

Thailand

Bond Market Guide

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It should be noted that any part of this report does not represent the official views and opinions of any institution which participated in this activity as ABMF members and experts. The ADB Team bears responsibility for the contents of this report.

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Asian Development Bank (ADB) Team

List of Interviewees:

Bangkok, 12 May 2011

Bank of Thailand (BOT)

The Hongkong and Shanghai Banking Corporation, Bangkok

Standard Chartered Bank, Bangkok

Bangkok, 13 May 2011

Securities and Exchange Commission (SEC)

Siam Premier Law Firm

Thai Bond Market Association (ThaiBMA)

Stock Exchange of Thailand (SET)

Thai Securities Depository (TSD)

Thai Clearing House (TCH)

I. Structure, Type, and Characteristics of the Market

Thailand's bond market has developed significantly since the 1997–1998 Asian financial crisis, with increased bond issuance and an actively traded local market. The Ministry of Finance (MOF) has stepped up issuance of government bonds for its financing requirements and built a reliable yield curve in support of market-risk pricing. Government bonds still dominate the market. Since the late 1990s, both government and corporate issuers have used bonds to raise capital. However, the issues are generally straight fixed-rate or floating-rate notes. The structured bond market is still in the early stages of development.

A. Overview¹

1. Background

The Thai bond market has experienced rapid growth in recent years after the 1997 economic crisis. To help support cash-strapped financial institutions, the government issued government bonds for the first time in June 1998. The total amount of government bonds issued under that program was THB500 billion, which opened a new era for the Thai bond market.

The government continued to issue bonds since then with the primary objective to finance the budget deficit in each financial year, or when the expenditures exceeded the revenue, to support social and economic development and to restructure public debt.² The substantial amount of new government bonds coupled with the successive downtrend of interest rates have contributed to the robustness of the bond market as evidenced by a significant increase in both market size and trading volume. Government bonds still dominate the market, making up about 80% of all bonds issued. With the introduction of regulations governing corporate bond issuance, a variety of issuers have entered the market, including multinationals, supranational, and local companies.

¹ An overview of the bond market in Thailand can be found in the Thailand Bond Market Association website, <http://www.thaibma.or.th/main.html> and in International Monetary Fund (IMF). 2009. *Thailand: Financial Sector Assessment Program—Technical Note—Fixed Income Markets*. IMF Country Report No. 09/151. <http://www.imf.org/external/pubs/ft/scr/2009/cr09151.pdf>

² Bank of Thailand (BOT). <http://www.bot.or.th/English/FinancialMarkets/IntroductionToGovernmentDebtSecurities/InterestingContent/Pages/Type.aspx>

Foreign issuers may now also issue bonds, in line with a new regulatory framework promulgated by the Securities and Exchange Commission (SEC).

Both government and corporate bonds are available with tax waivers to foreign investors. Bond trading is conducted either over the counter (OTC) or via the Bond Electronic Exchange (BEX) for retail bonds, which was established by the Stock Exchange of Thailand (SET) in November 2003. All trades (both OTC and on the exchange) are reported to the Thai Bond Market Association (ThaiBMA) within 30 minutes of execution. Trade prices and details are then disseminated by the ThaiBMA through a number of channels, including via the Daily Market Summary on its website.³

2. Regulatory Environment

The Bank of Thailand (BOT) supervises the operation of banking and finance businesses while the SEC supervises the primary and secondary market for securities business. The issuance and offering of securities are governed by the *Securities and Exchange Act 1992* (B.E. 2535).

In November 1994, the Bond Dealers Club (BDC) was set up to be the secondary market for debt securities. The BDC was upgraded to the Thai Bond Dealing Centre (Thai BDC) in April 1998 after it was granted the Bond Exchange license from the SEC.

The goals of the Thai BDC were to provide an environment for fair and secure trading, to monitor trade, and to disseminate information on the secondary bond market. It also functioned as a self-regulatory organization (SRO) and implemented a number of standards and conventions for bond trading. It continuously expanded its functions and took active roles in various area of bond market development.

In December 2004, the Bond Market Development Committee chaired by the Finance Minister initiated a major reform of the Thai bond market. One of the measures was to centralize the trading platform at the SET while ThaiBDC would remain and expand its functions as the SRO and information center for the bond market. Under this policy, ThaiBDC sold its newly developed electronic trading platform to the SET in 2005. To reiterate its focus on SRO functions and as an information center, ThaiBDC, with support from the SEC, changed its status and was granted the license of a securities-related association under the SEC Act and was named “The Thai Bond Market Association (ThaiBMA)” on 8 September 2005. In addition to its governance functions, ThaiBMA also acts as a bond pricing agency, providing model yield and pricing data for the mark-to-market purpose of investors such as mutual funds. This is deemed very useful in the case of illiquid debts securities.

B. Types of Bonds

Products in the Thai bond market are stated as follows.

³ Thailand Bond Market Association (ThaiBMA). www.thaibma.or.th/compositerpt/dailyreport.aspx

1. Thai Government Debt Securities

The Thai Government Debt Securities (TGSs) are securities issued by the Thai government.

The MOF is legally authorized to act as bond issuer for fund mobilization from investors and the general public to fund public expenditures such as the budget deficit, losses incurred by the Financial Institutions Development Fund, refinancing, and infrastructure funding. In 2005, MOF revised the *Public Debt Management Act* (B.E. 2548, 2005) to allow government to issue government bonds for two additional purposes: to on-lend to other government agencies and to develop the domestic bond market.

Government securities, which may also be traded through the BEX, settle on a gross, trade-by-trade basis via the Post Trade Integration (PTI) system. The timing of the settlement process varies according to whether the trade was executed through the Automated Order Matching (AOM) system or the Put-Through (PT) system for large-lot trades valued greater than B3 million. For AOM trades, the Thai Securities Depository (TSD) checks to ensure there are securities available in the selling member's account by settlement date (SD) 1:30 p.m. The TSD prepares and sends payment details to the BOT. The BOT receives the payment details, credits or debits custodian banks' cash accounts, and generates a confirmation of debits or credits to the TSD. Once the TSD receives the confirmation between 1:30 p.m. and 2:00 p.m., confirmation from the BOT, the TSD immediately credits or debits securities to or from the member accounts in the PTI system. For PT trades, the process is essentially the same. However, availability of securities for delivery is assessed at 10:00 a.m. and securities are credited or debited between 10:00 a.m. and 11:00 a.m.

The TGSs currently issued can be classified into two main groups: Treasury bills and government bonds.

a. Treasury Bills

Treasury bills (T-bill) refer to debt securities with maturity not longer than 1 year. Currently, the government makes short-term borrowing by auction of T-bills with maturity periods of 1, 3 and 6 months with auction size of THB2,000 to THB10,000 million. Bearing no interest, they are auctioned at a discount but redeemed at par value at maturity. T-bills are issued in minimum denominations of THB1,000 through competitive bidding via the BOT on a weekly or fortnightly basis (basically every Monday), depending on the demand for short-term capital.

b. Government Bonds

Thai government bonds (TGBs) are generally issued for a fixed term longer than 1 year. According to the *Public Debt Management Act* (B.E. 2548, 2005), bonds are defined as debt instruments pertaining to a long-term obligation of over 12 months. TGBs are usually denominated in units of THB1,000.

There are three groups of issuing bodies of government securities namely the MOF, BOT, and state-owned enterprises (SOEs). Meanwhile, there are four types of government securities: 1) T-bills, 2) government bonds such as loan bonds (LB) and saving bonds (SB), 3) state-agency (SA) bonds (i.e., BOT bonds), and 4) SOE bonds.

Government bonds (except for the 4-year floating-rate bonds that began to be issued in May 2009) are bonds with fixed-rate coupons. The interest rate payment will be calculated semi-annually and the principal amount is repaid once at maturity. Generally, they can be categorized into two main characters: investment bonds or loan bonds and saving bonds.

i. Loan Bonds

LBs are bonds that target institutional investors. The Thai government has issued LBs with maturities between 1 to 30 years, of which 5- and 10-year bonds are issued as benchmark bonds to increase liquidity in the secondary market. The auction is held every Wednesday.

During the 2009 fiscal year, the Public Debt Management Office (PDMO) issued 5-year benchmark bonds with auction size of THB10,000 to THB15,000 million every even month and 10-year benchmark bonds with auction size of THB10,000 to THB13,000 million every odd month. In addition, 15- and 20-year bonds were issued regularly to create reference rates for the domestic bond market and to match the investment portfolio of long-term investors.

Since 2008, 30-year bonds, which are aimed at insurance companies, have been issued.

The main objective of the 30-year bonds is to decrease the mismatch of insurance companies' portfolios. During the start-up period, the size of these bonds is reasonably small as part of the price-discovery process to get full market competition in the future. In the long run, the government plans to use these 30-year bonds as instruments for relatively large project funding.

On 29 May 2009, the PDMO issued the 4-year Floating Rate Bond (FRB) for the first time, which has a variable coupon rate equal to the Bangkok Interbank Offered Rate (BIBOR) in addition to a spread. A spread is a rate that remains constant. Since then, the Thai government has been issuing the FRB regularly.⁴ The interest rate payment is calculated semi-annually by fixing the BIBOR for that particular day and adding the spread. The principal amount is repaid once at maturity.

ii. Saving Bonds

SBs are government bonds that target retail investors. Each investor is allowed to purchase a minimum of THB10,000, with the total value purchased to be in multiples of THB10,000. In most issues, retail investors are allowed to submit one purchase subscription for each tranche with a maximum investment of THB500,000. Interest on the bonds is paid at a fixed rate twice a year.

Eligible buyers include individuals who are Thai nationals or residents, and non-profit institutions such as foundations, the Thai Red Cross Society, and the National Council on Social Welfare of Thailand. The savings bonds are sold through selling

⁴ BankofThailand.http://www.bot.or.th/English/FinancialMarkets/BondProfile/DebtSecuritiesOutstanding/Pages/DebtSecuritiesOutstanding_GovtBonds.aspx and <http://www.bot.or.th/English/FinancialMarkets/IntroductionToGovernmentDebtSecurities/InterestingContent/Pages/Type.aspx>; PublicDebtManagement Office. <http://www.pdmo.go.th/en/about.php?m=about>

agents appointed by the MOF such as commercial banks and government saving banks, while the BOT is responsible for supervising the sales, ownership registration, and issuing the physical bond certificate.

2. Corporate Bonds

Generally, corporate bonds are traded OTC or through the BEX. For some time now, clearing and settlement are facilitated by the TSD's Post-Trade Infrastructure (PTI). Bond transactions are pre-matched by telephone and settlement occurs via the PTI system, following the same process as equities. However, unlike equities, settlement of bonds occurs on T+2.

The more commonly traded unlisted debt issues are bills of exchange (BEs). Settlement details for BEs are negotiated between counterparties. Authentication is a critical component of the settlement process of unlisted debt, as no standardized treatment for settlement exists.

Payment is made by check or through BAHTNET, subsequent to the sub-custodian's verification that the BEs or Negotiable Certificates of Deposit (NCDs) have been received in good form and are authentic.

Corporate bonds comprise of:

- (a) Long-term corporate bonds, which are bonds issued by the corporate sector with tenors of 1 year and over.
- (b) Commercial papers (CPs), which are short-term debt instruments including BEs and short-term debentures. Normally, a commercial paper has maturity of less than 270 days.
- (c) Structured bonds with the following features:
 - (i) The amount of return is linked with a predetermined underlying variable other than interest rate.
 - (ii) Total or partial amount for principal is linked with a predetermined underlying variable, e.g., equity price or index, gold price, and foreign exchange, commodity price or index, and credit rating.
- (d) Foreign Bonds.

Since 2005, MOF has allowed certain types of foreign institutions to issue baht-denominated bonds in Thailand. They include international financial institutions, foreign governments, financial institutions of foreign governments, and foreign entities, e.g., ADB, Japan Bank for International Cooperation, and Kreditanstalt für Wiederaufbau (KfW).

- (e) Foreign-Denominated Bonds

In 2010, Thai entities were allowed to issue bonds in foreign currency. Currently, there is only one company issuing this type of bonds.

C. Money Market Instruments

Money market instruments are traded in the OTC market and settled by physical delivery. There are various money market instruments traded in Thai capital market. These include:

(a) Promissory Notes

Promissory notes (PNs) are physical, bearer instruments issued by banks and other financial institutions. PNs are issued on a discounted basis with tenures ranging from 1 month to 1 year.

(b) Bills of Exchange

BEs are similar to checks and PNs, which sometimes are referred to as a “draft.” They can be drawn by individuals or banks and are generally transferable by endorsements. The difference between a PN and a BE is that BE is transferable and can bind one party to pay a third party that was not involved in its creation.

(c) Commercial Papers

CPs are short-term unsecured notes issued by corporations. The maturity of CPs is less than 270 days. The most common form of CP is taking the format of BEs, which are short-term Thai baht-denominated interest-bearing or discounted instruments. BEs are issued in bearer or registered form by banks, companies, and other financial institutions. Typical issue sizes range from THB5 million to THB250 million with varied tenures, i.e., between 1 month to 1 year.

(d) Time Deposits

Time deposits represent cash placed with a bank or financial institution for a fixed period, in return for a fixed or variable interest rate. Typical tenors are from one month to 2 or 3 years. In Thailand, time deposits are guaranteed by the government.

D. Segmentation of the Market

Table 1.1 Segmentation of the Market: Outstanding Value by Type of Issuers^a
(THB billion)

	Type of Bond	Outstanding as of November 30, 2011	%
Government Debt Securities	Treasury Bill	0.00	0.00
	Government bond	2,629.50	37.42
	State-owned enterprise bond (SOE)	481.66	6.85
	State agency bond (SA) (i.e., Bank of Thailand bond)	2,587.83	36.83
	Sub-Total	(5,698.99)	(81.10)
Corporate Debt Securities	Corporate bond	1,149.70	16.36
	Commercial paper	98.79	1.41
	Sub-Total	(1,248.49)	(17.77)
Foreign Bond		79.69	1.13
Total		7,027.17	100.00

^a As of end of November 2011.

Source: ThaiBMA, Historical ThaiBMA Monthly Summary Nov 2011. Thai Bond Market Association (TBMA). http://www.thaibma.or.th/disclaimer/Sitemap_ThaiBMA.html

More information can be found in Appendix 1.

E. Listing of Debt Securities

1. Listed Securities

Listed securities are debt instruments listed, or authorized to be traded, on the Exchange (SET or BEX). The issuer should get approval from the Exchange for listing. All publicly offered government and corporate bonds are listed in Thailand. However, this is not an SEC requirement. The SEC actually rules that all bonds issued as private placements (PP) or public offers (PO) must be registered with ThaiBMA with exception for bonds with very limited distribution (e.g., offered to less than 10 investors). For more information, SET/BEX's rules related to bond listing can be found in the SET website.⁵

2. Stock Exchange of Thailand/Bond Electronic Exchange Listed and Publicly Offered Bonds

Information regarding periodic interest rates, frequency of coupon payments, term to maturity, par value of the bond, redemption value of the bond, and any other provisions are all stated in the prospectus when a bond is issued. Once a bond is auctioned in the primary market, the bond can be electronically traded in the secondary market through the BEX.

There are several names associated with bonds, such as debt instrument, fixed-income instrument, debenture, etc. Investors (mainly retail investors) can buy or sell bonds in the BEX, which was officially launched on 26 November 2003. BEX's primary goal is to develop all facets of the Thai bond market to reach an international standard, on par with other mature bond markets. In addition, instituting an electronic trading platform like BEX is a progress towards creating a vibrant Asian bond market, whose development and advancement would contribute to the stabilization of the regional economy.

The Thai bond market is OTC focused, wherein 95% of trades are OTC based.

F. Methods of Issuing Bonds (Primary Market)

1. Bond Issuance Procedure

Once an issuer decides to issue bonds, a financial advisor will be appointed to provide an opinion on the type, conditions, and other relevant details of bond issuance. The financial advisor helps in preparing all the necessary documents regarding the bonds being issued to obtain SEC's permission. The advisor will then have the bond rated by one of the two SEC-approved rating agencies. Rating is mandatory in Thailand.

In addition, the company must appoint an underwriter who will allocate the bond to investors after receiving SEC's approval. In some cases, issuers may decide to go through the process without the help of a financial advisor or an underwriter.

