

Royal Proclamation
on
Thai Assets Management Corporation
B.E. 2544(2001)

Bhumibol Adulyadej, Rex.
Given this 7th day of June 2001,
Being the 56th year of the present Reign.

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that,

Whereas it is deemed expedient to enact a law governing Thai Assets Management Corporation,

And whereas this Royal Proclamation contains certain provisions relating to the restriction of personal rights and freedom, for which Section 29 incorporating Section 48, Section 50 and Section 87 of the Constitution of the Kingdom of Thailand provides that it can be made by virtue of the provisions of a law,

H.M. the King, by virtue of Section 218 of the Constitution of the Kingdom of Thailand, is therefore graciously pleased to enact a Royal Proclamation, as follows:

Section 1. This Royal Proclamation shall be called "Royal Proclamation on Thai Assets Management Corporation B.E.2544(2001)".

Section 2. This Royal Proclamation shall be enforced on and from the day following the date of its publication in the Government Gazette onwards.

Section 3. In this Royal Proclamation,

"financial institution" means

(1) commercial bank under the law governing commercial banking, however, excluding branches of foreign banks;

(2) finance company and credit foncier company under the law governing finance, securities and credit foncier businesses, and it shall mean to include finance company operating securities business as well;

(3) other juristic persons prescribed by the Minister and published in the Government Gazette.

"assets management company" means a limited company or a public limited company registered under the law governing assets management company.

“*assets*” means right of claim of a financial institution against its debtor over a debt arisen from the granting of credit, the lending of money, or the operation of business of the financial institution, and right of claim of the said description that an assets management company has accepted the transfer from a financial institution under the law governing assets management corporation.

“*impaired assets*” means assets falling under the description of assets that are of no value or unrecoverable, or assets thought to be of no value or unrecoverable, under the Notice of Bank of Thailand issued by virtue of the law governing commercial banking and the law governing finance, securities and credit foncier businesses operation.

“*assets fund*” means assets fund that is classified under Section 54.

“*Development Fund*” means Financial Institution Development Fund under the law governing Bank of Thailand.

“*plan*” means business reorganization plan of a debtor.

“*debtor’s administrator*” in the case of a limited company or a public limited company, it shall mean board of directors of the limited company or the public limited company, including advisers and staff appointed by the said board of directors for the operations of such company, and in the case of a limited partnership, it shall mean managing partner.

“*Board*” means Thai Assets Management Corporation Board.

“*Board Member*” means a Board Member of the Thai Assets Management Corporation Board.

“*Managing Director*” means the Managing Director of the Thai Assets Management Corporation Board.

“*Minister*” means the Minister who has charge and control of the execution of this Royal Proclamation.

Section 4. The Minister of Finance shall have charge and control of the execution of this Royal Proclamation.

Chapter 1

Establishment and Capital

Section 5. There shall be established a corporation called “Thai Assets Management Corporation”, abbreviated as “TAMC” (ท.ส.ม. in Thai).

TAMC shall be a juristic person with the status as a work unit of the State that is not an Administration or a state enterprise under the law governing budgetary procedure and other laws.

Section 6. TAMC shall have its head office located in Bangkok Metropolis or nearby provinces, and it may set up branches at any locality within the Kingdom, however, such must first be approved by the Minister.

Section 7. TAMC shall have the objectives of managing impaired assets of financial institution and assets management company, debt restructuring, and business reorganization, by accepting the transfer of impaired assets of financial institution and assets management company, including any other rights over the property placed as security against payment of debt for the said impaired assets, or by adopting any other measures for the purpose of economic recovery or the security of the country.

Section 8. TAMC shall have the powers to carry out businesses within the scope of objectives under Section 7. Such powers include:

(1) Hold ownership or right of possession, or possess various rights, create, buy, provide, sell, dispose of, lease, let, hire-purchase, sell by hire-purchase, borrow, lend, accept pledge, accept mortgage, exchange, transfer, accept transfer, or any proceedings relating to the property, both within and without the Kingdom, including receipt of money or property donated by others.

(2) Establish a limited company or a public limited company for operating any business relating to the debtor it has accepted the transfer, however, for the purpose of management of impaired assets.

(3) Join business with other persons or hold shares in a limited company or a public limited company or other juristic person, however, according to the bases and conditions laid down by the Board.

(4) Guarantee credit for the debtor it has accepted the transfer, or accept, aval or intervene to honour bills.

(5) Borrow or lend money.

(6) Issue debenture, bill, or debt instrument.

(7) Lend money to the debtor it has accepted the transfer.

(8) Invest in bonds or instruments of the Government, Government work units, or state enterprises, or unit trusts in mutual funds established under the law governing securities and exchange.

(9) Buy, discount, rediscount debt instrument or accept the transfer of right of claim.

(10) Undertake other businesses related to or connected with management so as to achieve the objectives of TAMC.

Section 9. The initial capital of TAMC shall be Baht one thousand million, divided into one hundred million ordinary shares, valued at Baht ten each, all of which shall be bought by the Development Fund.

Section 10. A capital increase of TAMC shall be by issuing new shares, however, subject to the approval of the Council of Ministers.

TAMC may offer capital increase shares to the public or any person. Share subscription shall be in accordance with the bases, procedures and conditions laid down by TAMC. In this respect, the provisions relating to securities offering to the public under the law governing securities and exchange shall not apply.

For the purpose of share offering under paragraph two, TAMC may fix share price higher than the value thereof, and TAMC shall advertise the details relating to the share offering in the computer network system, and in at least one widely circulated daily newspaper for not less than three consecutive days.

In the case not all of the capital increase shares are bought, the remaining shares shall be bought by the Development Fund.

Section 11. The law governing establishment of administrative court and administrative court procedures shall not apply to the proceedings relating to the management of impaired assets of TAMC under this Royal Proclamation, including the issuance of regulations or rules, orders, decisions, permissions, and any other operations of the Board and the Executive Board relating to the management of impaired assets under this Royal Proclamation.

Chapter 2 Board and Management

Section 12. There shall be established a board called "Thai Assets Management Board", comprising one Chairman and other Board Members of not more than eleven in number as appointed by the Minister with approval of the Council of Ministers, among whom shall be a representative of the Federation of Thai Industries, a representative of the Thai Chamber of Commerce, a representative of the Thai Bankers' Association. The chief executive officer shall be an ex officio Board Member.

The Board may appoint any person to be its Secretary.

Section 13. A person of the following descriptions shall be barred from being a Board Member:

- (1) Being or used to be a bankrupt.

(2) Was sentenced to imprisonment by final court judgement, except offences committed through negligence or minor offences.

(3) Being a political servant or holding any position in a political party, or being a member or an officer of a political party.

(4) Being or used to be a debtor in impaired assets, and a period of ten years has not yet lapsed from the day the said status is ended.

(5) Being in incompetent person or quasi-incompetent person.

Section 14. Board Members shall hold office for a period of six years each time.

In the first term when Board Members have held their posts for three years, one-half of them shall vacate office by drawing lots. If the number of Board Members cannot be divided by one-half, the nearest number thereof shall apply, however, it must not be less than one-half thereof.

In case a Board Member vacates his office before completing his term, the person appointed to replace him shall hold office equivalent to the remaining term of the Board Members already appointed.

