer of qualified collateral assets of a loan to the banks.² The qualified debtors would then be allowed to either lease these frozen assets from the banks to continue their business operations or to let the banks manage the frozen assets with a relatively low carrying cost.³ Within 3-5 years, debt-laden businesses may exercise the

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¹ BOT Notification No. 1.1/2564 and BOT Notification No. 4/2564.

² Qualified debtor and collateral. Debtor must be an individual or juristic person registered in Thailand who has a place of business and also runs a business in Thailand. The debtor must owe such financial institution prior to 1 March 2021. Qualified collateral to be transferred must be collateralized for a credit facility for the purpose of business operations of the entrepreneur prior to 1 March 2021 as well.

³ Bank may charge for the carrying cost at not exceeding 1% of the transfer price.



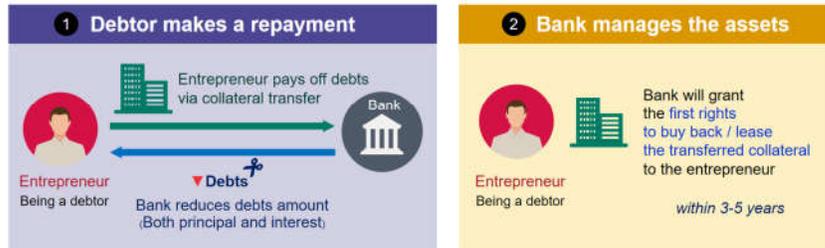
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first right to buy back the transferred collateral at the buy-back price mutually agreed on the transfer date, which cannot exceed the transfer price plus carrying costs (which cannot exceed 1% of the transfer price) and actual custody expenses incurred.

Key Mechanisms of Asset Warehousing Campaign



Source: The Bank of Thailand

We set out below some highlights of the campaign.

- **Buy-back and lock-up periods.** A buy-back agreement within a specific time frame would also be embedded as a condition in the asset warehousing program to allow the debtor, the collateral owner (the "Owner") or any person indicated by the debtor or the collateral owner to have the first right to buy back such collateral within 3-5 years from the transfer date.⁴
- **Lease of the collateral.** To make the best out of the economic value on the transferred assets, banks may also rent them out to the Owner to continue operating the sites themselves. Rental fees paid to the bank will be deducted from the agreed buy-back price.⁵
- **Waiver of fees.** Government provides waivers on official fees in relation to the transfer of collateral, for both initial collateral transfer and buy-back steps.

II. Endnotes: Upcoming tax incentives

In addition to the waivers of official fees, the BOT also announced that the launch of relevant tax benefits/waivers for the transfer of collateral under asset warehousing program is now underway.

For more information, please contact our team at Baker McKenzie.

⁴ During such period, banks cannot sell out the received collateral to others unless otherwise the written notification denying the exercise of buy-back right from the Owner has been provided.

⁵ Otherwise, the bank reserves its right to lease the collateral out to others to the extent that it will not be an obstacle for the buy-back mechanism. In this case, the bank does not deduct the rental fee received from the agreed buy-back price.