⁵ Stock Exchange of Thailand (SET). <http://www.set.or.th/set/notification.do?idLv1=7&idLv2=57&language=en&country=US>; "Listing of Debt Instruments as Listed Securities," Regulations of the Stock Market of Thailand, http://www.set.or.th/en/products/bonds/bonds_p1.html; Extracts from "Background of Thai Bond Market," http://www.set.or.th/en/products/bonds/files/bond_knowledge_eng.pdf

2. Method of Government Securities Offering

Most government securities are issued through the auction method, except for SOE bonds which are offered through underwriters. Units which run the auction for government securities are the BOT and PDMO. The BOT is responsible for the auction of T-Bills, LBs, and BOT bonds while PDMO is responsible for SOE bonds in both categories, with and without government guarantee.

The BOT set up a bidding system for government securities comprising two types:

- a. **Competitive Bidding.** Eligible participants are required to submit a bidding form through an electronic channel (e-Bidding) by 9:30 a.m. on the auction date. A bidder should indicate the desirable size and yield with a minimum amount of THB100 million.
- b. **Non-Competitive Bidding.** Those who are interested in non-competitive bidding have to submit subscription forms to primary dealers by 12:00 noon on a day prior to the auction date. The primary dealer then gathers all the forms and submits to the BOT by 2:00 p.m. on the same day. Bidders indicate only the size they prefer to take which should be between THB4 million to THB40 million. Non-competitive bidding is limited to certain types of investors, such as non-profit organization, foundation, and savings cooperatives.

Regarding SOE bond auction, the PDMO usually calls for bids among underwriters on a full commitment basis. Bidders should submit an underwriting proposal detailing yields, fees and all other expenses together with the names of related parties. The bidding result is posted on the PDMO website at approximately 11:00 a.m. on the auction date. SOE bonds are offered through an underwriting mechanism.

3. Corporate Bond Offering Method

Bond offering in the private sector is divided into two categories: public offering (PO) and private placement (PP) offering. Corporate bonds are usually sold through the underwriting process.

4. Approval for the Offering of Newly Issued Securities

Division 1 of Chapter 2 on the “Issuance of Securities” of the SEC Act provides for the approval for the offering of newly issued securities.⁶

G. Public Offering and Private Placement Markets

1. Types of Bond Offerings

There are two types of bond offerings.

a. Private Placement (PP)

The first type is PP, where the offer is made to 1) institutional investors or high net worth investors or 2) to a maximum of 10 investors within any four-month period, as further prescribed by the SEC Rules detailed in Box 1.1. These conditions are also applied to the secondary market as any transfer must comply with the offer conditions.

⁶ Securities and Exchange Commission (SEC). http://www.sec.or.th/laws_notification/Content_0000000312.jsp?categoryID=CAT0000015&lang=en

A bond offered through PP is negotiated and traded off the Exchange floor, referred to as OTC.

Box 1.1 Characteristics of Private Placement^a

Notification of the Capital Market Supervisory Board No. TorChor. 9/2552

Re: Application for and Approval of Offer for Sale of Newly Issued Debt Securities

Chapter 2 Private Placement of Debt Securities

Division 1 Characteristics of Private Placement

Clause 32 An offer for sale of bonds in any of the following manners shall be deemed private placement:

(1) An offer made to institutional investors or high net worth investors, excluding an offer made to institutional investors or high net worth investors with registration of transfer restriction among not exceeding ten investors within any four-month period which shall fall under (2);

(2) An offer made specifically to not exceeding ten investors within any four-month period;

In cases where the securities depository center, custodian, securities broker, securities dealer or any person holds bonds on behalf of other persons, the counting of the number of investors under the first paragraph shall be based on the real owner of such bonds.

(3) An offer made to the person being the company's creditor prior to the offer for sale of bonds for the purpose of debt restructuring;

(4) An offer granted an exemption from the Office, where the approved person shall demonstrate that:

- (a) There is reasonable and appropriate cause;
- (b) Such offer for sale shall not affect investors at large; and
- (c) There are sufficient measures for investor protection.

Clause 33 In case of requesting an exemption for an offer for sale of newly issued bonds under Clause 32(4), the person requesting an exemption shall demonstrate the reasonable and appropriate cause of such case, the non-existence of effects on investors at large and the availability of sufficient measures for investor protection, and the Office may grant an exemption for application of the rules or conditions prescribed in this Chapter, whether totally or partially, to such offer for sale of bonds as deemed necessary, by taking into account the suitability and sufficiency of measures for investor protection.

Clause 34 Bills issued in any of the following manners shall be deemed issuance of bills for private placement:

(1) Bills issued by the securities finance institution or any other person as specified by the Office with the purpose to borrow money from institutional investors or high net worth investors;

(2) Short-term bills offered to institutional investors or high net worth investors;

(3) Bills which do not fall under (1) or (2) in the amount of not exceeding ten bills at any time when counting all types of bills issued by the company.

For the purpose of the provisions in this Clause, the term "institutional investor" under the first paragraph shall not include the persons prescribed in Clause 5(3) of the Notification of the Securities and Exchange Commission No. KorChor. 4/2552 Re: Exemption from Filing of Registration Statement for Offer for Sale of Debt Securities dated 13 March 2009.

Division 3 After-Approval Conditions for Private Placement of Debt Securities

Clause 37 In case of an offer for sale of all types of newly issued debt securities to institutional investors established under Thai law or high net worth investors under Clause 32(1), the approved person shall comply with the conditions under Clause 38, Clause 39 and Clause 40.

Clause 38 Prior to each offer for sale of newly issued debt securities, the approved person shall provide any of the following credit rating arrangement by the credit rating agency approved by the Office:

(1) Credit rating of debt securities offered for sale each time (issue rating);

(2) Credit rating of the debt securities guarantor (guarantor rating), only in cases where the guarantor is obliged to liabilities jointly with the debtor without revocability before the debt securities maturity, including credit rating of the provider of aval of principle and interest of bills in full amount without condition; or

continued on next page

Box 1.1 continuation

(3) Credit rating of the approved person (issuer rating), excluding the case of an offer for sale of subordinated bonds.

The provisions related to granting of exemption for credit rating arrangement as prescribed in the second paragraph of Clause 21 shall also apply to the case under the first paragraph.

Clause 39 After the issuance of debt securities, the approved person shall provide continuous arrangement of credit rating of debt securities in accordance with the rules under Clause 38 until the claim for repayment of such debt securities is terminated. Except where it is necessary and appropriate, the Office may grant an exemption for arrangement of credit rating of debt securities and may also prescribe the timeframe or conditions thereof, by taking into consideration the necessity of credit rating information for investors.

Clause 40 The approved person shall file an application with the Thai Bond Market Association for registration of the issued and offered debt securities within thirty days after the issuing date.

Clause 41 In case of an offer for sale of short-term bonds or bills to institutional investors or high net worth investors, the approved person may make unlimited offer for sale of short-term bonds or bills subject to the registration statement filed for an offer for sale of short-term bonds or bills to institutional investors or high net worth investors as prescribed in the Notification of the Capital Market Supervisory Board concerning filing of registration statement for offer for sale of debt securities, but any offer shall be made within one year after the effective date of such registration statement.

Division 4 Additional After-Approval Conditions for Private Placement of Bonds

Clause 42 Prior to an offer for sale of bonds, the approved person shall obtain an explicit resolution from the company's board of directors approving the issuance of bonds. Except where the applicant is a public limited company, the resolution for the issuance of bonds shall be obtained in compliance with the law on public limited company.

The provisions in the first paragraph shall not apply to the case where the company is required to issue bonds according to the rehabilitation plan under the bankruptcy law which has been approved by the court, or any other case granted an exemption by the Office.

Clause 43 In case of secured bonds or bonds provided with the bond holder representative, the approved person shall provide the bond holder representative whose name is in the list of persons qualified to be the bond holder representative in accordance with the Notification concerning qualifications of bond holder representative and authority of bond holder representative.

Clause 44 The approved person shall take the following actions:

(1) Having the bonds to be issued and offered for sale meet the following characteristics:

(a) Being registered bonds and having a statement in the certificate of bonds offered for sale each time that the bond issuer shall not accept transfer registration of bonds in any level if such transfer is inconsistent with the transfer restriction as indicated and registered with the Office;

(b) Having the characteristics in accordance with Clause 17(1), (2) and (3);

(c) Complying with the rules prescribed in Clause 18 and Clause 19 in case of an offer for sale of subordinated bonds or perpetual bonds, as the case may be;

(d) In case of an offer for sale of bonds to institutional investors established under Thai law or high net worth investors under Clause 32(1), having the terms and conditions with at least the particulars as prescribed in Section 42(1) to (9) and complying with the first paragraph of Clause 29;

(2) In case of private placement of bonds under Clause 32(2), (3) or (4), the approved person shall not advertize an offer for sale of newly issued bonds and reserved shares. If the distribution of offer documents is made, the approved person shall distribute such documents only to persons with the characteristics or in the limited number as prescribed in Clause 32(2), (3) or (4) as granted approval;

(3) Offer documents (if any) shall contain a statement indicating the transfer restriction under (1)(a) and in case of an offer for sale of subordinated bonds, such subordination shall be clearly indicated.

Clause 45 In cases where any person shows his intention to the approved person to register transfer of bonds, the approved person shall make verification of such transfer. If such transfer is inconsistent with the transfer restriction registered with the Office, the approved person shall not register such transfer, except for transfer by inheritance.

In cases where the approved person has provided the bond registrar, the approved person shall have the bond registrar comply with the rules prescribed in the first paragraph.

Division 5 Additional After-Approval Conditions for Private Placement of Bills

Clause 46 Prior to an offer for sale of bills, the approved person shall obtain an explicit resolution from the company's board of directors approving the issuance of bills, except for the case where the company is required to issue bills according to the rehabilitation plan under the bankruptcy law which has been approved by the court or any other case granted an exemption by the Office.

continued on next page

Box 1.1 continuation

Clause 47 The approved person shall provide a statement that “These bills are securities and approved for private placement” on the face of the bills. In case of the issuance of bills under Clause 34(1) or (2), the bill issuer shall provide additional statements saying “Being offered for sale only to institutional investors or high net worth investors” and “Non-negotiable” or “With the purpose of transfer among institutional investors or high net worth investors” or any other statement with similar meaning.

Clause 48 In case of an offer for sale of bills under Clause 34(3), the approved person shall not advertise such offer. If the distribution of offer documents is made, the approved person shall distribute such documents only to persons with the characteristics or in the limited number as prescribed in Clause 34(3) as granted approval.

Notified this 13th day of March 2009.

Remark: The rationale for issuing this Notification is to prescribe rules on approval of an offer for sale of newly issued debt securities by a company established under Thai law or a branch of a foreign commercial bank and, so as to promote development and growth of Thai debt securities market, to relax rules on approval of an offer for sale of debt securities to limited group of investors which will help facilitate fund raising through debt securities issuance of the private sector, as well as to re-define an offer for sale to limited group of investors to include an offer for sale of debt securities to institutional investors or high net worth investors without limitation of offer value to be in accordance with international standards.

^a Emphases added by authors.

Source: Securities and Exchange Commission. Footnote 8. <http://capital.sec.or.th/webapp/nrs/data/4607se.pdf>

Box 1.2 Definition of Institutional Investors and High Net Worth Investors^a

Notification of the Securities and Exchange Commission No. KorChor. 5/2552

Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Debt Securities

Clause 3 In this Notification and the forms attached with the Notifications under Clause 2:

(2) definitions relating to type of investors:

(a) “institutional investors” means:

1. commercial banks;
2. finance companies;
3. securities companies for management of proprietary portfolios or private funds or investment projects established under laws governing finance business, securities business and credit foncier business;
4. credit foncier companies;
5. insurance companies;
6. government units and state enterprises under laws governing budgetary procedures or any other juristic persons established under specific laws;
7. Bank of Thailand;
8. international financial institutions;
9. Financial Institutions Development Fund;
10. Government Pension Fund;
11. provident funds;
12. mutual funds;
13. foreign investors with the same characteristics as investors under (1) to (12), mutatis mutandis;

(b) “high net worth investors” means:

1. individual persons having forty million baht or more of assets, excluding liabilities of such persons;
2. juristic persons having two hundred million baht or more of assets as recorded in the latest audited financial statements;

^a Emphases added by authors.

Source: Securities and Exchange Commission. Footnote 8. *Notification of the Securities and Exchange Commission No. KorChor. 5/2552 Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Debt Securities.* http://www.google.co.jp/url?sa=t&source=web&cd=1&sqj=2&ved=OCBkQFjAA&url=http%3A%2F%2Fcapital.sec.or.th%2Fwebapp%2Fnrs%2Fdata%2F4604se.pdf&ei=Ob_-TFDxKfCvgPYmJyYAw&usq=AFQjCNEY6hzWoGDDgBFVMs-PNWUITp6pog

b. Public Offering and Disclosure Requirement

The second type is public offering (PO), which can be further subdivided into two additional categories. The bonds can be bought and sold by any investors. Since these bonds are offered to a variety of investors, they are more actively traded in the secondary market. This bond category can be registered to trade on the BEX. In reality, most of them are traded OTC.

A public offering of bonds carries for the bond issuer specific disclosure requirements. Disclosure means to reveal to the public relevant information on the issuer and the bond. The SET/BEX requires issuers to inform investors of material information, which may affect bond prices, bondholders' interests, or investment decisions. Examples of disclosure (filing) requirements are financial reports at the end of each accounting period, e.g., quarterly and annual financial statements, and annual reports. The promoters of publicly offered bonds are required to disclose (file) the information.

Box 1.3 Chapter XI of the Public Limited Companies Act^a

Public offering debentures shall be in accordance with the law on securities and stock exchange.

The PUBLIC LIMITED COMPANIES ACT, B.E. 2535 (1992)

CHAPTER XI
Debentures:

Section 145. The borrowing by the company by means of the issuance of debentures for offer for sale to the public shall be in accordance with the law on securities and stock exchange, and section 25 shall apply mutatis mutandis.
The resolution approving the issuance of debentures under paragraph one shall require the resolution of the meeting of shareholders passed by a vote of not less than three-fourths of the total number of votes of the shareholders attending the meeting and having the right to vote.

CHAPTER III

Offer of Shares for Sale to the Public

Section 24. The offer of shares for sale to the public or to any person shall be in accordance with the law on securities and stock exchange.

Section 25. The promoters or the company shall submit to the Registrar a copy of the documents relating to the offer of shares for sale to the public which shall be prepared and submitted to authorities under the law on securities and stock exchange, within fifteen days as from the date of submission to such authorities in accordance with the rules, procedures and conditions prescribed by the Registrar.

^a Emphases added by authors.

Source: <indicate source>. Government of Thailand. *Public Limited Companies Act*. <http://www.lawreform.go.th/lawreform/images/th/legis/en/act/1992/12878.pdf>

2. Secondary Market Trading

There are two secondary bond markets in Thailand: the OTC market under the ThaiBMA, formerly the Thai BDC, and BEX.

The ThaiBMA has three types of members:

- (i) Ordinary members – financial institutions with a debt-trading license (dealer);
- (ii) Extraordinary members – companies that have inter-dealer broker (IDB) licenses;
- (iii) Associate members – firms that facilitate trades of an ordinary member with a monthly average trading value in each of the past 12 months of less than THB100 million.

BEX is an electronic bond-trading platform overseen by the SET. Brokerage firm members trade corporate bonds issued by SET-listed companies on behalf of their clients. As stated above, bond trading in Thailand can take place either OTC or through the exchange. Since bonds are normally traded in a big lot and are traded less frequently compared to equities, most bonds circulated in the secondary market are traded OTC, which the buyer and seller negotiate either over the telephone or through an IDB.

Government bonds are the most actively traded securities, accounting for approximately 80–90% of total trade at any point in time.

a. Dealers

To trade debt instruments in Thailand, investors are required to trade only with dealers who are financial institutions licensed by the SEC to trade debt instruments. In 2010, 51 dealers had dealing licenses but no more than 15 of these were active dealers, most of whom were commercial banks.

b. Investors

Investors in the bond market are mainly institutions, including asset-management companies (AMCs) like mutual funds, provident funds and government pension funds, and banks and insurance companies. For instance, in November 2011, trading value (outright) between dealers and clients totaled THB933.37 billion. AMCs captured a share of 64.30% of market share, domestic companies (DCO) participated at 13.24%, foreign investors (FCO) captured 8.70%, the non-dealer license group (NDL) shared at 3.72%, insurance companies (INS) shared at 3.09%, and individual investors (IND) shared at 1.38%. Foreign investors have a sizable portion of the market.