Upon the completion of the office term under paragraph one, if no new Board Members are yet appointed, the retiring Board Members shall hold office for carrying out of their duties until the newly appointed Board Members shall have assumed their posts.

The Board Members who vacate office by completing their term may be re-appointed, however, in no case shall they hold office for two consecutive terms.

Section 15. Other than vacating office by completing their term, Board Members shall vacate office upon:

(1) Death.

(2) Resignation.

(3) Being dismissed by the Minister because of shortcoming or dishonesty or incompetence.

(4) Possessing a prohibited description under Section 13.

Section 16. A meeting of the Board shall have Board Members attending the meeting at not less than one-half of the total number of Board Members to form a quorum. If the Chairman is not present or is unable to perform his duties, the Board Members shall elect one among them to act as temporary chairman.

A decision of the meeting shall be by majority of votes. One Board Member shall have one vote. In case of a tie, the chairman at the meeting shall be entitled to another deciding vote.

Section 17. Any Board Member who has interest, either directly or indirectly, in the matters under discussion at the meeting shall notify the meeting of such before the meeting is held, and the said Board Member shall be barred from attending the meeting on such subject matter.

Section 18. The Board shall have the powers and duties to lay down policies and supervise general businesses of TAMC within the scope of objectives under Section 7. The said powers and duties include:

(1) Prescribe regulations relating to management of personnel, remuneration, and other expenses of TAMC.

(2) Prescribe regulations relating to purchasing and contracting, finance, property, and accounting, including examination and internal auditing of TAMC.

(3) Prescribe regulations relating to management and administration of TAMC.

(4) Prescribe bases and conditions on joining business with other persons or holding shares in a limited company, a public limited company, or other juristic persons.

(5) Prescribe bases, procedures, conditions and processes in the management of impaired assets.

(6) Prescribe bases, procedures and conditions respecting recognition and computation of profit or loss of the management of impaired assets of TAMC.

(7) Approve the budget of TAMC.

(8) Appoint advisers, group of advisers, or sub-committees, to carry out any works in lieu of the Board.

(9) Issue regulations or bases, procedures and conditions in other matters related to or connected with the management or the administration of TAMC.

Section 19. The Board shall appoint an Executive Board comprising Chief Executive Officer and other Executive Directors of not more than three in number. The Managing Director shall be an ex officio Executive Director.

In appointing the Executive Board, the Ministry of Finance shall nominate two candidates, while the Bank of Thailand, the Development Fund, the Federation of Thai Industries and the Thai Chamber of Commerce shall nominate one candidate each, and private financial institutions shall jointly nominate two candidates. The candidates must not possess the prohibited descriptions under Section 13.

Section 20. The Board shall appoint the Executive Directors from the list of candidates under Section 19 based on the following criteria:

(1) The Chief Executive Officer shall be appointed from the candidates nominated by the Ministry of Finance, the Bank of Thailand or the Development Fund.

(2) Other Executive Directors:

(a) One Executive Director shall be appointed from the candidates nominated by the Ministry of Finance, the Bank of Thailand and the Development Fund;

(b) One Executive Director shall be appointed from the candidates nominated by the Federation of Thai Industries and the Thai Chamber of Commerce, and

(c) One Executive Director shall be appointed from the candidates nominated by the private financial institutions.

The Executive Directors appointed by the Board under paragraph three shall hold office for a period of four years. In this respect, the provisions of Section 14, paragraph three and paragraph four, Section 15, Section 16, and Section 17 shall apply to the office term, the vacating of office, the carrying out of duties, and the meeting of Executive Board *mutatis mutandis*.

Other than the Chief Executive Officer who is an *ex officio* Board Member, a Board Member shall not hold the position of an Executive Director or the Managing Director at the same time.

The appointment of the Managing Director shall be in accordance with Section 21.

Section 21. The Board shall select a person who has expertise in the business of TAMC for appointment as the Managing Director.

The Managing Director under paragraph one, other than possessing no prohibited descriptions under Section 13, shall not be a staff, an employee, or a director of a financial institution or of an assets management company that has transferred the impaired assets to TAMC under this Royal Proclamation, and shall not be a civil servant, a worker of a state enterprise, a director, a staff, or an employee of any person.

The holding of office, the vacating of office, the prescription of other conditions regarding probation or performance, and the evaluation of result of work performance in the capacity of the Managing Director shall be in accordance with the contract of employment prescribed by the Board. The employment period shall not be more than four years each time. Upon the expiry of the contract of employment, the Board may renew the contract of employment, however, in must not exceed two consecutive terms.

In hiring the Managing Director, the Chairman shall sign in the contract of employment in the name of the TAMC.

Section 22. The Executive Board shall have the powers, duties and responsibilities in the proceedings relating to the management of impaired assets, including the prescription of scope and method of management according to the policies of the Board in various matters as follows:

(1) Approve or decide and order a debt restructuring and a business reorganization of debtor, a disposal of property placed as security, a debtor's liquidation, however, according to the bases and conditions prescribed by the Board.

(2) Monitor and assess the result of management of impaired assets and general proceedings, so that they be in line with the policies, scopes and procedures so laid down.

(3) Appoint advisers, group of advisers, or sub-committees, to carry out any works in lieu of the Executive Board.

(4) Approve an appointment of executive level staff.

(5) Hire other persons to proceed with the management of impaired assets.

(6) Set up database system and provide necessary information to the persons concerned.

(7) Secure capital sources and joint venture allies for the purpose of business reorganization of debtor.

(8) Report the results of operations relating to impaired assets management to the Board every three months.

(9) Responsible for and proceed with any works as assigned by the Board.

Section 23. The Managing Director shall be responsible for the administration of TAMC, and shall have the powers and duties and responsibilities as specified in the regulations or rules of the Board, and shall carry out any other works as assigned by the Board or the Executive Board.

Section 24. The Managing Director shall be the head of the staff and employees of TAMC, and shall have the power to employ, appoint, remove, increase salaries, cut salaries, or reduce salaries, and order a disciplinary punishment of staff and employees, however, according to the regulations prescribed by the Executive Board.

Section 25. For the businesses of TAMC that concern outsiders, the Managing Director shall be a representative of the TAMC. For this purpose, the Managing Director may authorize a staff or an employee of TAMC to carry out a business generally or specifically in his place, however, it shall be in accordance with the regulations prescribed by the Board.

Section 26. For the purpose of supervision, control and examination of internal business of TAMC, the Board shall appoint an auditing committee of not more than five persons in number to examine the operations of TAMC as well as the performance of the Managing Director, however, as assigned by the Board.

Section 27. The Chairman, Board Members, the Chief Executive Officer, the Executive Directors, the Managing Director, the auditing committee members, the advisers and the sub-committees shall receive salaries or other benefits as fixed by the Minister.

Section 28. The persons under Section 27, including the staff and the employees of TAMC, who carry out their duties under this Royal Proclamation, shall not be liable to their acts when they have exercised general professional care thereon, except in the case of a violation of laws, a dishonesty, or a gross negligence.

Section 29. The carrying out of works under the powers and duties of the Board and the Executive Board as well as the Managing Director shall be based on the speed in rectifying the problems of impaired assets, the costs of operations of TAMC, incorporating the ability to repay debts of honest debtors, and the improvement of the persons concerned to be able to start new businesses or to continue operating the existing business for the purpose of economic recovery of the country as a whole.