Table 1.2 ThaiBMA Monthly Summary of Investments in the Bond Market (August 2011 and November 2011)

	Mar 2011	April 2011	May 2011	Jun 2011	Jul 2011	Aug 2011	Sep 2011	Oct 2011	Nov 2011
AMC	818.56	650.93	615.69	651.04	471.61	634.65	675.89	572.12	600.19
INS	32.48	18.64	21.48	18.71	15.52	18.91	29.35	22.41	28.86
NDL	40.58	53.88	70.09	58.97	31.49	40.89	50.96	34.81	34.70
DCO	174.07	128.01	97.60	121.68	75.34	117.82	135.82	88.41	123.59
FCO	170.31	216.95	128.76	102.67	216.10	189.62	168.57	79.31	81.19
IND	7.90	7.45	9.62	6.05	5.78	9.10	10.70	12.55	12.89
Others	67.61	66.85	58.37	68.17	40.84	66.32	58.25	33.05	51.95
Total	1,311.51	1,142.71	1,001.61	1,027.29	856.68	1,077.31	1,129.54	842.66	933.37

AMC = asset-management companies; DCO = domestic companies; FCO = foreign investors; IND = individual investors; INS = insurance companies; NDL = non-dealer license group
Source: Stock Exchange of Thailand. "Listing of Debt Instruments as Listed Securities," Regulations of the Stock Market of Thailand, http://www.set.or.th/en/products/bonds/bonds_p1.html; Extracts from "Background of ThaiBond Market," http://www.set.or.th/en/products/bonds/files/bond_knowledge_eng.pdf

c. Trading on the Over-the-Counter Market

Bond trading in Thailand mostly occurs on an OTC basis. Although the Electronic Trading Platform (ETP), BEX, exists at the SET, the volume through this channel has remained low (less than 5%). In the OTC market, transactions between dealers or inter-dealer trading can be done through either telephone or a broker called an IDB who acts as facilitator of the transaction. Currently, there are two IDBs in Thailand, namely ICAP and Wallstreet.

Trading in the secondary market can be grouped into two types: 1) dealer-to-dealer (inter-dealer) and 2) dealer-to-client. For dealer-to-client transactions, investors and dealers negotiate and trade their bonds via telephone.

All bond trades are required to be reported to ThaiBMA within 30 minutes after execution.

d. Market Monitoring and Surveillance in the Secondary Market

ThaiBMA monitors market movement and each trade transaction to ensure that there is no violation of regulation, wrongful conduct, or unfair trading. Besides daily and regular monitoring, ThaiBMA also reports to concerned authorities such as the SEC and the BOT.

3. Approval and Filing of Bonds

Table 1.3 Extract and Summary of Approval and Filing of Bonds in Thailand

Plain Debt	Thailand
1. Securities and Exchange Commission (SEC) Approval	
1.1. Public Offering (PO)	✓ :requires SEC approval
1.2. Non-Retail Investor (NRI)	✓ :approves in general ≤ 10 persons Institutional investor (II) and High net worth individuals (HNW)
1.3. Exempt	Treasury bill (T-bill), Government bond, Ministry of Finance (MOF) bond, Bank of Thailand (BOT) bond
2. Filing	
2.1. PO	✓ :requires filing with SEC
2.2. NRI	✓ :requires filing with SEC With Minimum disclosure
2.3. Exempt	< 10 persons T-bill, Government bond, MOF bond, BOT bond
Complex Debt	Thailand
1. SEC Approval	
1.1. PO	✓ :requires SEC approval
1.2. NRI	✓ :requires SEC approval < 10 persons II and HNW
1.3. Exempt	T-bill, Government bond, MOF bond, BOT bond
2. Filing	
2.1. PO	✓ :requires filing to SEC
2.2. NRI	✓ :requires filing to SEC Min. disclosure
2.3. Exempt	< 10 persons T-bill, Government bond, MOF bond, BOT bond

Note: ✓ = 'Yes,' 'exists,' or 'required'
Source: Securities and Exchange Commission Thailand.

4. Permission to Issue Baht-Denominated Bonds or Debentures by Foreign Entities

Box 1.4 Summary of Permission to Issue Baht-Denominated Bonds or Debentures by Foreign Entities in Thailand No. 42/2006 (3 May 2006)

As a strategy to develop [the] domestic bond market as a regional source of funding, the Minister of Finance had issued the Notifications to permit International Financial Institutions, Foreign Governments and Financial Institutions of Foreign Governments to issue Baht-denominated bonds or debentures in Thailand on April 21, 2004 and May 25, 2004, respectively.

To further promote the development of the bond market, on April 11, 2006, the Minister of Finance issued the “Notification: Permission to Issue Baht-denominated Bonds or Debentures in Thailand,” which stipulates rules for foreign entities to issue Baht-denominated bonds or debentures, and can be summarised as follows:

1. The eligible entities are international financial institutions established by conventions whether Thailand is a member or not, foreign governments or financial institutions of foreign government established by a specific law[,] and juristic persons established by laws of ASEAN+3 countries or any countries, which the Minister of Finance deems appropriate.
2. The tenure of the bond or debenture shall not be less than three (3) years.
3. The conditions under the new Notification shall apply to all bonds or debentures requested for approval from April 11, 2006. However, the bonds or debentures that have been requested, approved for issuance[,] and issued prior to this Notification will continue to be subject to the conditions stipulated under the Notification dated April 21, 2004 and May 25, 2004.

It is expected that by allowing foreign entities to issue Baht-denominated bonds or debentures in the domestic market will further promote the diversity of products and provide greater choice to the investors[,] as well as develop market infrastructure in support of the Asian Bond Market Initiative. This will enhance the Thai bond market as the regional source of funding in future.

As the key strategies to develop the bond market in Thailand as a regional source of funding, the Ministry of Finance has endeavoured to diversify bond products, expand the issuers and investors base in the Baht-denominated bonds or debentures in Thailand[,] and develop market infrastructure in support of the Asian Bond Market framework. In addition, the Securities and Exchange Commission has announced the disclosure requirements for the sale of Baht-denominated bonds or debentures issued by foreign entities in Thailand, which required the issuers to follow the conditions as stipulated and permitted by the Ministry of Finance.

Source: Ministry of Finance. http://www2.mof.go.th/press_releases_detail.php?id=3

5. Main Institutions in the Thailand Bond Market

a. The Stock Exchange of Thailand

The SET was established in April 1975 under the name “The Bangkok Stock Exchange,” as the primary stock market in Thailand. In 1999, the Market for Alternative Investment (MAI), a subsidiary of SET, was established as an alternative channel for fundraising of small and medium enterprises with high potential to grow, or newly established companies with high market value. SET has also launched the BEX in 2003 to support the secondary market for bond trading for individual investors. Information on bond knowledge and a related glossary may be found in the SET website.⁷

b. Bond Electronic Exchange

BEX, a department of SET, trades fixed-income securities of SET-listed corporations as an ETP. BEX started trading government bonds in June 2005, and represents and focuses on diversification, investor awareness, education, transparency, clearing and settlement, with an aim to ultimately increase market liquidity.

⁷ The Stock Exchange of Thailand (SET). <http://www.set.or.th/en>

c. Thailand Securities Depository

Clearing and settlement of securities traded on SET, MAI and BEX, including bonds trading on the OTC market, are done by TSD. Both government bonds and corporate debentures publicly sold are dematerialized and settled gross through TSD's PTI system, which is linked to the BOT's payment system namely "BAHTNET II".

The TSD is the official agency responsible for allocating International Securities Identification Number (ISIN) codes in Thailand using standard ISO 6166. TSD allocates ISIN codes for equities, corporate bonds, government bonds, warrants, and all other securities deposited with TSD.

d. Thai Bond Market Association⁸

In September 2005, the Thai Bond Dealing Centre became ThaiBMA. ThaiBMA is a self-regulating organization that functions as an information center, code and standard setter, forum for bond market development, and the frontline for market surveillance.

ThaiBMA is a securities business-related association under the *Securities and Exchange Commission Act B.E. 2535 (1992)*. Its main purposes are to be an SRO for a fair and efficient operation of the bond market and to be an information center for the Thai bond market. It also plays functional roles on market development, market convention and standards, and being a bond pricing agency for the industry. In addition, ThaiBMA provides a forum through which industry professionals can respond to current issues and play a role in shaping the future of the Thai bond market. As a bond pricing agency, ThaiBMA also provides model yield and pricing data for mark-to-market purpose of investors such as mutual funds, which are deemed very useful in the case of illiquid debts securities.

H. Wholesale and Retail Investors

Wholesale investors refer to institutional or juristic investors, while retail investors are individual investors. Thailand as a jurisdiction does not have an official concept of wholesale and retail. However, according to SEC regulations, so-called wholesale investors are categorized into 13 types of qualified institutional investors (QII), which comprise:

- (i) commercial banks;
- (ii) finance companies;
- (iii) securities companies for management of proprietary portfolios or private funds, or investment projects established under laws governing finance business, securities business, and credit foncier business;
- (iv) credit foncier companies;
- (v) insurance companies;
- (vi) government units and state enterprises under laws governing budgetary procedures, or any other juristic persons established under specific laws;
- (vii) Bank of Thailand;
- (viii) international financial institutions;

⁸ Footnote 3. <http://www.thaibma.or.th/aboutus/aboutus.html>

- (ix) Financial Institutions Development Fund;
- (x) government pension fund;
- (xi) provident funds;
- (xii) mutual funds; and
- (xiii) foreign investors with the same characteristics as investors under (1) to (12), mutatis mutandis.

The concept of QII does not only apply to securities available for sale in the exchange market but applies to debentures issued through private placement.

I. Definition of Professionals and Professional Investors

There is no defined concept of professionals; however, it can be assumed that wholesale institutional investors represent the professionals. The concepts of the institutional investors and high net worth investors exist in Thailand. These concepts are related to the rule on exemption to full disclosure-based regulations. See below for the definitions of institutional investors and high net worth investors.

J. Definition of Qualified Institutional Investors

Clause 3 of the “Notification of the Securities and Exchange Commission No.KorChor.5/2552

Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Debt Securities”⁹ and the forms attached with the Notifications under Clause 2 on the definitions relating to type of investors provide a clear definition of institutional investors and high net worth individuals as follows:

- (a) “Institutional investors” refer to:
 - (1) commercial banks;
 - (2) finance companies;
 - (3) securities companies for management of proprietary portfolios or private funds or investment projects established under laws governing finance business, securities business and credit foncier business;
 - (4) credit foncier companies;
 - (5) insurance companies;
 - (6) government units and state enterprises under laws governing budgetary procedures or any other juristic persons established under specific laws;
 - (7) Bank of Thailand;
 - (8) international financial institutions;
 - (9) Financial Institutions Development Fund;
 - (10) government pension fund;
 - (11) provident funds;
 - (12) mutual funds; and
 - (13) foreign investors with the same characteristics as investors under (1) to (12), mutatis mutandis.

⁹ Footnote 10.

- (b) “High net worth investors” are individuals having assets worth THB40 million or more, excluding liabilities of such persons. It also includes juristic persons having THB200 million or more assets as recorded in their latest audited financial statements.

K. Credit Rating System

According to SEC regulations, newly issued debentures through public (PO) issues must have a credit rating from an authorized credit rating agency. Most private placement (PP) issues are also required to have credit ratings but with more relaxed regulation (see Part II.C.2). To elaborate, PO issues need to have issue ratings, PP issues can choose to have either issue or issuer ratings. PP with limited distribution (i.e., not exceeding 10 investors) is exempted from ratings.

Presently, there are two credit rating agencies (CRAs) authorized by the SEC in Thailand, namely, TRIS Rating and Fitch Ratings (Thailand). A list of credit rating agencies that have been given an approval by the SEC can be found in the SEC website.¹⁰

Currently, there are three major government and public agencies that play a pivotal role in formulating policies on CRAs and in regulating the Thai bond markets: the MOF, BOT, and the SEC.

Table 1.4 Summary of Credit Rating System

	YES	NO
Are credit rating agencies (CRAs) regulated?	X	
Is it mandatory to have credit rating for issuance of corporate bonds?	X	
Are ratings provided by international agencies permitted?	X	
Is it possible to get more than one rating for a corporate bond issue?	X	
If it is possible to get more than one rating for a corporate bond issue, is it mandatory to disclose all ratings for that issue?	X	
Is it mandatory for CRAs to update all corporate bond issues? If yes then what is the time interval after which the ratings need to be updated?	X (typically annually)	
Are unsolicited ratings permitted?	X	

Source: Securities and Exchange Commission Thailand.

Normally, the rating agencies update company ratings once a year. If there is any circumstance which may impact company’s performance or its financial status, the CRA has the responsibility to monitor and update the rating of such company.

¹⁰ Footnote8.http://www.sec.or.th/securities_issuance/Content_0000000226.jsp?categoryID=CAT0000200&lang=en

L. Related Systems for Investor Protection

1. Retail Investors

There are no specific rules governing retail investors in the Thai bond market. The ThaiBMA provides a special website for retail investors, thaibond.com. Most financial institutions in Thailand provide services for retail investors interested in buying and selling bonds.

2. Foreign investors

There are no restrictions on foreign investors investing in Thai securities. Direct and portfolio investments are freely permitted. Capital can be freely transferred into the country and deposited in a foreign currency account with an authorized bank within 7 days.

Investment funds, dividends, profits, and interest payments after settlement of taxes can be repatriated freely. Securities, PNs, and BEs may be sent abroad without restriction. Section IV of the Exchange Control Regulations in Thailand by the BOT, a guide for the general public, discusses the exchange regulations for foreign investments. It states that

Transfers in foreign currency for direct and portfolio investments in Thailand are freely permitted. Proceeds must be surrendered to an authorized bank or deposited in a foreign currency account with an authorized bank in Thailand within 360 days.

Repatriation of investment funds and repayment of overseas loans can be remitted freely upon submission of supporting documents to an authorized bank. For repatriation of investment funds, evidence of sale or transfer of such investment shall be submitted. For loan repayment, evidence of inward remittance of such loan and loan agreement shall be submitted.¹¹

3. Bondholder Rights and Bondholder Representative

The *Civil and Commercial Code and the Bankruptcy Act* cover basic bondholder rights.¹² The *Civil and Commercial Code* covers the principles and rules for civil law for business and individuals. Obligations, contracts, mortgage, and other forms of loan security also fall under the *Civil and Commercial Code*, as well as liquidation procedures for insolvent debtors.

Under the *Bankruptcy Act*, creditors, including the bondholders, can file a petition with the Bankruptcy Court for a rehabilitation or bankruptcy proceeding against a debtor's business. Indenture agreements in bond issues can also specify a bondholder representative. The bondholder representative oversees bondholder rights, including the filing of claims and demand of payments from the issuer or guarantors. Bondholders can sue and claim damages from the bondholder representative in case it acts in bad faith or causes damages to bondholders. Foreign bondholders have rights similar to Thai bondholders.

¹¹ Footnote 4. <http://www.bot.or.th/English/ForeignExchangeRegulations/FXRegulation/Pages/ExchangeControllLaw.aspx>

¹² Government of Thailand. *Civil and Commercial Code*. <http://www.samuihorsale.com/Law-Texts/thailand-civil-code-part-1.html>; http://www.insolvencyasia.com/supplement_report/thailand.html; and Leeds, Jonathan. n.d. "The Act Establishing Thailand's New Bankruptcy Court." Thailand Law Source. <http://asialaw.tripod.com/articles/bankcourt.htm>

Bond documents (e.g., prospectus, term sheets, or indenture agreements) may also contain covenants and relevant default clauses specific to the bond issue to provide additional protection for bondholders. ThaiBMA provides copies of corporate bond prospectuses.

The “Asia-Pacific Restructuring and Insolvency Guide 2006” provides information on creditor rights in Asia-Pacific countries.¹³

4. Prevention of Fraud

The Enforcement Department of the SEC investigates and gathers evidence on possible offenses under the *Securities and Exchange Act*, the *Provident Fund Act*, and the *Royal Enactment on Special Purpose Juristic Persons for Securitization*. Typical violations under SEC purview include insider trading, share-price manipulation, false or misleading information regarding securities, operating securities businesses without proper licenses, mismanagement, and fraud.

5. Ethics

The SET serves as a center for trading listed securities. It is an SRO that governs member companies’ conduct in dealing securities. SET is also responsible for marketplace surveillance, and supervising and enforcing disclosure standards for listed companies. It provides essential systems for securities trading, such as a clearing house, securities depository center, and securities registrar.