For the purpose of the proceedings under paragraph one, other than those provided specifically herein, a transfer of property or right of claim of TAMC to any person, or an acceptance of transfer of property or right of claim of any person by TAMC, the income earned by TAMC from any activity, or an income earned by any person from the operations of TAMC, which are not salaries, wages, or other incomes prescribed by the Board, if they are subject to payment of taxes and duties or any fees, under any laws, bye-laws, municipal bye-laws, regulations, rules, or notices, TAMC and the said persons shall be exempted from such taxes and duties.

Chapter 3
Transfer of Impaired assets to TAMC

Part 1
Criteria on Transfer of Impaired assets

Section 30. The financial institution or assets management company whose shares are held by the Development Fund, work units of the State, or state enterprises, either singly or severally, more than fifty percent of the paid-up registered capital shall transfer all of the assets classified as impaired assets as at 31st December 2000 to the TAMC within the time set by TAMC.

The impaired assets that must be transferred under paragraph one are:

- (1) Bad assets.
- (2) Possible bad assets.
- (3) Doubtful assets.
- (4) Sub-standard assets.

For the impaired assets under (1) and (2), the Executive Board, with approval of the Board, may prescribe that they be transferred specifically the assets with more than one creditor. However, the financial institution or the assets management company that is the creditor or the transferee of debts from financial institution, whichever the case may be, must report the proceedings relating to the remaining impaired assets to TAMC within the period fixed by TAMC. TAMC may order the said financial institution or the assets management company to transfer the said assets either wholly or partly to TAMC at any time.

In case the Board deems it appropriate, it may prescribe the financial institution or the assets management company under paragraph one to transfer specifically some portions of the assets under (3) and (4) and to transfer specially mentioned assets to TAMC.

The impaired assets under (1) duly transferred, if being bad assets already written off, or being assets with no security, it shall be regarded that it has no value, and TAMC shall examine the proceedings of the financial institution that transferred the said assets to see if they were proceeded according to the laws, regulations or rules of the said financial institution or of the Bank of Thailand, so as to report such to the Bank of Thailand to take legal action against the responsible persons accordingly.

The impaired assets that must be transferred under paragraph one shall include assets pending court cases where no judgements are yet passed as well. The court shall order the striking of such cases out of the court, except where TAMC files a

petition otherwise, however, excluding impaired assets that the debtor has been ordered by the court for temporary or absolute receivership, or the court has already approved the business reorganization plan of the debtor.

For the impaired assets that the debtor was ordered by the Bankruptcy Court to revive the business but the business reorganization plan has not yet been approved, if the debtor and the planner of business reorganization jointly make a request with reasonable ground therefor, the court may order that the business reorganization be continued without striking the case out of the court, however, a petition therefor must be filed within ninety days from the day this Royal Proclamation becomes effective.

As regards the case struck out of the court under paragraph six, if the prescription period thereof is less than five years from the date of striking the case out of the court, the prescription period shall be extended to five years from the date of striking the case out of the court.

Section 31. TAMC may accept the transfer of assets from other financial institutions or assets management companies than those prescribed in Section 30, however, it must be the assets of the following descriptions:

(1) Must be impaired assets under Section 30, paragraph two, (1), (2), (3) or (4) as of 31st December 2000, specifically with property as security against payment thereof.

(2) Must be assets with debtor being a juristic person and with two creditors which are financial institution or assets management company upwards, whether or not having ordinary person as debtor in the capacity of a guarantor.

(3) The value of the impaired assets according to the book value of all financial institutions and assets management companies of each debtor shall be from Baht five million upwards, and

(4) The said impaired assets have not yet been subjected to a new written agreement on debt restructuring within thirty days from the date of enforcement of this Royal Proclamation, and must not be impaired assets that the debtor thereof was ordered by the court to be subjected to business reorganization plan under the law governing bankruptcy prior to the date of enforcement of this Royal Proclamation.

In accepting the transfer of impaired assets under paragraph one, the Board may prescribe that specifically the transfer of the impaired assets under Section 30, paragraph (1) or (2), or the impaired assets under Section 30, paragraph two (3) and (4) duly changed as impaired assets under Section 30, paragraph two (1) or (2) on or before the date of enforcement of this Royal Proclamation, be accepted.

Section 32. Any financial institution or assets management company wishing to transfer the assets under Section 31 to TAMC must notify TAMC of such

in writing and must transfer the assets to TAMC within the period of time fixed by the Board.

Upon the wish to transfer the assets under paragraph one having been made, it shall not be revoked.

Regarding the transfer of assets under paragraph one, the financial institution and the assets management company must transfer all of the assets of the descriptions under Section 31, paragraph one or paragraph two, whichever the case may be, to TAMC, and, in this respect, the provisions of Section 30, paragraph six, paragraph seven, and paragraph eight, shall apply to the assets that must be transferred *mutatis mutandis*.

The impaired assets that must be transferred under paragraph three shall include the debt of other juristic person that the juristic person that is the debtor under Section 31 (2), or the majority shareholder of the juristic person that is the said debtor, holds shares more than fifty percent, and the debt that the executives of the debtor or other persons agreed to be bound as a debtor for the benefit of the said debtor or other juristic person, or for payment of debt or interest of the said debtor or other juristic person as well.

Section 33. Any debtor of financial institution or assets management company considers that the debt he has owed to the financial institution or assets management company falls under the description of Section 31, and the financial institution or the assets management company that transfers the assets to TAMC has not transferred his impaired assets shall submit a petition to the Board to order TAMC to instruct the financial institution or the assets management company to transfer the impaired assets within the time fixed by TAMC.

Any financial institution or assets management company who fails to transfer the impaired assets under the instruction of TAMC under paragraph one shall pay a daily compensation of Baht five hundred thousand. The said amount shall be offset against the debt of the said debtor.

Section 34. The transfer of assets to TAMC under Section 30 shall not prejudice the liability that the executives of the financial institution or the assets management company has committed.

In carrying out the duties under this Royal Proclamation, if TAMC finds that any assets arisen from an offence or a failure to comply with the law governing commercial banking, or the law governing finance, securities and credit foncier businesses, it shall notify the Bank of Thailand of such, so that the Bank of Thailand may conduct an investigation and take legal action under its powers and duties.

Section 35. The Bank of Thailand shall notify TAMC and financial institution or assets management company of the existing information relating to impaired assets that are in accordance with the criteria provided in Section 30 and Section 31 without delay.

Section 36. After the lapse of the period under Section 32, paragraph one, the Bank of Thailand shall order the financial institution that has not transferred assets to TAMC under Section 31 to proceed with the appraisal of the security relating to the impaired assets by an independent appraiser recognized by the Bank of Thailand within one hundred and twenty days from the lapse of the said period, and to also arrange the financial institution to set aside a reserve for the impaired assets of all categories under Section 30 at one hundred percent of the value of the impaired assets according to the book value after deduction of said security price, however, within ninety days from the lapse of the said appraisal period.

In case any security has been appraised for less than one year, the Bank of Thailand may grant a relaxation that a new appraisal is not required.

The provisions in paragraph one shall apply to assets management company in the part relating to impaired assets that the said assets management company has accepted the transfer after 31st December 2000 as well mutatis mutandis, with the exception of assets management company that the Development Fund is bound by a contract to jointly liable to the profit or loss of the said assets management company before 2000.

Section 37. In transferring impaired assets to TAMC, the right of claim, all other rights, or any other obligations that the financial institution or the assets management company has against the debtor shall be transferred to TAMC as well, whereby the financial institution or the assets management company shall report the information relating to the right of claim, any other rights, or obligations to TAMC in details.

If the information reported under paragraph one is incomplete and causes TAMC to sustain damage thereafter, the financial institution or the assets management company must be liable to the said damage according to the proportion of its action, whereby TAMC may offset it against the profit to be allocated to the financial institution or the assets management company in the part of such assets.

Section 38. Before transferring any impaired assets to TAMC, TAMC shall advertise the significant items or details in the computer network system and in at least one widely circulated daily newspaper for not less than three consecutive days, or it may notify in writing to each debtor, in which case in shall be regarded that such is a notice of transfer under Section 306 of the Civil and Commercial Code.

Section 39. When there is a transfer of any impaired assets to TAMC, TAMC shall issue an evidence of transfer of impaired assets to the financial institution or assets management company, and it shall be regarded that the transfer of impaired assets has a binding effect on the third person, the mortgagor, the pledgor, and the guarantor from the day TAMC issues such evidence.

In transferring impaired assets, TAMC shall accept the transfer by preparing a transfer document, including details of transferred assets and related documents, as

per the form prepared by TAMC. TAMC may assign the transferring financial institution to still keep the said related documents at the financial institution.

In case the financial institution or the assets management company has been assigned to keep the related documents, the financial institution or the assets management company must take good care of such documents in a manner that a reasonable person would do to his own property. In case TAMC pays a maintenance fee therefor, the financial institution or the assets management company shall be liable to the loss or damage of said documents as well as debts that cannot be collected due to the loss or damage of the related documents in full amount thereof.

Section 40. For the right of claim over the asset that is held as security and which is to be subject to a change of registration particulars, when TAMC produces a copy of evidence of acceptance of transfer of impaired assets under Section 39, the officer concerned shall proceed with the change of registration particulars for TAMC at once, and it shall be regarded that it has a binding effect on the third person from the date of change of registration particulars. In this respect, the registration fee thereof shall be exempted.

Section 41. Subject to Section 30, for the cases that the financial institution or the assets management company files a suit case to the court of law relating to impaired assets that TAMC has accepted the transfer under this Royal Proclamation, TAMC shall take over the status of the party to the said court cases instead. In this instance, TAMC may protest against the documents duly submitted, may cross-examine or object the witnesses who had already given their testimony.

In case the court has passed a judgement of legal execution under paragraph one, TAMC shall subrogate the right as the creditor under the said judgement.

TAMC shall be exempted from all fees arisen or connected with the seizure, the sale by public auction, or the disposal of other assets of debtors by other methods under the Civil and Commercial Code.

Section 42. For the assets of debtor duly mortgaged or pledged as security against the impaired assets that TAMC has accepted the transfer thereof, the debtor and TAMC may agree to appraise same for the transfer of repayment of debt to TAMC without filing for enforcement thereof, according to the bases, procedures and conditions prescribed by the Board. In such a case, the debtor and the guarantor shall be relieved of the liability under said debt.

Section 43. The transfer of impaired assets, the transfer of assets held as security against impaired assets, and the transfer of assets owing to debt restructuring or business reorganization under this Royal Proclamation that TAMC is the transferee or the transferor shall be exempted from the fees and taxes and duties under all laws.

Section 44. TAMC may assign the financial institution or the assets management company that is the former creditor as its agent to collect and receive

payment of debts already subject to debt restructuring or business reorganization according to the bases, procedures and conditions prescribed by the Board.

In case the agent for the collection and receipt of payment of debt is other person than the former creditor, TAMC shall notify the debtor of such within fifteen days from the date of appointment of said agent. If the debtor has made payment of debt to the former creditor before he is so notified, it shall be regarded that TAMC has received the payment of debt, and TAMC shall then request for the return of the said sum from the former creditor accordingly.

Part 2

Prices of Impaired Assets

Section 45. The value of impaired assets according to the book value shall be based on the amount of outstanding principal as at the date of transfer of impaired assets plus outstanding interest for a period not more than three months before the date of transfer of impaired assets.

The price payable by TAMC to the financial institution or the assets management company for each case of impaired assets it has accepted the transfer shall be as follows:

(1) In case it is a transfer under Section 30, the price shall be equivalent to the value of assets that is the security of the said impaired assets, excluding personal guaranty. In case there is no property held as security, the price shall be according to the bases laid down by the Board.

(2) In case it is a transfer under Section 31, the price shall be equivalent to the value of property that is the security of the said impaired assets, excluding personal guaranty, however, the said price must not exceed the value of impaired assets according to the book value under paragraph one deducted by reserve that must be set aside under the law or under the Notice of Bank of Thailand.

In case the property held as security is land, it shall have the value equivalent to the assessed cost price used for the collection of fee for registration of right and juristic act of immovable property. And if it other kind of property, the price thereof shall be appraised according to the bases prescribed by the Board.

The financial institution, the assets management company or TAMC may request for a reappraisal under paragraph three by submitting a written request to the Board within thirty days from the date it is notified of the price thereof. The Board may state that the appraisal be conducted again by an independent appraiser recognized by TAMC. In this respect, the person requesting for the appraisal shall pay for the expenses so incurred.

Section 46. TAMC shall pay for the impaired assets to the financial institution or the assets management company by issuing negotiable debt instrument with maturity date thereof after the lapse of ten years from the date of issuance of said debt instrument. However, TAMC may exercise the right to redeem the debt instrument before its maturity.

The Development Fund shall guarantee the debt instrument under paragraph one, and TAMC shall fix the rate of interest for the said debt instrument at not exceeding the average interest rate of all kinds of deposits of five commercial banks as prescribed by the Board. Interest shall be paid at the end of each year.

Part 3

Share of Profit and Liability for Loss

Section 47. There shall be recognized the profit or loss from the management of impaired assets of TAMC according to the period of time prescribed by the Board. In this respect, the profit or loss from the price of impaired assets that TAMC has accepted the transfer shall be computed by deducting the cost of transfer and all operating expenses of TAMC, including interest on debt instrument. The computation shall be separately made according to the impaired assets transferred from each financial institution or assets management company, or according to each debtor, however, as per the bases, conditions and procedures prescribed by the Board.

Section 48. The financial institution or assets management company that is the transferor of impaired assets shall be jointly liable with TAMC to the profit or loss from the management of impaired assets by the computation under Section 47 at the end of the fifth and the tenth years from the date of operations of TAMC, however, according to the proportion fixed in Section 50 and Section 51.

Section 49. In making computation of profit or loss under Section 48 for each financial institution or assets management company, it shall include the result of management of all impaired assets of the financial institution or assets management company that can be computed. Upon the profit or loss having been recognized, the share of profit or the liability for the loss under Section 50 or Section 51 shall then be made.

Section 50. In case the management of impaired assets has a profit, the allocation of profit shall be made as follows:

(1) The first portion of profit in the amount at not more than twenty percent of the transfer price of impaired assets shall be shared equally between TAMC and the financial institution or assets management company.

(2) The second portion of profit shall all be awarded to the financial institution or assets management company, however, when included the profit under (1), it shall not exceed the difference between the book value of the impaired assets and the transfer price of impaired assets.

(3) The profit after (2) shall all be awarded to TAMC.