The Thailand Futures Exchange (TFEX), a subsidiary of SET, is a derivatives exchange that offers products for effective hedging. It is governed by the *Derivatives Act of 2003* under the supervision of SEC. The TFEX trading infrastructure is designed to ensure a fair, orderly, and transparent market by offering market participants a high-quality, cost-efficient, and comprehensive range of services including an order-entry facility, a matching system, and market dissemination through an ETP.

SET also operates BEX. Relevant trading rules and guidelines on membership, registration, and other requirements are available at the SET website.¹⁴

ThaiBMA facilitates the secondary bond market, registers dealers, and monitors all market activity. It is self-regulatory and operates standards and conventions for bond trading. ThaiBMA website provides guidelines on membership, registration and trading of debt instruments, registration of traders, ethics and good practices of dealers, and reporting requirements.¹⁵

6. The *Securities and Exchange Act B.E. 2551 (2008)*

The *SEC Act B.E. 2551 (2008)* came into force on 5 March 2008. The *SEC Act* provides strong protection for investor interests and enhances corporate governance of listed companies. It is a robust foundation for quality products and confidence in the Thai capital market. The *SEC Act* comprises three major areas—(1) Regulatory Bodies,

¹³ Asian Development Bank. 2006. *The Asia-Pacific Restructuring and Insolvency Guide 2006*. Malaysia: Shearn Delamore & Co. and PricewaterhouseCoopers. <http://www.adb.org/Documents/Guidelines/restructuring-insolvency/chap4-15.pdf>

¹⁴ Footnote 14. http://www.set.or.th/en/regulations/rules/enforce_p1.html

¹⁵ Footnote 3. <http://www.thaibma.or.th/main.html>; <http://www.thaibma.or.th/sro/section6.pdf>; and <http://www.thaibma.or.th/sro/section7.pdf>

(2) Corporate Good Governance, and (3) Investor Protections— to raise the standard of the Thai Capital Market to the international level.

The portion on “Investor Protections” includes:

- (i) Proposed agenda items for shareholders’ meetings.
- (ii) Sueing for damages from disclosure of falsified information.
- (iii) Claim to disgorge ill-gotten benefits obtained by company directors or management in bad faith.
- (iv) Receiving reasonable litigation expenses from the company as ordered by the court.
- (v) Directors and management of companies shall be provided with a clearer scope of duties and liabilities.

7. The Trust for Transactions in Capital Market Act B.E. 2551 (2008)

The *Trust for Transactions in Capital Market Act* (Trust Act) came into effect on 16 April 2008. The objectives of the new Trust Act are to strengthen and to introduce new investment alternatives to the Thai capital market. The Trust Act is summarized as follows:

a. Characteristics of a Trust

A trust is a legal binding of three parties as follows:

(i) Settlor

A settlor under the Trust Act is limited only to a juristic person who is an issuer of securities under *SEC Act B.E. 2551 (2008)* or an originator in a securitization transaction, or as specified by the SEC.

(ii) Trustee

Licenses authorized by the SEC are required. Trustees can be commercial banks or financial institutions, banks established under the specific laws, or other juristic persons as specified by the SEC. A list of trustees who have been given an approval by the SEC can be found in the SEC website.¹⁶

(iii) Beneficiary

There is no restriction imposed on the type of person who can be classified as a beneficiary. Also, the settlor and trustee can be a beneficiary. The Trust Act provides that the interest of such settlor/beneficiary and trustee/beneficiary in the trust fund must not exceed the limit specified by the SEC. Otherwise, the excess portion will be shared among the other beneficiaries to that trust.

b. Types of Trusts

There are two types of trusts under the new Trust Act.

(i) Passive Trust

- (a) Employee Stock Option Plan
- (b) Derivative Warrant

¹⁶ Footnote 8. http://www.sec.or.th/securities_issuance/Content_0000000233.jsp?categoryID=CAT0000201&lang=en

- (c) Bonds Issuance
- (d) Securitization

(ii) Active Trust

- (a) Institutional Investor and High Net Worth Trust Fund
- (b) Real Estate Investment Trust
- (c) Special Purpose Trust
- (d) Employee Joint Investment Program
- (e) Islamic Bond (*Sukuk*)

c. Creation of Trusts

Under the Trust Act, a trust is required to be created through a contract between a settlor and a trustee where the settlor expresses an intention to create a trust, as well as transfers property to the trustee, and submits a letter stating its intention to create a trust to the SEC. If the settlor and the trustee are the same person, a transfer of assets is not required.

The Trust Act requires that a trust may be created only for transactions which will benefit the capital markets, for instance, in the issuance of securities or securitization transactions. Therefore, trusts used exclusively in banking transactions and not related to capital market transactions cannot be created.

d. Fiduciary Relationship

The fiduciary relationship focuses on three key rules.

- i. **Bankruptcy Remoteness.** A trust property legally owned by a trustee shall not be enforced for payment to creditors of the trustee even though the trustee becomes bankrupt.
- ii. **Fiduciary Duties.** A trustee shall manage trust with skills, loyalty and reasonable care for the best interest of the beneficiary, and shall not put itself in a position where there may be conflict of interests unless it is remuneration or a fair transaction being sufficiently disclosed to the beneficiary in advance and no objection from the beneficiary.
- iii. **Beneficiary Protection.** Tracing and recovery are tools for protecting the beneficiary's interest. In case of tracing, a beneficiary has the power to trace trust property from a third party who receives such property with bad faith, or knowing or having reasonable grounds to know that it is a breach of trust or without consideration. For recovery, the beneficiary has the right to claim compensation for benefit of the trust from a trustee who fails to manage the trust property in accordance with the trust contract or the Trust Act itself.

e. Eligible Persons

Persons who are eligible to apply for an approval to undertake trust business are:

- (i) A commercial bank under the *Financial Institutions Business Act*;
- (ii) A financial institution established under specific laws;
- (iii) A security company with eligible licenses as broker, dealer, underwriter, mutual fund, and private license.

f. Bondholder Representative or Trustee

A bondholder representative (BR) or debenture holder representative cannot play a trustee's role in Thailand. There are separate rules and regulations that govern BRs and trustees. The BR's role is to protect the bondholder. Its role is defined in the *Securities and Exchange Act*.

On the other hand, the role of a trustee is stated in the Trust Act. The Trust Act exists but does not have a significant bearing on bond issuance. The objective of the Trust Act is to strengthen and introduce new investment alternatives to the Thai capital market.

Public bond issuance requires a BR and must register with the SEC. The BR sets up the contract and the terms and conditions for the bond issue, following SEC guidelines. A BR has fiduciary duties, as well as any duty and liability set out in the terms and conditions. Both the appointment of a BR and the actual terms and conditions need to be registered with the SEC.

g. Debenture Representatives

Debenture representatives are responsible for implementing the debenture holders' resolutions. Under Thai law, debenture representative responsibilities are very similar to the activities of a trustee. Responsibilities and obligations of a debenture representative have been stipulated in the law and are more specific in the terms and conditions of the debenture.

8. The Deposit Insurance Act B.E. 2551 (2008)

The Deposit Insurance Agency (DIA) was launched on 11 August 2008 under the *Deposit Insurance Act*. The DIA was established to protect depositors within a certain coverage amount against the loss of their deposits placed in a financial institution. The source of funds for compensation mainly comes from premiums collected from financial institutions, which are members of the deposit insurance system. Non-resident accounts, however, are not protected under this act.

The key features of the *Deposit Insurance Act* are:

- (a) Membership to the DIA is compulsory for commercial banks, foreign bank branches, finance companies, and credit finance companies. Members will pay premiums to the DIA at the rate of 0.4% annually on deposits. This premium rate is expected to vary in the future.
- (b) The maximum coverage is THB1 million per depositor per institution. The amount of deposit that exceeds this coverage is to be recovered from the assets of the failed institution through the process of liquidation. The authority will gradually reduce coverage from full guarantee to the target amount at THB1 million within 4 years. In the first year of the establishment of the DIA in 2008, full coverage was maintained. The coverage will be reduced annually to THB100 million, THB50 million, THB10 million, and finally THB1 million on the fifth year of the DIA's establishment in 2012.
- (c) The DIA will act as a liquidator of a failed financial institution, reimburse the compensation made, and also pay other creditors according to their shares.

M. Governing Laws on Bond Issuance

Governing laws on bond issuance, self-governing rules, and related legal and regulatory issues behind the market include:

- (i) SEC Act B.E.2535 and its regulations¹⁷
- (ii) BOT Act B.E.2485¹⁸
- (iii) Regulations of the MOF–PDMO

As stated above, the SEC Act and SEC notifications govern the issuance of corporate bonds. Government bonds and state-enterprise bonds are issued under the *Public Debt Management Act*. BOT bonds are issued under BOT Regulation.

N. Transfers of Interests in Bonds

1. General Rule

The transfer of debentures will be valid upon delivery of such debentures with the endorsement of transfer by persons having their names as owners or by the last transferee. The transfer will legally bind a third party once the transfer has been registered with the debenture issuer in the debenture register book. For government securities, transfer is done on a delivery-versus-payment (DVP) basis.

2. Actual Registration and Transfer Process

The TSD is the depository for equities, corporate bonds, and government bonds. Securities held with the TSD are registered in the name of “Thailand Securities Depository Company Limited for Depositors.” Securities transferred within the TSD do not require re-registration.

Scripless securities from a settled purchase can be redelivered on settlement date. Physical certificates can be converted to scripless form at the depository within the same day.

Re-registration of physical certificates following a purchase takes approximately 30 to 45 business days, during which time the security cannot be sold. Although corporate bond dealers instruct the TSD to transfer bonds to the counterparty upon receipt of cash payment by check, registration of corporate bonds is done separately with the registrar appointed by the issuing company.

Removal of the securities from the TSD in physical form can take 30 to 45 business days, and the TSD assesses a service charge for the withdrawal of physical securities. The TSD is the registrar for most listed corporate bonds. Unlisted securities and shares can be registered in the investor’s own name, or in the name of a global custodian, in care of the sub-custodian. Local nominee registration is prohibited. The sub-custodian sends non-TSD eligible securities for registration upon receipt, unless there are specific instructions to hold the securities in street name. Investors can

¹⁷ Footnote 8. http://www.sec.or.th/laws_notification/Content_0000000189.jsp?categoryID=CAT0000015&lang=en

¹⁸ Footnote 4. http://www.bot.or.th/English/FinancialInstitutionsDevelopmentFund/Law_Notification/DocLib_Acts/Act_BOTb.e.2485.pdf

hold securities and shares in street name, but they will not receive entitlements from corporate events.

Physical securities and shares from a settled purchase can be delivered onwards once all required documents are in place. The BOT acts as the registrar for government securities (T-bills, SOE-guaranteed bonds, and financial institution development bonds), which are registered in beneficial owner name, or in the global custodian's name, under the Bond Registry System.

Under the Bond Registry System, the buyer and seller must endorse the back of the certificates and submit original written instructions to the BOT. The title to the securities passes on T+2 after the proceeds are credited to the seller's cash account.

3. Custodian Bank Point of View

Custodian banks recognize only the registered owner (their client), and they may not know or recognize the end-beneficiary owner. For the transfer of securities, custodian banks only act upon instructions of their clients.

“Book Closed Date” or Record Date, they will submit their client name or registered owner who has holding over those securities as of ‘End of Day of Record Date’ to the Securities Registrar to ensure that their clients receive the (mandatory) Corporate Action entitlement, i.e. coupon payment. For a Voluntary Corporate Action, they shall wait for their client's instructions if the client wishes to participate in a particular corporate action event.

O. Definition of Securities

1. Definition in the *Securities and Exchange Act*

Sec. 4 of the *Securities and Exchange Act B.E. 2535* stipulates the definition of securities as follows:¹⁹

In this Act “securities” means,

- (1) Treasury bills;
- (2) Bonds;
- (3) Bills;
- (4) Shares;
- (5) Debentures;
- (6) Investment units which are instruments of evidence representing the rights to the property of a mutual fund;
- (7) Certificates representing the rights to purchase shares;
- (8) Certificates representing the rights to purchase debentures;
- (9) Certificates representing the rights to purchase investment units;
- (10) Any other instruments as specified by the SEC.

“Bill” means any bill issued for raising funds from the public as specified in the notification of the SEC.

¹⁹ Footnote 8. http://www.sec.or.th/laws_notification/Content_0000000189.jsp?categoryID=CAT0000015&lang=en

“Debenture” means any debt instrument or whatever name excluding bills, divided into units, each with equal value and a predetermined rate of return, issued by any company to a lender of purchaser, representing the right of the holder of such instrument to receive money or other benefit.

2. Debentures on the *Public Limited Companies Act, B.E. 2535 (1992)*

Debentures are stipulated in Chapter XI of the *Public Limited Companies Act* and states that

CHAPTER XI Debentures:

Section 145. The borrowing by the company by means of the issuance of debentures for offer for sale to the public shall be in accordance with the law on securities and stock exchange, and Section 25 shall apply mutatis mutandis.

The resolution approving the issuance of debentures under Paragraph 1 shall require the resolution of the meeting of shareholders passed by a vote of not less than three-fourths of the total number of votes of the shareholders attending the meeting and having the right to vote.

P. Self-Governing Rules behind the Market

1. The Thai Bond Market Association

The ThaiBMA is an SRO licensed to run an efficient market and act as an information center for Thailand’s secondary bond market. It is responsible for developing the market, establishing market conventions and standards, and acting as a bond pricing agency. It also provides a forum for market professionals to move toward a more mature and sophisticated Thai bond market.

a. ThaiBMA Members

Membership of ThaiBMA can be classified into three types, each of which is subject to different membership fees and requirements.

- (i) An Ordinary Member is a financial institution that has a debt trading license (dealer).
- (ii) An Extraordinary Member is a company that has an IDB license.
- (iii) An Associate Member is provided for a dealer that has a monthly average trading value in the past year of less than THB100 million per month.

In June 2007, membership of ThaiBMA consisted of 52 commercial banks and securities companies.

b. Roles and Functions of the Thai Bond Market Association as a Self-Regulatory Organization

ThaiBMA oversees and monitors the conduct of its members to ensure fairness and efficiency in debt securities trading. It is committed to retaining the confidence of its membership, regulators and investors. Parts of its functions as an SRO include the following:

- (i) Perform market monitoring and surveillance to ensure that all trading activities comply with relevant laws and regulations, and act as the front line to detect any unfair trading practices.
- (ii) Established the Ethics and Code of Conduct for members and traders.
- (iii) Issue rules and guidelines regarding debt securities trading and good market practice.
- (iv) Responsible for bond trader examination and registration, and provide them with ongoing education to enhance their professionalism.
- (v) Determine enforcement procedure to penalize those who do not comply with the regulations.

There is a Memorandum of Understanding between the SEC and ThaiBMA on bond market supervisory cooperation. To enhance bond market best practices and ensure that these are applied, registered traders should have adequate knowledge in relevant rules, regulations and ethics, as well as knowledge in the bond market. Effective 16 November 2005, SEC regulations require all securities companies to appoint a trader registered with the ThaiBMA in bond trading.

2. Exchange in Thailand

The SET is a juristic entity set up under the *Securities Exchange of Thailand Act, B.E. 2517 (1974)*. In addition to its function as the exchange operator, it fulfills the role of an SRO by setting and governing the listing, trading, surveillance and disclosure obligations, and practices of its participants.

Q. Bankruptcy Procedures

According to the *Bankruptcy Act B.E. 2483 (1940)*, corporate bondholders shall be treated as ordinary creditors. In addition, under the *Securities and Exchange Act B.E. 2535 (1992)* and the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)*, if the issuer of corporate bonds sets up a reserve account or sinking fund in the form of a trust, bondholders shall have bankruptcy remoteness and have, ultimately, rights to that trust property. When the company goes bankrupt, corporate bondholders shall have the right to the property of the company and to receive performance of an obligation due to them according to the following ranks.

- (1) Bondholders for which the issuer has set up a reserve account or sinking fund in the form of a trust
- (2) Secured creditors
- (3) Unsecured creditors

Further details on the restructuring and insolvency frameworks of Asia-Pacific countries, including that of Thailand can be found in “The Asia-Pacific Restructuring and Insolvency Guide 2006.”²⁰

²⁰ Footnote 20.