Section 51. In case the management of assets suffers a loss, TAMC and the financial institution or assets management company shall be jointly liable thereto as follows:

(1) The first portion of loss in the amount at not more than twenty percent of the transfer price of impaired assets shall all be shouldered by the financial institution or assets management company that is the transferor of impaired assets.

(2) The second portion of loss after (1) in the amount at not more than twenty percent of the transfer price of impaired assets shall be shouldered equally between TAMC and the financial institution or assets management company.

(3) The loss after (2) shall all be shouldered by TAMC.

Section 52. In case the financial institution or assets management company has to shoulder the loss under Section 51, TAMC may allow the said financial institution or assets management company to compensate the loss to TAMC by offsetting the amount payable under the debt instrument issued by TAMC under Section 46, or by issuing ordinary shares to TAMC, in the case of the financial institution, according to the price jointly agreed upon by TAMC and the financial institution.

Chapter 4 **Management of Impaired Assets**

Section 53. In managing impaired assets, TAMC shall have the power to restructure debt, reorganize business, dispose of property of debtor, or to write off bad debt, either one of them or severally, as it deems fit, according to the provisions of this Chapter.

In carrying out the proceedings under paragraph one, the following provisions shall not apply:

(1) Section 237, Section 700, Section 1185, Section 1220, Section 1222, Section 1224, Section 1225, Section 1226 and Section 1240 of the Civil and Commercial Code.

(2) Section 50, Section 51, Section 52, Section 54, Section 102 incorporating Section 33, paragraph two, Section 137, Section 139, paragraph one, Section 140, Section 141, Section 147, Section 148, of the Public Limited Company Act B.E.2535(1992).

(3) Section 114 and Section 115 of the Bankruptcy Act B.E.2483(1940).

Section 54. For the purpose of management of impaired assets, TAMC may divide impaired assets into assets funds, however, according to the bases, procedures and conditions prescribed by the Board.

Section 55. Upon there having been divided assets funds, TAMC shall manage the said assets funds whereby it may manage them itself or may hire experts to manage each assets fund. TAMC may appoint financial adviser for each assets fund as it deems fit.

For the experts to be hired by TAMC to manage assets funds, if a Thai national, or a juristic person whose shares are held by Thai nationals more than fifty percent of the registered capital and having no aliens as persons with power to manage such juristic person, is able to manage the said assets, the said person shall first be considered. In any case, the juristic person that is to be hired to manage the assets funds must not be a financial institution that transferred impaired assets to TAMC, except in the case it undertakes to manage the assets funds without charging any fees or expenses from TAMC and agrees to comply with the special conditions laid down by the Board for the protection of debtors and for the purpose of speedy debt restructuring under this Royal Proclamation.

The provisions under paragraph two shall not prejudice the right of financial institution that is the creditor that manages the assets funds to charge expenses from a creditor that is other financial institution or assets management company that is a former creditor according to the ratio of debt it used to have.

Section 56. For the purpose of management of assets funds, the staff of TAMC or the assets funds manager shall prepare a preliminary opinion relating to the financial position of each debtor, including recommendations if it is suitable to proceed with debt restructuring or business reorganization or to dispose of property to settle debts, based on the possibility of continuance of business operations of the debtor, the honesty, the cooperation, and the ability to repay debt of the debtor, and submit same to the Executive Board.

Part 1

Debt Restructuring

Section 57. Debt restructuring is intended to revive the economy of the country through speedy rectification of impaired assets problems, so that honest debtor be in a position to repay debt within a period of time fixed and be able to continue his business operations or to start a new business.

In restructuring debt, TAMC shall have the following powers and duties:

(1) Reduce principal, interest, rate of interest, and period of time for computation of interest; extend period of debt repayment or relax other conditions on debt repayment for debtor, and in case it is deemed appropriate and for

the sake of fairness and speed, may relax the conditions of payment of such debts generally for all or some categories of debtors.

(2) Convert debt of debtor to equity in the business of the debtor.

(3) Accept a transfer of property or right of claim from debtor for debt settlement, or dispose of property or some right of claim of such debtor to a third person, however, in the case the property to be transferred or disposed of is not a property that is the security against the debt, a consent must first be obtained from the debtor.

(4) Accept a transfer of shares or buy capital increase shares of debtor for the purpose of improvement of business of the debtor.

(5) Impose any other measures with approval of the Board.

For the proceedings under paragraph two, the Board may prescribe bases, procedures and conditions for compliance by TAMC.

In accepting the transfer of shares or capital increase shares under (4) or the imposition of measures prescribed by TAMC under (5), if it is a case where there are any laws or any regulations which provide that it must be approved or consented or there must be a special resolution of the general meeting of shareholders, or the general meeting of shareholders of the debtor must be notified, it shall be regarded that the approval of the Executive Board is the approval, consent, acknowledgement, or special resolution of the meeting of shareholders of debtor under the said laws or regulations.

Section 58. If the debtor, the executives of the debtor, and the guarantor, if any, have given cooperation to TAMC in debt restructuring, and there has been settled the debt duly restructured wholly, the debtor and the guarantor shall be relieved of such debt.

In proceeding with debt restructuring which results in the debtor being granted a relaxation of time for debt settlement, the debtor shall continue paying debt according to the bases, procedures and conditions prescribed by TAMC. If at any time the debtor has placed other security appropriately, the guarantor shall be relieved of such outstanding debt. For the said installment of debt, TAMC may authorize or assign other person to continue receiving debt repayment.

If there has been settled debt partially and the debtor has no any other property to repay the debt, if the guarantor agrees to pay the remaining debt at not less than two-thirds thereof, or in the amount lesser than that as prescribed by the Executive Board, the debtor and the guarantor shall be relieved of such debt.

If the debtor or the guarantor has not given cooperation to TAMC in regard to debt restructuring as ordered by TAMC when he is in a position to proceed as such, or

has shifted or concealed his own property, TAMC shall file a petition to the court for issuing an absolute receiving order of the property of the debtor or of the guarantor, whichever the case may be, without any inquiry, and, in this regard, the court and the competent receiver shall proceed with the law governing bankruptcy without delay.

Part 2 **Business Reorganization**

Section 59. When there occurs the following cases, TAMC may proceed with the business reorganization of the debtor:

(1) The debtor is a limited company or a public limited company or a juristic partnership, whether or not there be a personal guarantor.

(2) TAMC is a creditor of an amount exceeding fifty percent of the total debt of the debtor appeared in the balance sheet of the latest year as submitted to the Registrar by the debtor.

(3) Preliminary evidence shows that the business of the debtor can be continued or the continuance of business operations would be beneficial to the recovery or the development of the economy of the country, and

(4) The debtor has given consent or has shown intention in writing that there be a business reorganization by accepting the obligations provided herein.

The business reorganization is intended to enable debtor to continue operating business efficiently and to earn income for payment of debts as specified in the plan. The disposal of property of the debtor that is used in the business operation of the debtor must be for efficient business operations according to the bases, procedures and conditions prescribed by the Board. Any proceedings that are not under the said objectives shall be prohibited.

The business reorganization may be made either before or after the debt restructuring, or it may be included in the same plan.

Section 60. When the Executive Board approves the business reorganization of the debtor, TAMC shall proceed with the business reorganization of the debtor forthwith.