R. Bondholder Representative

In case of publicly offered bonds, a bondholder representative (BR) is responsible for implementing the bondholder resolutions. Public bond issuance requires a BR who must register with the SEC. Under Thai law, BR responsibilities are very similar to the activities of a trustee in other jurisdictions. Responsibilities and obligations of a BR are stipulated in the law and are more specific in the terms and conditions of the debenture.

As described earlier, indenture agreements in bond issues can also specify a BR. The BR oversees bondholder rights, including the filing of claims and demand of payments from the issuer or guarantors. Bondholders can sue and claim for damages from the BR in case the BR acts in bad faith or causes damages to bondholders.

The BR sets up the contract and the terms and conditions for the bond issue, following SEC guidelines. The BR has a fiduciary duty, as well as any duty and liability set out in the terms and conditions. Both the appointment of a BR and the actual terms and conditions need to be registered with the SEC.

S. Event of Default

Generally, an event of default is stipulated in the terms and conditions of the debenture. Under Thai law, the terms and conditions are deemed to be an agreement between the debenture issuer and the debenture holder. The following are examples of events of default that are normally stipulated in the terms and conditions of a debenture:

1. Non-payment – If the issuer makes a default in the payment of any principal, premium or interest due in respect of the bonds.
2. Breach of Other Obligation – If the issuer does not perform or comply with one or more of its other obligations under the bonds, the Trust Deed, or terms and conditions.
3. Insolvency – If the issuer, or any of its group entities, becomes insolvent or bankrupt, or is unable to pay its debts, stops, suspends or threatens to stop or suspend payment of all, or a material part, of its debts by court order.
4. Enforcement Proceeding – If a distress, attachment, execution, seizure before judgment or other legal process is levied on, enforced or sued against any material part of the property, assets or turnover of the issuer or any of its group entities, and is not discharged or stayed within 60 days.
5. Winding Up – If an order is made or an effective resolution passed for the winding up, dissolution or administration of the issuer or any of its group entities.
6. Security Enforced – If an encumbrancer takes possession, or an administrative or other receiver, or an administrator or other similar officer is appointed of the

whole or any substantial part of the property, assets or turnover of the issuer or any of its group entities, and is not discharged within 60 days.

The debenture holder and/or debenture holder representative (trustee) will normally recognize and declare default. The declaration of an event of default is made in accordance with the terms and conditions of the debentures. Thai law is silent on whether the default happens during the day or at the end of the day. However, in practice, the default immediately occurs when the debenture holder or debenture holder representative (trustee) declares an event of default. The precedent of a default of debentures normally occurs on the grounds that the debenture issuer fails to pay interest and to repay the principal to the debenture holder when due.

T. Major Market Participants

Thailand's fixed-income market participants include issuers from the government and corporate sectors. Major bond investors include pension funds or provident funds, AMCs, mutual funds, commercial banks, government savings banks, insurance companies, savings funds, and corporate and retail investors. A number of authorized securities companies and a few market associations also participate in the market. The Thai market is covered by a number of CRAs, whose rating efforts cover financial institutions, private companies, and state enterprises.

U. Degree of Opening of Domestic Bond Markets to Foreign Investors and/or Issuers

In 2004, the MOF announced permission for foreign institutions to issue baht-denominated bonds for trading in Thailand, with restrictions on certain institutions as below:

1. International financial institutions incorporated under treaties, whether or not Thailand is a member of those treaties.
2. Foreign governments or foreign government institutions incorporated under specific laws.
3. Juristic persons incorporated under foreign laws who are not entitled to the common permission but must apply for it on a case-by-case basis, and are prohibited from remitting Thai baht out of the country.

Overseas remittance is possible only after foreign exchange

The issuance of bonds in this connection must come under commitments with and permission of the MOF. Issuers must complete the offering of bond within 9 months after permission has been granted by the MOF. Limited companies and public companies incorporated under foreign laws are allowed to issue bonds under the assumption of permission from the SEC.

V. ASEAN Bond Market Development Scorecard (Revised): Thailand

Table 1.5 summarizes Thailand's Bond Market Development Scorecard. The Association of Southeast Asian Nations (ASEAN) Bond Market Development Scorecard: Thailand can be found in Appendix 2. The ASEAN Bond Development Scorecard can be found in Appendix 3.

Table 1.5 Summary of ASEAN Bond Market Development Scorecard for Thailand

	ASEAN Bond Market Development Scorecard	Regulatory / Market Development	Resident / Non-Resident / Both	Thailand	
				✓ = Yes X = No	
A	ISSUER				
1	Market Access				
a)	Acceptance of MTN programmes	Reg	Both	✓	
ai)	International MTN programmes	Reg	Both	X	MOF is considering this issue. Applying the international MTN program may work against the MOF's objectives of balancing the financial system, given the risk that the MTN program may hinder development of less-developed domestic bond markets, levels of development across the region remain unequal. Furthermore, in instances where domestic liquidity is tight, it may raise the cost of raising funds in the domestic market.
aii)	Local MTN programmes	Reg	Both	✓	Shelf filing
b)	Removal of discriminatory restrictions on issuance by non-residents	Reg	Non-resident	✓	Thailand has opened up for NR issuers; however, approval remains subject to MOF and BOT's consideration (use of proceeds, credit rating, and overall financial system liquidity). Thai SEC has adopted ASEAN standard, which means a Singaporean firm may submit the filing document used in Singapore to the Thai SEC, for bond issuance in Thailand.
2	Transparency				
a)	Disclosure standards - Adoption of ASEAN and Plus Standards	Reg	Both	✓	
ai)	Accounting standards - Adoption of IFRS for cross-border offerings	Reg	Both	✓	ASEAN Standard (form 69-FD, or 69-base)
aii)	Auditing standards - Adoption of ISA for cross-border offerings	Reg	Both	✓	ASEAN Standard (form 69-FD, or 69-base)
B	INVESTOR				
3	Market Access				
a)	Non-resident market access	Reg	Non-resident	✓	
ai)	Elimination of investor registration requirements	Reg	Non-resident	✓	
aii)	Removal of discriminatory restrictions on investment by non-resident investors	Reg	Non-resident	✓	
aiii)	Removal of discriminatory restrictions on non-resident institutional investors' portfolio composition	Reg	Non-resident	✓	
aiv)	Removal of restrictions on non-resident LCY borrowing (i.e., intraday credit/ overnight credit, etc.)	Reg	Non-resident	X	NRs can obtain baht through a swap transaction.
b)	Removal of investment restrictions on resident investors	Reg	Resident	✓	

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Table 1.5 continuation

	ASEAN Bond Market Development Scorecard	Regulatory / Market Development	Resident / Non-Resident / Both	Thailand	
				✓ = Yes X = No	
c)	Existence of clear legislation on bondholders' rights	Reg	Both	✓	Details about bondholders' rights are stated in the prospectus. It is easy to access both prospectus and covenants governing bondholders' rights through the SEC and issuers website. In addition, there is a regulation on bondholders' representative to ensure that bondholders' rights are clearly defined and therefore protected.
4	Transparency				
a)	Disclosure of government bond issuance calendar	Reg	Both	✓	A yearly plan is announced following a dialogue between BOT, MOF, Thai BMA, PDs, and investors. Quarterly schedule is announced two Fridays before the beginning of each quarter.
b)	Regular data on holdings by investor class, i.e., banks, insurance/pension funds, foreigners, retail	Reg	Both	✓	Monthly basis (only on government bonds) Quarterly basis (on corporate bonds) ^a
c)	Availability of benchmarks at regular intervals	Mkt Dev	Both	✓	Regular benchmark bond tenor (5/10/15/20/30 years) is offered every other month
d)	Inclusion in an internationally accepted bond index	Mkt Dev	Both	✓	iBoxx ABF Thailand Index (International Index Company Limited: IIC)
5	Funding / Hedging Instruments				
a)	Availability of active repo / securities borrowing and lending market	Mkt Dev	Both	✓	
ai)	Term ≤ 2 weeks	Mkt Dev	Both	✓	
aii)	Term ≥ 2 weeks	Mkt Dev	Both	✓	
aiii)	PD to PD activity (Onshore interbank)	Mkt Dev	Both	✓	
aiv)	PD to non-PD allowed	Mkt Dev	Both	✓	
av)	Bank to non-bank (i.e. end user customer) allowed	Mkt Dev	Both	✓	
avi)	Use of Global Master Repo Agreement	Mkt Dev	Both	✓	
b)	Availability of active interest rate swap market	Mkt Dev	Both	✓	(up to 5 years maturity)
bi)	Use of ISDA Master Agreement	Mkt Dev	Both	✓	
c)	Availability of active futures market	Mkt Dev	Both	✓	Trading Interest Rate Future by end of 2010
ci)	Government bond futures	Mkt Dev	Both	✓	5-year Government Bond Futures (18 Oct 2010)
cii)	Short-term Interest rate futures	Mkt Dev	Both	✓	THB3 million BIBOR Futures and THB6 million FIX Futures (29 Nov 2010)
d)	Suitably wide range of securities eligible for central bank liquidity	Reg	Resident	✓	
di)	Inclusion of government-guaranteed LCY bonds under permitted instruments for the central bank repo facility	Reg	Resident	✓	
dii)	Inclusion of government-guaranteed LCY bonds under local statutory reserve requirements	Reg	Resident	✓	
diii)	Incorporation into reserve ratios/creation of separate regulatory reserve ratio(s) for government-guaranteed LCY bonds	Reg	Resident	✓	
div)	Incorporation into reserve ratios/creation of separate regulatory reserve ratio(s) for supranational bonds	Reg	Resident	✓	Accepted only in emergency case

continued on next page

Table 1.4 continuation

	ASEAN Bond Market Development Scorecard	Regulatory / Market Development	Resident / Non-Resident / Both	Thailand	
				✓ = Yes X = No	
6	Tax Treatment				
a)	Exemption from withholding tax	Reg	Both	X	
ai)	Exemption from withholding tax on government bonds - resident	Reg	Resident	X	
aii)	Exemption from withholding tax on government bonds - non-resident	Reg	Non-resident	X	
aiii)	Exemption from withholding tax on corporate bonds - resident	Reg	Resident	X	
aiv)	Exemption from withholding tax on corporate bonds - non-resident	Reg	Non-resident	X	
7	Settlement and Custody				
a)	Use of SWIFT as standardized message format	Mkt Dev	Both	✓	
b)	Use of ISIN securities numbering scheme	Mkt Dev	Both	✓	
c)	DvP - Use of electronic trade-matching	Mkt Dev	Both	✓	
d)	DvP - Use of settlement pre-matching	Mkt Dev	Both	✓	
e)	DvP - Effective depository links for cross-border settlement and custody	Mkt Dev	Both	X	
a Thai BMA. Footnote 3. http://www.thaibma.or.th/CorpBondHolder_report/CorpBondHolderPage.aspx Notes: ✓ = Yes X = No ASEAN = Association of Southeast Asian Nations; BIBOR = Bangkok Interbank Offered Rate; BOT = Bank of Thailand; DvP = delivery versus payment; IFRS = International Financial Reporting Standards; ISDA = International Swaps and Derivatives Association; ISIN = International Securities Identification Number; LCY = local currency; MOF = Ministry of Finance; MTN = medium-term notes; NR = non-resident; PD = primary dealer; SEC = Securities and Exchange Commission of Thailand; SWIFT = Society for Worldwide Interbank Financial Telecommunication; ThaiBMA = Thai Bond Market Association Source: Securities and Exchange Commission Thailand.					

II. Primary and Secondary Market Regulatory Frameworks

A. Rules and Regulations in the Thai Market Regulatory Structure

Thailand's capital market is governed by the rules and regulations issued and enforced by the Bank of Thailand (BOT), Ministry of Finance (MOF), Securities and Exchange Commission (SEC), the Thai Bond Market Association (ThaiBMA), and the Stock Exchange of Thailand (SET).

Market regulators in the Thai capital market include the MOF, BOT, and the SEC.

1. Ministry of Finance²¹

The MOF is the preeminent regulator and oversees the entire financial and capital market of Thailand. The activities of the BOT and the SEC are overseen by MOF.

The roles and responsibilities of the MOF are as follows:

- (i) The MOF is the top administrator who sets the overall fiscal and monetary policy directions of the government.
- (ii) It oversees matters concerning fiscal policy, customs, excise, revenue, public debt, and policy on state enterprises.
- (iii) It is also vested with the power to provide loan guarantees for government agencies, financial institutions, and state enterprises.

2. Bank of Thailand

The BOT supervises all financial institutions in Thailand. It was first set up as the Thai National Banking Bureau. The *Bank of Thailand Act* was first promulgated on 28 April 1942, vesting the BOT with the responsibility for all central banking functions. The BOT commenced operations on 10 December 1942.

The *Bank of Thailand Act, B.E. 2485 (1942)* was amended by *B.E. 2551 (2008)* to put emphasis on the BOT's social responsibility, to create a mechanism to guard against economic crisis, as well as to set up BOT's decision-making process to ensure good

²¹ Footnote 13. http://www2.mof.go.th/government_agencies.htm

governance and transparency in the organization.²² Thus, the public is now able to audit and increase the understanding of the BOT's operations. The *Bank of Thailand Act* (4th) B.E. 2551 (2008) came into force on 4 March 2008.

The BOT's major roles and responsibilities are:²³

- (i) Print and issue banknotes and other security documents;
- (ii) Promote monetary stability and formulate monetary policies;
- (iii) Monitor the foreign currency reserve;
- (iv) Provide banking facilities for the government;
- (v) Provide banking facilities for financial institutions;
- (vi) Supervise and examine financial institutions;
- (vii) Establish or support the establishment of the payment system;
- (viii) Manage the country's foreign exchange rate under the foreign exchange system and manage assets in the currency reserve according to the *Currency Act*;
- (ix) Control the foreign exchange according to the *Exchange Control Act*; and
- (x) Manage the BOT's assets.

3. Securities and Exchange Commission

The SEC was established under the *Securities and Exchange Act* (SEC Act) B.E. 2535 (1992) on 16 May 1992. The SEC Act B.E. 2535 (1992) was amended by SEC Act B.E. 2551 (2008), which came into effect on 5 March 2008.²⁴

The objectives of the SEC are to supervise and develop both primary and secondary capital markets, as well as financial- and securities-related participants and institutions. Its primary roles are to formulate policies and rules and regulations regarding the supervision, promotion, and development of securities businesses, as well as other activities pertaining to the securities business. The policy objectives of the SEC in supervising and developing the capital markets are to:

- (i) Maintain fairness in capital market and financial market;
- (ii) Develop and enhance efficiency of the capital and financial markets;
- (iii) Maintain long-term stability of the financial system; and
- (iv) Strengthen international competitiveness of the Thai capital market.

The SEC's responsibilities in supervising the Thai capital market can be summarized into seven major areas:

a. Securities Issuance and Business Takeover

With regard to securities issuance, the SEC Act allows the business sector to issue and offer for sale various kinds of securities, namely equity, debt instruments and hybrid instruments, to mobilize funds from the public. The issuance and offer must be beneficial to the country's economic and social prosperity. Under the SEC Act, eligible equity or hybrid instrument issuance is restricted to public limited companies only (including the incorporators of a public limited company who can issue and

²² Footnote 4. http://www.bot.or.th/English/LawsAndRegulations/DocLib_EngLaw/Law_E01_Bot.pdf

²³ Footnote 4. <http://www.bot.or.th/English/AboutBOT/index/Pages/RolesAndResponsibilities.aspx>

²⁴ Footnote 8. <http://www.sec.or.th/view/view.jsp?lang=en>; http://www.sec.or.th/laws_notification/Content_000000179.jsp?categoryID=CAT0000021&lang=en

offer equities), while issuance of debt instruments can be undertaken by both public limited companies and limited companies.

With respect to takeover and change of control, the Takeover Sections of the SEC Act provide shareholders with adequate information and fair treatment.

i. Information Disclosure

A person acquiring or disposing shares, share warrants, Non-Voting Depository Receipts and convertible securities, which can be converted into shares of companies having their securities listed on the SET or the Market for Alternative Investment (MAI), or of a public limited company, must file an acquisition or disposition report (Form 246-2) with the SEC within 3 business days when such acquisition or disposition causes the aggregate holding of the same type of security to reach or pass a multiple of 5% of the total number of voting rights of the business.

ii. Tender Offer

A person who acquires or holds securities of a business up to the point at which the change in control of a business takes place must issue a tender offer to provide all securities holders with an equal opportunity to sell their securities to the offerer. The securities holders must also receive adequate information and advice to assist them in making such decision. Directors are required to make recommendations with respect to the proposal.