Section 61. In proceeding with business reorganization, the Executive Board shall appoint a person as the planner and the planner shall prepare a plan to the Executive Board for approval. The said plan shall be finished within the time fixed by the Executive Board.

Before preparing the plan, the planner shall hold a meeting between the planner, the debtor and other creditors, by notifying, in writing, the debtor and each

creditor according to the existing records, and by also advertising in the computer network system and in at least one widely circulated daily newspaper for at least three consecutive days, by stating the date, time and place of the meeting as well as the documentary evidences that must be produced by the creditors.

Section 62. The plan must contain details of the particulars, methods and targets, period of plan administration, and other details, however, as prescribed by the Executive Board, and there must be prescribed the liability of the plan administrator under Section 66, paragraph three, as well.

The period of plan administration must not exceed five years from the day the plan administrator undertakes the business from the debtor's administrator. In the case of necessity for the purpose of business reorganization, the Executive Board may approve an extension of the period of plan administration for not more than three years.

If the debtor considers that the plan proposed to the Executive Board is not for the objectives under Section 59, paragraph two, the debtor has the right to request the Executive Board to order the planner to rectify the plan so that it be in accordance with the said objectives. In case the Executive Board approves the plan without amendment, or in the case the debtor finds the said case when the Executive Board has duly approved by the plan, the debtor shall lodge an appeal to the Board. The Executive Board or the Board, whichever the case may be, shall decide such a case without delay.

Section 63. When the Executive Board or the Board has approved the plan duly approved by the Executive Board under Section 62, TAMC shall file a petition to the bankruptcy court to consider the said plan.

Upon the court having received such petition, it shall quickly conduct an inquiry ex parte for considering the plan. If the court considers that the plan be implemented, the court shall approve the plan and request TAMC to advertise the said order in the computer network system and in at least one widely circulated daily newspaper for not less than three consecutive days. If the court disagrees with the said plan, it shall reject the petition and notify TAMC of such. The court's order shall be final.

In filing a petition to the court under this Section, TAMC shall be exempted from all fees.

Section 64. In managing the plan, TAMC shall have the following powers:

- (1) Merge or amalgamate the debtor's business for the purpose of its business operations.
- (2) Dissolve some part of the debtor's business.

(3) Proceed in such a way that other creditors of the debtor who participate in the debtor's business reorganization may receive debt repayment.

(4) Proceed any other matters as approved by the Board.

Section 65. If the planner proposes that there be a merger or an amalgamation of businesses of the debtor for the common benefits of business operations, the Executive Board shall propose the said plan to the Board for approval. In this respect, the provisions in Title 22, Partnership and Company, Chapter 4, Part 9, of the Civil and Commercial Code, and the provisions of Chapter 12, Amalgamation of Companies, of the Public Limited Company Act B.E.2535(1992), shall not apply thereto.

If the proceedings under paragraph one have a significant effect on the free competition, the benefits of the consumers, or the development of production industry concerned, it must first obtain an approval from the Council of Ministers, and TAMC shall proceed with the guidelines laid down by the Council of Ministers.

Section 66. When the court approves the plan, TAMC shall appoint a plan administrator and a plan administration supervisor, and shall advertise same in the computer network system and in at least one widely circulated daily newspaper for not less than three consecutive days.

In case the debtor has given cooperation to the proceedings of TAMC and the circumstances show that the administrators of the debtor have not committed any dishonest acts, TAMC shall arrange the planner to consult with the administrator of the debtor closely and shall consider appointing the administrator of the debtor as the plan administrator, however, under the supervision of a person appointed by TAMC according to the conditions laid down by TAMC.

In case the planner is appointed as the plan administrator, if the management of the business according to the plan so prepared is not successful according to the target set in the plan, the plan administrator must be held responsible therefor as prescribed in the plan.

In case the planner is a juristic person, if the chairman, director, manager, consultant, or staff of the said juristic person, or other juristic person whose shares are held by the juristic person who prepared the plan or by the said persons, each of them or several of them altogether, from twenty five percent upwards, is appointed as the plan administrator, it shall be regarded that it is a case where the planner is appointed as the plan administrator under paragraph three.

Section 67. Upon the Executive Board having appointed the plan administrator, the administrators of the debtor shall surrender the property, stamp, books of account, and documents relating to the property, liabilities, and business of the debtor to the plan administrator within seven days from the date of receipt of the notice of the plan administrator. For this purpose, the plan administrator shall have the power to request the possessors thereof to hand over the above-mentioned property, stamp, books of account, and documents to him.

Section 68. After the lapse of period of time under Section 67, the administrator of the debtor shall be relieved of the powers to carry out any business in the name of the debtor, whereby the plan administrator shall assume the administrative powers of the administrator of the debtor as if he were the administrator of the debtor.

The administrator of the debtor shall still retain his position throughout the period of time of plan administration, but he shall have no powers whatsoever to act in the name of, or with binding effect on, the debtor, and shall not be entitled to any remuneration.

The administrator of the debtor shall have the right to appoint a representative to monitor the works of the plan administrator, however, he shall not act in any way that obstructs the works of the plan administrator, and shall also render assistance or afford convenience as requested by the plan administrator. In case the said representative obstructs the works, denies assistance or refuses to afford convenience to the plan administrator without reasonable ground, the plan administrator, with approval of TAMC, may prohibit the said representative to enter into the office or the premises occupied by the debtor, and may request for an appointment of other person to replace him. During the period there is no such representative just yet, it shall not be regarded that such an event prejudices the powers of the plan administrator to continue administering the plan.

Section 69. During the period of plan administration, other than the administrative powers under Section 68, paragraph two, in the case of necessity for the purpose of business reorganization of the debtor as specified in the plan, the plan administrator, with approval of TAMC, shall have the powers to:

- (1) Reduce capital, increase capital, or allot capital increase shares.
- (2) Improve the work administration.
- (3) Appoint or remove staff of the debtor at all levels.
- (4) Merge the business, either wholly or partly, of the debtor.
- (5) Assign contractual rights, transfer the security, or transfer the property to other persons.
- (6) Proceed with any other matters that are necessary as approved by TAMC.

For the proceedings under paragraph one, if the laws provide that there be a resolution or a special resolution of the meeting of shareholders, it shall be regarded that the approval of the Executive Board is the resolution or special resolution of the meeting of shareholders. In case the laws provide that the said proceedings must

obtain a consent from the creditor, or the creditor or any other persons must first be notified, the said laws shall not apply. However, the plan administrator must advertise the said proceedings in the computer network system and in at least one widely circulated daily newspaper for not less than three consecutive days.

Section 70. In case the plan administration supervisor or the representative of the debtor's administrator appointed under Section 68 considers that the plan administrator did not proceed with the plan, or carried out anything that could damage the debtor or which is not in line with the objectives of business reorganization, he shall have the right to object in writing to the plan administrator, stating therein the circumstances that led to such an objection.

The plan administrator shall consider the objection by consulting with the plan administration supervisor and the representative of the debtor's administrator. In case no agreement can be reached, the matter shall be forwarded to TAMC for a decision. The decision of TAMC shall be final. In case TAMC is of an opinion that the objection of the plan administration supervisor or of the representative of the debtor's administrator is reasonable, and if the plan administrator is allowed to continue performing his duties it would cause damage to the business reorganization of the debtor, TAMC shall remove the plan administrator and appoint a new plan administrator.