The trigger points which are regarded as changes in the control of a business, and which require the making of a tender offer to purchase all securities, are defined at 25%, 50% and 75% of the total number of voting rights of the business. The offer price for the tender offer must be the same for all shareholders or securities holders, and must not be less than the highest price at which the acquirer had acquired such securities within 90 days prior to the tender offer.

Apart from the mentioned mandatory offer, a person may also make a voluntary offer to purchase and hold 25% or more of the securities of a business under the provision of the Takeover Sections of the SEC Act.

b. Securities Businesses

Under the SEC Act, securities businesses refer to

- (i) securities brokerage;
- (ii) securities dealing;
- (iii) securities underwriting;
- (iv) investment advisory services;
- (v) mutual fund management;
- (vi) private fund management;
- (vii) securities borrowing and lending;
- (viii) securities financing;
- (ix) inter-dealer brokerage;
- (x) venture capital fund management; and
- (xi) other businesses relating to securities as specified by the Minister of Finance upon the recommendation of the SEC.

The SEC Act requires all operators of securities businesses to be licensed by the Minister of Finance. Applications and screening are done at the SEC. Requirements include initial capital adequacy; a fit-and-proper capability for management, directors and controlling shareholders; and an assessment of internal control, risk management and supervisory systems.

In addition, the SEC supervises securities businesses according to their risks, whether they comprise financial risk, operational risk, internal control risk, customer relation risk, information technology risk, and other areas. Each company must have sufficient capital to withstand business risk, whereby different weights are assigned to each business area, with the main objective of maintaining the stability and creditability of the whole system rather than the survival of an individual securities company.

SEC also pays particular attention to client treatment and the structure of the securities businesses in fostering efficiency in securities trading and maintaining competition at an appropriate level.

c. Derivative Businesses

The SEC approves, licenses and supervises derivatives businesses, including the derivatives exchange, clearing house and business operators, in accordance with the Derivatives Act B.E. 2546 (effective 6 January 2004).

d. Investment Management Businesses

Investment management businesses offer an important alternative investment vehicle for investors, with the advantage of risk diversification, and the employment of professionals who are experts in investment. The types of investment management businesses include mutual fund management, private fund or discretionary fund, pension fund, and provident fund management (for both retail investors and institutional ones). Investment management businesses are entrusted to take care of the assets of public investment, and the SEC conducts stringent supervision on them to make sure that they are knowledgeable and capable of performing their fiduciary duties in managing clients' assets with honesty, integrity and for the utmost benefit of investors.

e. The Exchanges

Under the SEC Act, the establishment of any organized securities trading center requires a license from the SEC. Presently, there are four securities exchanges in the Thai capital market comprising of two stock exchanges (the SET and MAI), one bond exchange (Bond Electronic Exchange, BEX), and one derivative exchange (Thailand Futures Exchange, TFEX).

i. The Stock Exchange of Thailand

The SET was established in 1975 under the *Securities Exchange of Thailand Act B.E. 2517 (1974)* and its members are securities companies. Trading of securities in the SET is in scripless form and is settled between brokers and custodian accounts. Physical securities must be converted into scripless form prior to trading in the SET.

ii. The Market for Alternative Investment

The MAI, a subsidiary of SET, officially commenced operation on 21 June 1999. MAI's main objectives are to create new fund-raising opportunities for small- and

medium-sized enterprises (SMEs), as well as to provide a greater range of investment alternatives for investors.

iii. Bond Electronic Exchange

BEX, also a subsidiary of SET, was launched on 26 November 2003. Its main role is to support the secondary market for bond trading. As the majority of bond trading is done in the over-the-counter (OTC) market, BEX's objective, therefore, is to expand bond activities to individual investors.

iv. Thailand Futures Exchange

TFEX, another subsidiary of SET, was established on 17 May 2004 as an exchange for trading of derivatives products. TFEX's trading method centers around electronic trading. All orders and quotes are entered into a central order book where they are automatically sorted by type, price and entry time. Settlement in TFEX is through the electronic trading and clearing platform using NASDAQ OMX technology.

f. Unfair Securities Trading Practice

The SEC website has provided information on inspection and enforcement of rules on securities trading practice.

i. Inspection

In order to maintain confidence and fairness in the Capital Market, the SEC closely monitors securities companies and the entities under supervision. In monitoring regulated entities' compliance with rules and regulations, the SEC has an inspection program that covers regulated entities on a routine periodic basis, based on risk assessment from previous inspections and reports, as well as inspection upon complaint. If regulated entities fail to comply with the rules and regulations, the SEC will pursue the matter through legal proceedings.

When there are reasonable grounds to suspect that there is an offence against provisions under the SEA, SEC competent officers are empowered to conduct on-site inspections at the premises of regulated entities or any other persons or locations that possess or hold relevant information, documents, or evidence in relation to the offence. The investigative powers under the SEA are sufficient for the SEC to obtain all information necessary for the investigation. The offences include insider trading, price manipulation, false or misleading disclosure, operating a securities business without a license, and fraud by company executives etc.

In case of unfair securities trading practices, the SET is a front-line regulator responsible for real-time surveillance of securities trading. The SET's responsibilities include monitoring unusual volumes or prices of listed securities, demanding updated statements from listed companies and conducting a preliminary review before submitting the case to the SEC.

ii. Enforcement

Regarding law enforcement, the SEC takes strict enforcement action against wrongdoers in terms of both administrative and criminal sanctions. Where there has been non-compliance, the SEC has the power to issue notices for rectification, warning, probation, suspension of approval for a specified period of time or revocation of approval. These administrative sanctions together with criminal sanctions not

only ensure compliance with the law, but also raise the standards of operators and approved persons in the capital market by making them conduct their businesses cautiously and prudently.

In case of offences that do not have significant or wide spread impact, the SEC can fine the wrongdoers by presenting the case to the Settlement Committee, appointed by the Minister of Finance. In this regard, the wrongdoers must agree to be fined by the committee and the SEC acts as a coordinator to the Settlement Committee, which comprises representatives of the Royal Thai Police, the Bank of Thailand, and the Fiscal Policy Office. The fine will be remitted as revenue to the state.

In case of offences that have significant impact on the public or cannot be fined by the Settlement Committee or those where the offenders refuse to provide written consent to appear before the Settlement Committee, the SEC will file criminal complaints with an inquiry official of the Department of Special Investigation or Royal Thai Police for further investigation and legal proceedings.

The SEC has no power in pursuing legal civil proceedings to claim compensation on behalf of investors, so investors must pursue legal civil proceeding by themselves. However, if investors have suffered damages or have disputes with securities business intermediaries for breach of contract or non-compliance with securities law or provident fund law, they may apply for arbitration procedure to settle their disputes.²⁵

g. Trust Business

Commercial banks, financial institutions created by other specific laws and legal entities as specified by the SEC may apply for an approval to undertake trust business. In granting an approval, the SEC shall consider the applicants' fit and proper qualities in relation to their financial condition, operating system and other qualifications as stipulated by the SEC. (verbatim from SEC website).

B. Securities Issuance Rules in Brief

Box 2.1 Securities Issuance

- Approval of Securities Offering
 - Shares Offering
 - Issuance and Offering of Equity by Foreign Issuer
 - Debentures Offering
 - Domestic Debenture
 - Plain Debt Securities
 - Structured Debentures
 - Securitization
 - Overseas Debenture
 - Foreign Issuer Debenture
 - SUKUK Offering
 - Convertible Securities Offering

continued on next page

²⁵ Securities and Exchange Commission Thailand. http://www.sec.or.th/sec/Content_0000000324.jsp?categoryID=CAT0000430&lang=en

Box 2.1 continuation

Convertible Debenture
 Warrant
 Transferable subscription right
 Derivatives Warrant
 Others Securities Issuance
 Others Securities Issuance
 Exchange Traded Options
 Beneficial on Underlying Securities
 Others
 Approval/Disclosure/After Sell Duties for ESOP
 Approval/Disclosure/After Sell Duties for ESOP of Foreign Companies
 Filing of the registration statement and the draft prospectus
 lodgment Registration Statement for debenture issuance pursuant
 (For the issuers who ask for approval to offer debt securities subject to current notification)
 (For the issuers being granted approval to offer debt securities subject to Kor.Yor 31/2549 notification)
 Registration Statement for SUKUK
 Filing the registration statement
 Filing the draft prospectus and distribution of the information before selling of securities
 Governance of publicly traded company pursuant to chapter 3/1
 Company exempt from chapter 3/1
 Related parties transaction
 Acquisition or dispose of asset
 Report on the interest of director, executive and related person
 COMPANY SECRETARY/DOCUMENT STORAGE
 After Sell Duties
 Securities Saling Report
 Securities Settlement and Securities Registrar
 Reports of securities holdings
 Disclosure of financial position and business operation of the company
 Report in accordance with section 57
 Others
 Subscription and Underwriting of securities
 Fees
 Others

Source: Securities and Exchange Commission Thailand. Footnote 8. http://capital.sec.or.th/webapp/nrs/nrs_print_en.php?printfrom=R&ref_id=72

1. Approval for Securities Offering

Provisions of the SEC Act and other regulations related to bond issuance can be found in the SEC website.²⁶ Specific provisions can be found in:

(i) Chapter 2 on Issuance of Securities²⁷

- (a) Division 1 Approval for the Offering of Newly Issued Securities (Sections 32–38)
- (b) Division 2 Debentures (Sections 39–40)
- (c) Division 3 Issuance of Secured Debentures (Sections 41–49)
- (d) Division 4 Register and Transferability (Sections 50–55)
- (e) Division 5 Disclosure of Information and Auditor (Sections 56–62)

²⁶ Footnote 8. http://www.sec.or.th/securities_issuance/Content_000000007.jsp?categoryID=CAT0000066&lang=en

²⁷ Footnote 8. http://www.sec.or.th/laws_notification/Content_0000000312.jsp?categoryID=CAT0000015&lang=en; http://www.sec.or.th/laws_notification/Content_0000000313.jsp?categoryID=CAT0000015&lang=en; http://www.sec.or.th/laws_notification/Content_0000000314.jsp?categoryID=CAT0000015&lang=en; http://www.sec.or.th/laws_notification/Content_0000000316.jsp?categoryID=CAT0000015&lang=en; http://www.sec.or.th/laws_notification/Content_0000000317.jsp?categoryID=CAT0000015&lang=en

(ii) Chapter 3 Public Offering of Securities (Sections 63–89)²⁸

- (a) Division 4 Listed Securities (Sections 189–200)

(iii) Chapter 6 Over-the-Counter Centre and Futures and Options Centre

- (a) Division 1 Over-the-Counter Centre (Sections 204–217)
- ²⁹

(iv) Chapter 7 Institutions Related to Securities Business

- (a) Division 1 Clearing House, Securities Depository Centre and Securities Registrar (Sections 219–229)
- ³⁰

The *Securities and Exchange Act B.E. 2535* (1992) prohibits companies from offering newly issued shares and other securities for sale without prior approval from the SEC in compliance with the rules and regulations issued by the SEC Board, except for the rights offering to existing shareholders. This provision allows the SEC to put in place rules and regulations, and consider the merits of the securities to be offered. Securities offering can be classified by types of securities as follows:

- (i) Shares
- (ii) Derivative warrants
- (iii) Debt securities
- (iv) Overseas debentures
- (v) Warrants
- (vi) Securitization
- (vii) Securities issuance and offering by foreign issuer
- (viii) Foreign exchange bond
- (ix) *Sukuk*

On the other hand, private placement of debt securities with only limited distribution (not exceeding 10 investors) is exempt from SEC filing for registration, is defined in the Notification of the Capital Market Supervisory Board No.TorChor.9/2552 (2009) on the Application for and Approval of Offer for Sale of Newly Issued Debt Securities.³¹

2. Disclosure of Information

In offering newly issued securities for sale, companies shall apply for an approval from the SEC and disclose information to the investing public for decision making. However, the offering of existing securities by its holders can be done without SEC approval on the condition that offerors shall disclose information prior to offering securities for sale. Before offering securities to the public, offerors, who can be companies or existing shareholders, shall file a registration statement and a draft prospectus with the SEC to give investors time to study such information. However, some types of securities offering are not required to file such documents if the offering involves a limited number of investors (not exceeding 10 investors). Offering of securities for sale is allowed upon:

²⁸ Footnote 8. http://www.sec.or.th/laws_notification/Content_0000000318.jsp?categoryID=CAT0000015&lang=en; http://www.sec.or.th/laws_notification/Content_0000000305.jsp?categoryID=CAT0000015&lang=en

²⁹ Footnote 8. http://www.sec.or.th/laws_notification/Content_0000000280.jsp?categoryID=CAT0000015&lang=en

³⁰ Footnote 8. http://www.sec.or.th/laws_notification/Content_0000000283.jsp?categoryID=CAT0000015&lang=en

³¹ Securities and Exchange Commission Thailand. <http://capital.sec.or.th/webapp/nrs/data/4607se.pdf>

- a. SEC approval in case of newly issued shares; and
- b. The effectiveness of the registration filing. During the filing process, information shall be disclosed with discretion and within the limits of the permitted scope.

3. Post-Offering Duties

After offering securities for sale to the public, companies shall undertake securities settlement with the holders in accordance with SEC regulations and disclose information on a continual basis to give investors information for making an investment decision. Information of securities subject to public disclosure includes:

- (i) Report of securities selling.
- (ii) Report of rights exercising on convertible securities, i.e., warrants and convertible debentures.
- (iii) Report of financial condition and operational performance, consisting of financial statements and annual reports (Form 56-1 and 56-2).
- (iv) Report of securities holding of the issuing company management.

4. Regulatory Transaction Reporting Requirements

The SEC stipulates that all licensed dealers must report transactions in each bond to the ThaiBMA within 30 minutes after trade. Practically, trades are submitted to ThaiBMA within 15 minutes on average. All reports are scrutinized by the Monitoring and Surveillance Department to ensure accuracy and integrity prior to compilation and dissemination to the general public and for mark-to-market purposes.

C. Filing and Approval Criteria

1. Plain Debt

Table 2.1 Filing and Approval Criteria for Plain Debt

A. Filing ^a	
1. Public Offering (PO)	✓: require filing to SEC
2. Non Retail Investor (NRI)	✓: require filing to SEC Min. disclosure
3. Exempt	≤ 10 persons T-bill, Gov't bond, MOF bond, BOT bond
B. SEC Approval criteria	
Thailand	
4. PO	✓: requires SEC approval
4.1. Eligible entities	Local company and foreign company ^a
4.2. Others	Local Issuer Bath bond and foreign exchange (FX) bond : 1. Never breach to offering rule 2. Qualified executive without prohibited qualification 3. Disclose the latest annual and quarter financial statement 4. Rated by accepted credit rating agency (CRA) 5. Register with Thai Bond Market Association 6. FX bond: issuer required approval from BOT in relation to FX control (additional)

continued on next page

Table 2.1 continuation

A. Filing ^a	
B. SEC Approval criteria	Thailand
4.2. Others	Foreign Issuer Baht bond: approval from MOF FX bond: 1. Never breach to offering rule 2. Disclose financial status (IFRS/FAS/US GAAP/other acceptable standard) 3. Contract person in Thailand 4. Offering debt in Thailand is not beach the issuance's country law 5. IOSCO-signatory A 6. Issuer required approval from BOT in relation to FX control
5. NRI	✓: approval in general Lighter
5.1. Eligible entities	local company and foreign company
5.2. Others	1. Limited transferability 2. Rated by accepted CRA 3. Register with Thai Bond Market Association (≤ 10 persons, issuer is not required to comply with 2. and 3.)
^a Filing means SEC filing of the registration statement and draft prospectus. Notes: ✓ = 'Yes,' 'exists' or 'required' BOT = Bank of Thailand; MOF = Ministry of Finance; T-bill = Treasury bill; SEC = Securities and Exchange Commission Source: Securities and Exchange Commission Thailand.	