The plan administrator who has been removed under paragraph two shall have no right to claim for damages or compensation of any kind, whether or not it is specified in the contract of appointment of plan administrator. However, it shall not prejudice the right of TAMC to claim for damages from the plan administrator. The damages so claimed, after deduction of expenses of TAMC as fixed by it, shall be compensated to the debtor.

Section 71. From the day the court passed its order under Section 63 approving the plan until the lapse of the period of the plan or the day the plan has been implemented successfully or the day the business reorganization has ended:

(1) The court shall stay its hearing on any right of claim filed against the debtor until the lapse of the period of the plan, however, it shall not prejudice the right of the creditor to file a petition to seek a repayment of debt from the plan administrator.

(2) The juristic person that is the debtor shall not be dissolved or ordered to be dissolved.

(3) No work units of the State shall revoke the license to operate business of the debtor, nor shall they order the debtor to stop business operation, except where a consent is obtained from TAMC.

(4) It shall not be regarded that the debtor is insolvent which could lead to a business reorganization or a filing of a bankruptcy case under the law governing bankruptcy.

(5) An execution against the property of the debtor shall be stayed, whether or not the said property is a security of the debt. In the case the court has ordered the execution already, the court shall stay the said execution, except where the execution process has already been completed.

(6) No owner of the property used in the operation of business of the debtor under the contract of hire-purchase, contract of sale, or other contract with conditions or time condition regarding the ownership transfer, or lease contract not yet expired, shall trace and repossess the said property that are in the possession of the debtor or of other person holding the right of the debtor, nor shall he file a suit case for an execution against the property and debt arisen therefrom. If such a case has been filed already, the court shall stay the hearing of the said case, except where the Board deems it that the said property is not significant to the business operation of the debtor and a request therefor has been received from an interested person, when the Board may permit the proceedings in relation to the said property as it deems fit.

(7) The debtor shall not dispose of, distribute, transfer, let, repay debt, create debt, or proceed anything that creates an encumbrance to the property, except an act that is necessary for the normal business operation of the debtor.

(8) All temporary court orders, whether they be seizure, attachment, prohibition of disposal, transfer of property of debtor, that exist prior to the date of transfer of impaired assets to TAMC shall be stayed or amended by the court as requested by TAMC.

(9) No operators of public utilities, such as, electricity, waterworks, telephone, shall suspend their services to the debtor.

Any proceeding that is a violation of paragraph one shall be void.

The prohibitions under paragraph one shall not apply to the proceedings of TAMC and the plan administrator.

Section 72. When the plan administrator or the plan administration supervisor considers that any conditions set forth in the plan administration were not followed as specified, or the continuance of the plan administration would create debts to the debtor increasingly, or there occurs a change in the circumstance to such an extent that the business reorganization is not beneficial to the creditor or the debtor, he shall report same, together with recommendations therefor, to the Executive Board without delay.

Upon the Executive Board having considered the matter and agreed with the opinion of the plan administrator or the plan administration supervisor, it shall seek an approval from the Board to end the business reorganization and to proceed with any of the following:

(1) In case the debtor agrees, the business of the debtor shall be dissolved, and all of his property shall be sold, and the proceeds therefrom shall be paid to TAMC. In such a case, when TAMC receives the payment of debt at any amount, the remaining debt shall be extinct, and the guarantor of such debt shall be relieved of the said guaranty.

(2) In case the debtor disagrees with (1), TAMC shall file a petition to the court to order the debtor and the guarantor to become bankrupt, and the court shall issue an absolute receiving order against the property of the debtor and of the guarantor forthwith, without conducting any inquiry.

Section 73. After the lapse of the period of the plan, or when the business reorganization is completed, whichever is the sooner, the debtor and the guarantor of such debt shall be relieved of all debts, except those TAMC considers that time be extended for the debtor to continue paying debts after the said period. In such a case, the guarantor shall still be relieved of the guaranty previously made.

Part 3 **Disposal of Property Placed as Security**

Section 74. In case TAMC wishes to enforce a mortgage or a pledge against the property placed as security against the impaired assets, TAMC shall send a written notice to the debtor and the mortgagor or the pledgor demanding payment of debt within one month from the date of receipt of such notice, in which must state also that if the said persons fail to repay debt within the timeframe so fixed, TAMC shall enforce the debt payment on the impaired assets according to the provisions of this Royal Proclamation.

Section 75. If the debtor, the mortgagor or the pledgor fails to repay debt within the timeframe fixed under Section 74, TAMC shall have the power to dispose of the property placed as security.

Section 76. In disposing of the property placed as security, TAMC shall do so by arranging a sale by public auction. However, in case TAMC considers that a disposal of the property by other method would be more beneficial to TAMC and the debtor, it may choose to dispose of the property by other method, or it may accept the transfer of the said property at a price not lower than the price receivable from the sale by public auction in lieu of the disposal thereof.

Section 77. For the disposal of the property under Section 76, TAMC shall issue a public announcement not less than fifteen days prior to the disposal thereof, by advertising in the computer network system and in at least one widely circulated daily newspaper for not less than three consecutive days.

The announcement under paragraph one shall be regarded as a notice of transfer of property to the debtor, the mortgagor, the pledgor, the guarantor and the person with vested interest in the said property.

Section 78. Any person has a defense relating to the property to be disposed of shall submit a protest and an explanation thereof together with related evidences to TAMC at least three work days before the date of disposal of the property.

The Executive Board shall consider the protest under paragraph one without delay. If the Executive Board is of an opinion that the protest has sufficient ground, it shall order the suspension of the disposal of the property until the proof of the right over the said property is completed. If it considers that the protest has insufficient ground, the protest shall be rejected, in which case the protestor shall be notified of such, and the property shall then be disposed of.

After the lapse of the period under paragraph one, it shall be regarded that the persons under Section 77, paragraph two, who did not file a protest has given consent to the disposal of said property.

Section 79. An injured party from the disposal of the property whose protest has been rejected by the Executive Board under Section 78 may demand TAMC to indemnify the damage from the proceeds received from the disposal of the property, provided it can be proved that he has the better right over the said property than the debtor, the mortgagor, or the pledgor, and he is not liable to the debts of the debtor.

The claim for indemnity under paragraph one shall be filed to the court by the injured party within three months from the date of disposal of the said property.

Section 80. The proceeds from the disposal of the property shall be subject to a deduction of expenses for the disposal of property before it is paid to settle debt owed by the debtor to TAMC.

If there remains any net amount therefrom, it shall be returned to the debtor, the mortgagor, or the pledgor, as the case may be. However, if there still remains an outstanding debt that the said property is placed as security of any amount, the provisions of Section 58, paragraph three, shall apply thereto, *mutatis mutandis*.

Section 81. In case there has been the disposal of property, or TAMC has accepted the transfer of property according to the method prescribed in Section 76:

(1) The right of the bona fide buyer of the property or TAMC shall not be prejudiced, even though it can be proved thereafter that the said property does not belong to the debtor.

(2) No one shall offset the debts owed by the debtor against the amount received from the disposal of the said property.

Section 82. A revocation of the disposal of the property according to the method prescribed in Section 76 is prohibited.

Chapter 5
Supervision, Operation and Control

Section 83. The Minister shall be empowered to supervise general business of TAMC. For this purpose, he shall have the power to order TAMC to make a clarification of facts, express its opinion, prepare report, or to suspend an action of TAMC that is deemed to be against the policies of the Government or a resolution of the Council of Ministers.