2. Complex Debt

Table 2.2 Filing and Approval Criteria for Plain Debt and Complex Debt

A. Filing	
1. Public Offering (PO)	✓: requires filing with SEC
2. Non Retail Investor (NRI)	✓: requires filing with SEC Min. disclosure
3. Exempt	≤ 10 persons T-bill, Gov't bond, MOF bond, BOT bond
B. SEC Approval criteria	Thailand
4. Underlying	local securities, local or foreign securities index, currency, gold, cash in/out flow, credit link, credit default
5. PO	✓: requires approval from SEC
5.1. Eligible entities	Local company - derivative dealer - Commercial bank (underlying = gold, FX) - cash in/out flow or main business are related to the reference underlying
5.2. Others	1. Never breach to offering rule 2. Qualified executive w/o prohibited qualification 3. Disclose the latest annual and quarter financial statement 4. Rated by accepted CRA 5. Register with Thai Bond Market Association 6. Redeemed value > 80% of par value 7. Issuer is not a related party of the underlying company.
6. NRI	✓: requires approval from SEC
6.3. Eligible entities	Local company - derivative dealer
6.4. Others	1. Limited transferability 2. Rated by accepted CRA 3. Register with Thai Bond Market Association (≤ 10 persons, issuer is not required to comply with 2. and 3.)
^a International financial institution or foreign government or multi-national corporation in ASEAN+3 countries. Notes: ✓ = 'Yes,' 'exists' or 'required' BOT = Bank of Thailand; IFRS = International Financial Reporting Standards; IOSCO = International Organization of Securities Commission; FAS = Financial Accounting Standard; MOF = Ministry of Finance; T-bill = Treasury bill; SEC = Securities and Exchange Commission; US GAAP = Generally accepted accounting principles (United States) Source: Securities and Exchange Commission Thailand.	

3. Regimes in Place in the Jurisdiction

Table 2.3 Regimes in the Thai Bond Market

	YES	NO
Private Placement Regime	X	
Institutional Offerings Regime	X	
Integrated Disclosure Regime ^a (including continuous disclosure)	X	
Shelf Registration Regime	X	

^a An integrated disclosure regime allows the issuer to incorporate by reference continuous disclosure documents into its public offering documents, thereby easing disclosure burden of public offerings. It allows the qualified issuer to file disclosure documents for a new public offer by incorporating continuous disclosure documents by reference and minimizes the redundancies.
Source: ADB consultant.

4. Minimum Lead Time for Registration Approval

Minimum lead time refers to the number of business days for registration approval.

Table 2.4 Minimum Lead Time for Registration Approval

	TIME PERIOD (Months)
How long is the time period set which the regulator has to approve or disapprove the prospectus?	Offering corporate bond to institutional investors and high net worth investors effective within the next business day from the date of filing prospectus in full. Offering corporate bond to the public (public offering) effective after the end of the fourteenth day period from the day the office receives prospectus in full.
How long, on average, is the prospectus reviewing period in your jurisdiction? (From the time of application until the approval or disapproval by the regulator.)	About 20–30 days.

Source: Securities and Exchange Commission Thailand.

5. Summary of Regulation for Issuing and Offering of Corporate Bonds

Corporate bond offering regulations are summarized in Table 2.5.

Table 2.5 Regulations on Corporate Bond Offering

	Private Placement (PP)		Public Offering (PO)
	PP (Narrow Distribution/Small Size/Short term)	PP (Institutional Investor [II] and High Net Worth Investor [HNWI])	
Distribution	Narrow Distribution 1. < 10 person or 2. For debt restructuring or 3. Overseas institutional investors 4. Convertible bond sold to the existing shareholders or 5. Total number of the bill issued are less than 10	II and HNWI	General investors including individuals
Issue size (Stock Exchange of Thailand rule for Listing qualification) ^a	In case of small (less than THB100 million), Cannot be listed (Unlisted)	Not less t than THB100 million, can be listed.	Not less than THB100 million, can be listed
Short-term bills	SEC filing not required (Exempt)	Requires filing with SEC	Requires filing with SEC

continued on next page

Table 2.5 continuation

	Private Placement (PP)		Public Offering (PO)
	PP (Narrow Distribution/Small Size/Short term)	PP (Institutional Investor [II] and High Net Worth Investor [HNWI])	
Securities and Exchange Commission (SEC) filing of registration statement and draft prospectus	SEC filing not required (Exempt)	SEC filing required but light (Free form, 1-day process) Notification of the capital market supervisory board no. TorChor.10/2552 Clause 18 (1)	SEC filing required (full form, full process)
Continuous Disclosure requirement	Not required (Exempt)	Require same disclosure at the same time that send to lead regulator	Requires annual updated filing, including financial statement, to SEC
Rating	Not required (Exempt)	Required, but Issue, Issuer, Guarantor rating (any can be used)	Required. Long term: issue/ guarantor rating Short term: issue/ issuer/ guarantor rating
Thai Bond Market Association registration	Not required (Exempt)	Required (newly issued bond)	Required (newly issued bond)
Bond representative	Not required (Exempt)	Not required (Exempt)	Required, except for short-term bond

^a Regulations of the Stock Exchange of Thailand on Listing of Debt Instruments as Listed Securities
Source: Securities and Exchange Commission Thailand.

- a. The bond can be offered for sale by public offering (PO) or private placement (PP). PP generally means to offer for sale to institutional investors (II), high net worth investors (HNWI), and specific investors.
- b. Approval from the SEC is required for the offer for sale by PO. A full filing form (a specific form prescribed by the SEC) and draft prospectus have to be submitted to the SEC.
- c. PP (narrow distribution/small size) is exempt from filing requirement.
- d. PP (II and HNWI) is exempt from full filing requirement. (Light requirement remains.)
- e. The concept of II or Qualified Foreign Institutional Investor (QFII) does not only apply to securities available for sale in the exchange market but also applies to debentures issued by PP.
- f. A credit rating is also required for an offer for sale by a PO and PP.
- g. The newly issued bond must be registered with the ThaiBMA.
- h. A bond representative is required to be appointed and filed with the SEC, except for short-term bonds.
- i. An annual update, including a financial statement, is required to be filed with the SEC.

6. Debt Securities under Exemption from Securities and Exchange Commission Filing

These notifications (Box 2.2 and Box 2.3) provide the exemption from filing of Registration Statement for the Offer for Sale of Debt Securities.

Box 2.2 Notification on Characteristics of Private Placement/Exempt Rule

Notification of the Capital Market Supervisory Board No. TorChor. 9/2552
Re: Application for and Approval of Offer for Sale of Newly Issued Debt Securities

Chapter 2 Private Placement of Debt Securities

Division 1 Characteristics of Private Placement

Clause 32 An offer for sale of bonds in any of the following manners shall be deemed private placement:

- (1) An offer made to institutional investors or high net worth investors, excluding an offer made to institutional investors or high net worth investors with registration of transfer restriction among not exceeding ten investors within any four-month period which shall fall under (2);
- (2) An offer made specifically to not exceeding ten investors within any four-month period;

In cases where the securities depository center, custodian, securities broker, securities dealer or any person holds bonds on behalf of other persons, the counting of the number of investors under the first paragraph shall be based on the real owner of such bonds.

- (3) An offer made to the person being the company's creditor prior to the offer for sale of bonds for the purpose of debt restructuring;
- (4) An offer granted an exemption from the Office, where the approved person shall demonstrate that:
 - (a) There is reasonable and appropriate cause;
 - (b) Such offer for sale shall not affect investors at large; and
 - (c) There are sufficient measures for investor protection.

Clause 33 In case of requesting an exemption for an offer for sale of newly issued bonds under Clause 32(4), the person requesting an exemption shall demonstrate the reasonable and appropriate cause of such case, the non-existence of effects on investors at large and the availability of sufficient measures for investor protection, and the Office may grant an exemption for application of the rules or conditions prescribed in this Chapter, whether totally or partially, to such offer for sale of bonds as deemed necessary, by taking into account the suitability and sufficiency of measures for investor protection.

Clause 34 Bills issued in any of the following manners shall be deemed issuance of bills for private placement:

- (1) Bills issued by the securities finance institution or any other person as specified by the Office with the purpose to borrow money from institutional investors or high net worth investors;
- (2) Short-term bills offered to institutional investors or high net worth investors;
- (3) Bills which do not fall under (1) or (2) in the amount of not exceeding ten bills at any time when counting all types of bills issued by the company.

For the purpose of the provisions in this Clause, the term "institutional investor" under the first paragraph shall not include the persons prescribed in Clause 5(3) of the Notification of the Securities and Exchange Commission No. KorChor. 4/2552 Re: Exemption from Filing of Registration Statement for Offer for Sale of Debt Securities dated 13 March 2009.

Division 3 After-Approval Conditions for Private Placement of Debt Securities

Clause 37 In case of an offer for sale of all types of newly issued debt securities to institutional investors established under Thai law or high net worth investors under Clause 32(1), the approved person shall comply with the conditions under Clause 38, Clause 39 and Clause 40.

Clause 38 Prior to each offer for sale of newly issued debt securities, the approved person shall provide any of the following credit rating arrangement by the credit rating agency approved by the Office:

- (1) Credit rating of debt securities offered for sale each time (issue rating);
- (2) Credit rating of the debt securities guarantor (guarantor rating), only in cases where the guarantor is obliged to liabilities jointly with the debtor without revocability before the debt securities maturity, including credit rating of the provider of aval (guarantee by person) of principle and interest of bills in full amount without condition; or

continued on next page

Box 2.2 continuation

(3) Credit rating of the approved person (issuer rating), excluding the case of an offer for sale of subordinated bonds.

The provisions related to granting of exemption for credit rating arrangement as prescribed in the second paragraph of Clause 21 shall also apply to the case under the first paragraph.

Clause 39 After the issuance of debt securities, the approved person shall provide continuous arrangement of credit rating of debt securities in accordance with the rules under Clause 38 until the claim for repayment of such debt securities is terminated. Except where it is necessary and appropriate, the Office may grant an exemption for arrangement of credit rating of debt securities and may also prescribe the timeframe or conditions thereof, by taking into consideration the necessity of credit rating information for investors.

Clause 40 The approved person shall file an application with the Thai Bond Market Association for registration of the issued and offered debt securities within thirty days after the issuing date.

Clause 41 In case of an offer for sale of short-term bonds or bills to institutional investors or high net worth investors, the approved person may make unlimited offer for sale of short-term bonds or bills subject to the registration statement filed for an offer for sale of short-term bonds or bills to institutional investors or high net worth investors as prescribed in the Notification of the Capital Market Supervisory Board concerning filing of registration statement for offer for sale of debt securities, but any offer shall be made within one year after the effective date of such registration statement.

Division 4 Additional After-Approval Conditions for Private Placement of Bonds

Clause 42 Prior to an offer for sale of bonds, the approved person shall obtain an explicit resolution from the company's board of directors approving the issuance of bonds. Except where the applicant is a public limited company, the resolution for the issuance of bonds shall be obtained in compliance with the law on public limited company.

The provisions in the first paragraph shall not apply to the case where the company is required to issue bonds according to the rehabilitation plan under the bankruptcy law which has been approved by the court, or any other case granted an exemption by the Office.

Clause 43 In case of secured bonds or bonds provided with the bond holder representative, the approved person shall provide the bond holder representative whose name is in the list of persons qualified to be the bond holder representative in accordance with the Notification concerning qualifications of bond holder representative and authority of bond holder representative.

Clause 44 The approved person shall take the following actions:

(1) Having the bonds to be issued and offered for sale meet the following characteristics:

(a) Being registered bonds and having a statement in the certificate of bonds offered for sale each time that the bond issuer shall not accept transfer registration of bonds in any level if such transfer is inconsistent with the transfer restriction as indicated and registered with the Office;

(b) Having the characteristics in accordance with Clause 17(1), (2) and (3);

(c) Complying with the rules prescribed in Clause 18 and Clause 19 in case of an offer for sale of subordinated bonds or perpetual bonds, as the case may be;

(d) In case of an offer for sale of bonds to institutional investors established under Thai law or high net worth investors under Clause 32(1), having the terms and conditions with at least the particulars as prescribed in Section 42(1) to (9) and complying with the first paragraph of Clause 29;

(2) In case of private placement of bonds under Clause 32(2), (3) or (4), the approved person shall not advertise an offer for sale of newly issued bonds and reserved shares. If the distribution of offer documents is made, the approved person shall distribute such documents only to persons with the characteristics or in the limited number as prescribed in Clause 32(2), (3) or (4) as granted approval;

(3) Offer documents (if any) shall contain a statement indicating the transfer restriction under (1)(a) and in case of an offer for sale of subordinated bonds, such subordination shall be clearly indicated.

Clause 45 In cases where any person shows his intention to the approved person to register transfer of bonds, the approved person shall make verification of such transfer. If such transfer is inconsistent with the transfer restriction registered with the Office, the approved person shall not register such transfer, except for transfer by inheritance.

In cases where the approved person has provided the bond registrar, the approved person shall have the bond registrar comply with the rules prescribed in the first paragraph.

continued on next page

Box 2.2 continuation

Division 5 Additional After-Approval Conditions for Private Placement of Bills

Clause 46 Prior to an offer for sale of bills, the approved person shall obtain an explicit resolution from the company's board of directors approving the issuance of bills, except for the case where the company is required to issue bills according to the rehabilitation plan under the bankruptcy law which has been approved by the court or any other case granted an exemption by the Office.

Clause 47 The approved person shall provide a statement that "These bills are securities and approved for private placement" on the face of the bills. In case of the issuance of bills under Clause 34(1) or (2), the bill issuer shall provide additional statements saying "Being offered for sale only to institutional investors or high net worth investors" and "Non-negotiable" or "With the purpose of transfer among institutional investors or high net worth investors" or any other statement with similar meaning.

Clause 48 In case of an offer for sale of bills under Clause 34(3), the approved person shall not advertise such offer. If the distribution of offer documents is made, the approved person shall distribute such documents only to persons with the characteristics or in the limited number as prescribed in Clause 34(3) as granted approval.

Notified this 13th day of March 2009.

Remark: The rationale for issuing this Notification is to prescribe rules on approval of an offer for sale of newly issued debt securities by a company established under Thai law or a branch of a foreign commercial bank and, so as to promote development and growth of Thai debt securities market, to relax rules on approval of an offer for sale of debt securities to limited group of investors which will help facilitate fund raising through debt securities issuance of the private sector, as well as to re-define an offer for sale to limited group of investors to include an offer for sale of debt securities to institutional investors or high net worth investors without limitation of offer value to be in accordance with international standards.

Note: Emphases added by authors.

Source: Securities and Exchange Commission Thailand. Footnote 45. <http://capital.sec.or.th/webapp/nrs/data/4607se.pdf>

Box 2.3 Notification on Exemption from Filing of Registration Statement for the Offer for Sale of Debt Securities

Notification of the Securities and Exchange Commission No. KorChor. 4/2552 (2009)
Re: Exemption from Filing of Registration Statement for the Offer for Sale of Debt Securities

Chapter 1 Debt Securities under Exemption

Clause 5. The provisions under Chapter 3 of the Securities and Exchange Act B.E. 2535 (1992) concerning public offering of securities shall not apply to the following debt securities:

- (1) corporate bonds where principle and interest are guaranteed by the Ministry of Finance, but not including convertible bonds;
- (2) debt securities offered for sale by securities companies licensed to undertake securities business in the category of securities dealing where the issuer has adequately provided continual information disclosure;
- (3) bills issued and offered for sale with the purpose to borrow money from the following persons:
 - (a) commercial banks, finance companies or credit foncier companies under the law on financial institution business;
 - (b) financial institutions established under specific law;
 - (c) any other person prescribed by the Office.

Source: Securities and Exchange Commission Thailand. Footnote 45. <http://capital.sec.or.th/webapp/nrs/data/4603se.pdf>

D. Bond Electronic Exchange's Rules Related to Bond Listing, Disclosure, and Trading

BEX's rules pertaining to bond listing, disclosure, and trading include the "Notification of the Stock Exchange of Thailand on Trading of Debt Instruments" (2003) and the "Regulations of the Stock Exchange of Thailand on Listing of Debt Instruments as Listed Securities" (2004). Both can be found in the SET website³²

E. Thai Bond Market Association's Rules related to Trading, Reporting, and Registration

ThaiBMA's rules on trading, reporting, and registration are encapsulated in the "Standard of Practices for the Bond Market."³³

F. Bank of Thailand's Regulations on Non-resident

Non-residents may invest in Thai government bonds (TGBs) without any restrictions. Repatriation of investment funds and returns on such investment can be freely remitted upon submission of supporting evidences to authorized financial institutions in Thailand. Investment in TGBs is also eligible for foreign exchange hedging with authorized financial institutions in Thailand. Transfers in Thai baht relating to investment in TGBs must comply with the present foreign exchange regulations governing non-resident baht accounts.

G. Credit Rating Requirements

Credit rating is required for corporate bonds PO or PP as stated above in II.C.5.