For the purpose of the supervision of operations of TAMC, the Minister may assign the Bank of Thailand to examine the business, the assets and the liabilities of TAMC. In this instance, the Bank of Thailand may appoint its staff or other person to act on its behalf.

The staff of the Bank of Thailand or the person appointed by the Bank of Thailand under paragraph two, other than having the powers under the law governing commercial banking and the law governing finance, securities and credit foncier businesses, shall also have the following powers:

(1) Enter into the office of TAMC or into the premises that gathers or compiles information of TAMC by computer or by any other instruments during office hours of such place, so as to examine the business, the assets, and the liabilities of TAMC, including documentary evidences or information relating to TAMC.

(2) Examine the operation status at the office of the debtor in regard to the impaired assets, and order the debtor or the persons concerned to give statement or to send copy or to show books of account, documents or other related evidences.

Section 84. TAMC is prohibited to make contract or to act in any way that causes TAMC not to be able to reveal information to the public, except it be a matter relating to trade secrets of the debtor.

Any contract terms or actions that yield a result under paragraph one shall be void.

Any contract that prohibits either party to the contract to reveal the contents therein or any other information, except information that fall under the descriptions of trade secrets, shall have no binding effect on TAMC or on the disclosure of such to TAMC.

Section 85. In case the Development Fund sustains a damage owing to its having made an investment for the establishment or operation of TAMC, the guaranty or acceptance or aval of instruments issued by TAMC, or payment of interest in lieu of TAMC, the Ministry of Finance shall compensate the Development Fund the amount of damages within the period of time the Ministry of Finance deems that the

Development Fund finds it necessary to use the said fund, except where the overall position of the Development Fund is reasonably strong. In any case, when the Development Fund earns a profit therefrom, it shall remit the said profit to the Treasury as State's income according to the amount fixed by the Ministry of Finance.

Section 86. For the carrying out of duties under this Royal Proclamation, TAMC may request for the names and the amount of debts of each debtor or the business of the financial institution or assets management company connected with the debtors, or details concerning the impaired assets, from the Bank of Thailand. In this respect, Section 46 septies of the Commercial Banking Act B.E.2505(1962) and Section 77 of the Finance, Securities and Credit Foncier Businesses Act B.E.2522 (1979), whichever the case may be, shall not apply to the disclosure of details of the Bank of Thailand in such regard to TAMC.

Chapter 6 **Inspection and Auditing**

Section 87. TAMC shall set and maintain a correct and proper accounting system, and shall arrange for an internal control and auditing system.

Section 88. TAMC shall prepare balance sheet and profit and loss statement every six months.

Section 89. The Minister shall have the power to appoint the State Audit of Thailand or other person to be an auditor of TAMC who shall audit the combined books of account of all financial categories and propose a report on the result of auditing to the Minister every six months.

Section 90. TAMC shall report the business, the balance sheet, the profit and loss statement duly certified by the auditor under Section 89 to the Minister within four months from the end of the accounting period for forwarding to the Council of Ministers for acknowledgement.

The report of business under paragraph one shall at least contain a summary of operations, obstacles, including accomplishments expected to achieve in the following years.

TAMC shall disclose and publish the report of business, balance sheet and profit and loss statement under paragraph one for public information.

Chapter 7 **Dissolution**

Section 91. Subject to Section 95, when TAMC has successfully managed the impaired assets under its powers and duties, the Board shall report such to the Minister for proposing to the Council of Ministers to dissolve TAMC accordingly.

Section 92. Upon the lapse of the two years period from the day this Royal Proclamation comes into force, the Minister shall appoint a working committee to prepare an assessment of operations of TAMC and propose it to the Council of Ministers for consideration if the business of TAMC should be dissolved or improved.

Section 93. When the Council of Ministers passes a resolution that TAMC be dissolved under Section 91 or under Section 92, there shall be appointed a liquidation committee, method of liquidation, period of liquidation, conditions of transfer of property and liabilities of TAMC, and any other necessary conditions by a Royal Decree.

Section 94. The liquidation shall be completed within one year from the day the Royal Decree issued under Section 93 becomes effective, however, it shall be completed within a period not later than twelve years from the day this Royal Proclamation becomes enforceable. Upon the liquidation having been completed, the Minister shall report it to the Council of Ministers and publish it in the Government Gazette accordingly. In such a case, it shall be taken that the date of publication in the Government Gazette is the final liquidation date and the date of dissolution of TAMC.

All property of TAMC still remaining shall be transferred to the Ministry of Finance within sixty days from the final liquidation date.

The liquidation committee shall surrender the books of account and all documents of TAMC to the Ministry of Finance within fourteen days from the final liquidation date.

The books of account and documents under paragraph three may be inspected by interested persons without paying any fee therefor.

Section 95. After the lapse of seven years from the date of enforcement of this Royal Proclamation, TAMC shall prepare for a dissolution of its business, whereby TAMC shall be dissolved in the tenth year and the liquidation shall be completed not later than the twelfth year from the date this Royal Proclamation becomes effective. This Royal Proclamation shall be abolished after the lapse of twelve years from the date of its enforcement, however, it shall not respite the offences under this Royal Proclamation as committed prior to the abolition of this Royal Proclamation.

The provisions of Section 93 and Section 94 shall apply to the liquidation under paragraph one mutatis mutandis.

Chapter 8 Penalty

Section 96. Any administrator of assets fund, staff or employee or any person assigned by TAMC to carry out any proceeding under this Royal Proclamation

demands, accepts, or agrees to accept property or any other benefits from the debtor or any other persons so that any debtor may pay debt lesser than he should have paid shall be liable to imprisonment for a term not more than five years and a fine not more than Baht one hundred thousand, except in the case where the offender is a juristic person when it shall be punished by a fine equivalent to the value of the impaired assets of the said debtor.

Countersigned:

Police Lt. Col. Thaksin Shinnawat
Prime Minister

Note: The reason in promulgating this Royal Proclamation is because during the past periods Thailand has been facing with critical economic problems, causing the debtors of financial institutions being unable to settle debts owed to the financial institutions, and these debts have become non-performing loans in great amount of the financial institutions, and if the situation is further delayed it would endanger the position of the related financial institutions, thereby sending impacts to the recovery of the economy, it is then deemed suitable to urgently rectify the problems so as to maintain economic stability of the country by establishing a national assets management corporation as a government work unit to quickly rectify the outstanding debts problems of the debtors and State and private financial institutions by accepting the transfer of assets classified as impaired assets from financial institutions and assets management companies for administration according to the procedures laid down. Efforts must be made to ensure that the debtors duly transferred are able to repay outstanding debts, and that they may able to continue operating their business efficiently, which would readily extinguish or diminish the non-performing loans, while at the same time not creating damages to the financial institutions to an extent that they no longer able to continue their operations. This would strengthen the stability of the economy and the financial institution system as a whole. If the establishment of the national assets management corporation is delayed, economic damage would be so great that it could seriously affect the economic stability of the country. This is therefore considered a case of emergency and necessity that is unavoidable so as to maintain the economic stability of the nation. Hence, this Royal Proclamation is promulgated.

(Ref. Government Gazette, Volume 118, Part 38 Kor., of 8th June 2001)