Global rating agencies have assigned the above long-term foreign currency ratings for Thailand (see Table 2.6). The SEC licenses rating agencies that specialize in Thai debt. Rating definitions vary from agency to agency. Rating selection involves information gathering, analysis, and monitoring of the financial health of an issuing entity. TRIS Rating covers financial institutions, private companies, and state enterprises. Users can also find information on the rationale for each rating level.

Table 2.6 Long-Term Foreign Currency Ratings

S&P	BBB+	Dec 2010
Moody's	Baa1	Oct 2010
Fitch	BBB	Apr 2010
R&I	BBB	Apr 2011
Source: AsianBondsOnline.		

³² Footnote 7. http://www.set.or.th/dat/content/rule/en/BorSorSaw0114_1_EN.pdf; http://www.set.or.th/dat/content/rule/en/BorJorRor0200_EN.pdf

³³ Footnote 3. http://www.thaibma.or.th/sro/topic/Standard_of_Practices_for_the_Bond_Market.pdf

H. Exemptions for Private Issues (Private Placement)

Corporate bond offerings may be exempted from the obligation to file disclosure documents with the SEC only when the offer or sale of corporate bonds is limited to not more than 10 investors, as specified in the relevant SEC Rules and detailed in Box 1.1 in I.G.1.a. Key determinants for a PP are when the offer is made to (1) institutional investors or high net worth investors or (2) to a maximum of 10 investors within any four-month period. In reality, there is a condition in the secondary market that only allows institutional investors to buy and sell these bonds in the PP market. This type of bond is negotiated and traded off the exchange floor, referred to as OTC trading.

Also, see II.C.5 above.

I. Minimum Lead Time for Registration Approval

See II.C.3 to 4 above.

J. Availability of Shelf Registration and Associated Documentation Requirements

See II.C.3 above and the SEC Act B.E. 2535 (1992) Chapter 3 on Public Offering of Securities (Section 63-89).³⁴

K. Regulated Suspension Period

See II.C.3 to 4 above.

Chapter 3 on Public Offering of Securities Section 67 of the SEC Act B.E. 2535 (1992) stipulates that

Subject to the provisions of Section 68, a registration statement and draft prospectus shall be effective upon the lapse of forty-five days after the receipt of such registration statement and prospectus by the Office, except where the SEC specifies an effective date before such period.

L. Other Requirements

Specific requirements for the Thai market have been covered in the other sections of this chapter.

M. Continuous Disclosure Rules or Requirements

See II.C.3 to 5 above.

³⁴ Footnote 8. http://www.sec.or.th/laws_notification/Content_0000000318.jsp?categoryID=CAT0000015&lang=en

N. Restrictions for Investors

There are no government restrictions, particularly on market-entry requirements, for investors investing in the Thai bond market.

See I.L.1 to 2.

O. Non-Resident Requirements and Restrictions

There are no government restrictions, particularly on market-entry requirements, to foreign investors investing in the Thai bond market, but there are a few notable restrictions. The legal basis for exchange control in Thailand is derived from the *Exchange Control Act B.E. 2485 (1942)* and Ministerial Regulation No.13, B.E. 2497 (1954) issued under the *Exchange Control Act B.E. 2485 (1942)*. These laws set out the principles of controlling, restricting, or prohibiting the execution of all exchange or other operations where foreign currency in whatever form is concerned.

Foreign exchange controls are issued under the act with following major objectives:

- (i) To centralize the foreign exchange of the country.
- (ii) To channel foreign exchange for public benefit.
- (iii) To monitor capital outflows.
- (iv) To stabilize the value of baht.

a. Foreign Currency Restriction

Foreign currencies can be brought into Thailand without any limitations. Any person receiving foreign currencies from abroad is required to sell such foreign currencies to an authorized financial institution, or to deposit them in a foreign currency account with an authorized financial institution within 360 days from receiving date. An exception is made for foreign embassies, international organizations and foreigners temporarily staying in Thailand not exceeding 3 months.

Foreign exchange purchase or hedging with authorized financial institutions is generally available where a genuine underlying current or capital transaction exists.

b. Local Currency Restriction

There is no restriction on the amount of baht that may be brought into the country. A person travelling to Thailand's bordering countries, including Viet Nam, is allowed to take out up to THB500,000 (USD15,000), and to other countries up to THB50,000 (USD1,500) without authorization.

c. Measures to Prevent Thai Baht Speculation

i. Measures to Limit Thai Baht Liquidity

Domestic financial institutions are limited to provide Thai baht liquidity to a non-resident (NR) in the case of payments undertaken without underlying transactions (so-called 'real demand principle'). The total outstanding balance provided by each financial institution shall not exceed THB300 million (approximately USD9.6 million) per group of NRs.

ii. Measure to Curb Capital Inflows

Without underlying transactions, domestic financial institutions are limited in borrowing or undertaking transactions comparable to Thai baht borrowing from NRs. The total outstanding balance executed by each financial institution shall not exceed THB100 million (USD3 million) per group of NRs.

iii. Measure on Non-Resident Baht Account and Non-Resident Baht Account for Securities Account

Foreign investors in the securities market are required to open a Non-Resident Baht Account (NRBA) and a Non Resident Baht Account for Securities (NRBS). NRBA and NRBS accounts are both limited to an end-of-day balance not exceeding THB300 million (approximately USD9.6 million) per non-resident, which include balances of all accounts opened by each non-resident across all domestic financial institutions in Thailand.

The typical securities-holding structure in omnibus accounts in the name of global custodians with custodian banks in Thailand and the corresponding funding through aggregate cash accounts may lead to challenges in complying with said regulations, e.g., also in case of large bond interest or redemption payments. Custodian banks encourage investors to work closely with them to avoid non-compliance with the regulations.

Domestic financial institutions are also not permitted to pay interests on accounts, with the exception of NRBA time or fixed deposits with maturities 6 months or longer.

iv. Measure on Non-Deliverable Forward

Domestic financial institutions are not allowed to undertake non-deliverable forward (NDF) transactions against Thai baht with non-residents.

P. Taxation Framework and Requirements

Residents and non-residents investing in the Thai market are charged withholding tax on dividends and fixed income as follows:

Table 2.7 Duties and Tax on Dividends and Fixed Income

Duties and Tax	
Withholding Tax (WHT)	
WHT - Equities	10% on dividend
WHT - Fixed Income	15% on interest
Capital Gains	0 - 15% subject to Double Tax Agreements (DTA)
Stamp Duty	No (Stamp duty is only applied to physical certificate of non-listed securities at a rate of THB 1 for every THB 1,000 of the trade counter-value [OTC].)
Other Taxes	Value Added Tax (VAT) is 7%
Source: Deutsche Bank AG Domestic Custody Services, Market Guide Thailand, December 2009.	

1. Withholding Tax

The tax liability of incomes from investments in debentures is classified into three categories: (1) interest income, (2) capital gains and (3) discount, or the difference between the redemption price and bid price, and bid price in the case of debentures that yield no interest but are sold below the redeemed value. The tax is determined by the type of income and the nature of the investor or income earner. Generally, payers withhold income tax upon payment at rates of 15% on natural persons, 1% on juristic persons, and 10% on foundations or associations. Payments made to banking institutions, securities or other semi-banking institutions are liable to a 3.3% specific business tax.

Investments in debenture of mutual funds are exempt from income tax on capital gains because mutual funds are juristic persons separate from fund management institutions. All benefits that mutual funds receive in interest, capital gains and discounts are exempt from tax computation. But unit-holders of mutual funds are liable to income tax applicable to natural or juristic persons, as the case may be, on dividends or profit sharing of the investment units in the same manner the tax liability of investment in equity instruments.

2. Specific Business Tax

Specific Business Tax (SBT) is collected from individuals, groups of persons who are not juristic persons, and any other juristic persons on incomes derived from engaging in the businesses of banking, finance and securities, credit foncier, life insurance, pawn brokerage, semi-commercial banking, and real estate. Banking, financial and securities institutions pay SBT on income of interests, discounts, fees, service fees, and gross profits-before-expenses from transactions in any bills or debentures, foreign exchange, drafts, or overseas remittance. The SBT on incomes relative to bonds is levied at 0.01%, to be remitted to government authorities.

3. Double Taxation Agreements

Double Taxation Agreements (DTAs) are treaties signed by Thailand and other countries which specify tax exemption on incomes derived from investments, whereby investors are only liable to income tax in one country to induce foreign investment. The DTA applies to persons who are residents of the Contracting States and applies to direct taxes, namely, personal income tax, corporate income tax, and petroleum income tax. Other indirect taxes such as value added tax, SBT, excise tax, etc., are not covered by a DTA. The DTA also prescribes a ceiling rate for tax collection, which the source country must not exceed.

4. Tax Exemption for Non-Resident Investors

Under Ministerial Notifications No. 249 B.E. 2548 (2005) and Royal Decree No. 429 B.E. 2548 (2005), individuals, juristic companies, or partnerships established under foreign law and not operating business in Thailand are exempted from income tax on the following assessable incomes:

- (a) Interests received from government agencies bonds.
- (b) The difference between redemption price and selling price of government agencies bonds issued and sold the first time at a price lower than the redemption price (discount).

(c) Benefits received from the transfer of government agencies bonds (capital gain).

However, withholding tax exemption on income and capital gains from government securities trading have been revoked effective 13 October 2010, in line with other capital control measures.³⁵ Nevertheless, the withdrawal of previous exemptions should principally not affect specific provisions in prevailing DTAs. Investors are encouraged to seek the advice of professional tax advisors with regards to their own specific tax situation.

5. Taxation Framework and Tax Requirements Summary

Table 2.8 Summary of Taxation Framework and Tax Requirements in Thailand

Type of Bonds	Resident Investors		Non-resident Investors	
	Interest Income	Capital Gains	Interest Income	Capital Gains
Government and Quasi-Government Bonds (including Securities and Futures Institutions)	Individual: 15% withholding tax (recipients can choose to include in calculating for personal income tax) Corporate: 1% withholding tax	Individual: 15% withholding tax (for zero-coupon instruments; if 15% is prepaid, capital gains is tax exempt) Corporate: Liable for corporate income tax	Individual: 15% withholding tax Corporate: 15%withholding tax	15% withholding tax Corporate : 15% withholding tax
Corporate Bonds	Individual: 15% withholding tax (recipients can choose to include in calculating for personal income tax) Corporate: Liable for corporate income tax.	Individual: 15% withholding tax except for zero-coupon bonds, and can choose not to include in the year-end income tax. Corporate: - No withholding tax - Exempt for Mutual Fund - Included in corporate income tax	Individual: 15% withholding tax Corporate: 15%withholding tax	15% withholding tax Corporate : 15% withholding tax
Supranational Bonds	Waived	Waived	Waived	Waived
Securitized Bonds	Individual and Corporate: 15% withholding tax upon debenture interest payment	N/A	Individual and Corporate: 15% withholding tax upon debenture interest payment	N/A

Source: Securities and Exchange Commission Thailand.

³⁵ PricewaterhouseCoopers Thailand. *Tax Flash Report 2010*. <http://www.pwc.com/th/en/tax-flash-2010/tax-flash-report-23-2010.jhtml>

III. Trading of Bonds and Trading Market Infrastructure

A. Trading of Bonds

Bond trading in Thailand can take the form of either over-the-counter (OTC) or exchange traded. Bonds are normally traded in a big lot and are less frequently traded compared to equities. As such, most bonds traded in the secondary market are traded through OTC by negotiation between buyer and seller. Most transactions take place over the telephone or via voice broker, and trading via the electronic trading platform, is rarely observed.

Box 3.1 Excerpt from Primary to Secondary Market Description by the International Monetary Fund

II. THE PRIMARY DEBT MARKET

F. Other Related Fixed Income Markets

Repo Market

43. The Thai money markets comprise the market for unsecured money, synthetic term money and repo. The principal feature of the money markets is the ample liquidity of the Thai banking sector. This obviates their need to actively use the money markets, particularly the term money market, to fund their activities, limiting activity in the markets. In addition, market contacts report that, due to the distortions introduced by the Specific Business Tax (SBT), where term money market trades are executed, these are generally effected through synthetic money market positions, i.e., through the foreign exchange (FX) forwards market.

However, apart from this factor, the principal concern expressed by market contacts related to the functioning of the repo markets, and the private repo market in particular.

44. Overall, the BOT plays a dominant role in the repo market. The repo market is actively used by the BOT to implement monetary policy—through its bilateral repo operations. In addition, the BOT operates the BOT repo market, effectively acting as a central counterparty for interbank repo. However, in 2006, the BOT announced its intention to close this market in order to promote the development of a private repo market.

45. A successful transition to a private repo market requires industry agreement on a number of technical factors including agreeing [on] a standard master agreement—a Global Master Repurchase Agreement (GMRA), appropriate collateral management functionality within the securities depository, regulatory agreement on collateral and margining rules and counterparty risk management. While the required enhancements to the Thailand Securities Depository Co., Ltd. (TSD) appear to have been implemented, market sources report that, despite BOT's best efforts, progress on resolving other technical issues remain seems to have stalled. This is impeding market participants' ability, in particular, to execute the GMRA with counterparties. In addition, there are a number of potential regulatory impediments which may restrict certain market participants' ability to participate on equal terms. (*24: For example, the insurance regulator has set a minimum haircut that must be applied to all repo transactions that an insurance company enters into. This may restrict their ability to compete on favorable terms.)

continued on next page

Box 3.1 continuation

Although several industry representatives expressed a desire that the MOF, BOT, and SEC take leadership in addressing these issues, BOT has requested that the Financial Market Association (known as ACI club) take on this role.

III. THE SECONDARY DEBT MARKET
B. Secondary Market Infrastructure

57. Secondary market activity takes place in both the OTC market and on-exchange. The on-exchange market—the BEX—is an electronic market targeted at small, retail transactions.

In the period Jan-July 2006, average trade size was of the order of B4 million with an average monthly trade value of B21 million. Liquidity is provided by authorized dealers—not necessarily the PDs, with clients hitting or lifting advertised bids or offers. They cannot submit their own quotes. In addition, the exchange provides an electronic platform—the Fixed Income and Related Securities Trading System (FIRSTS)—to the OTC market. This mimics the OTC trading functionality, providing both a platform for inter-dealer trading and for dealer-wholesale client trading. Again, clients are not permitted to post their own bids or quotes but can only absorb the liquidity offered through the platform; however, the technology does allow clients to send a “request for quotes” (RFQ) to multiple dealers at once and to conduct bilateral negotiations off-line. (*27: The time delay between information transmittal is reportedly one of the impediments to greater use of the system; however, BEX is planning a systems upgrade which should reduce the time lag from around 10 seconds to around 3 seconds.)

FIRSTS was officially launched by BEX on March 1, 2006. (*28: The system was developed by the TBMA, who subsequently sold the platform to BEX when it became the self-regulatory organization (SRO) for the market.)

In the period Mar-July 2006, [the] average trade size was B63 million, with an average monthly trade value of B20.6 billion. Overall, trading is concentrated in the OTC wholesale market (approx. 98 percent of trading), with most of that being conducted over the telephone rather than on the FIRST system (93 percent telephone relative to 5 percent through FIRSTS).

58. All trades in bonds registered by the TBMA must be reported to the TBMA within 30 minutes. The TBMA publishes trade reports for government securities upon receipt and twice daily for corporate bond trades.

Source: International Monetary Fund. 2009. “Secondary Market Infrastructure and Repo,” Thailand: Financial Sector Assessment Program—Technical Note—Fixed Income Markets April 2008.” IMF Country Report No. 09/151. <http://www.imf.org/external/pubs/ft/scr/2009/cr09151.pdf>

B. Trading Platforms

The Bond Electronic Exchange (BEX), a division of the Stock Exchange of Thailand (SET), was officially launched on 26 November 2003. BEX’s objective is to develop the secondary market for bond trading in Thailand. BEX’s main roles are as follows:

- (a) Support the development of Thailand’s secondary bond market
- (b) Expand bond activities to smaller investors
- (c) Properly educate non-institutional investors on additional investment instruments

To attract bond activities in both retail and wholesale markets, BEX has been granted approval from the SET’s committee to include both government issues and corporate issues in its exchange. BEX will also include Asian bonds in its trading platform.

There are two trading methods for retail investors on BEX:

- (i) Automatic Order Matching (AOM)
- (ii) Put Through (PT) for retail market when trading value crosses over 10,000 units (THB10 million)

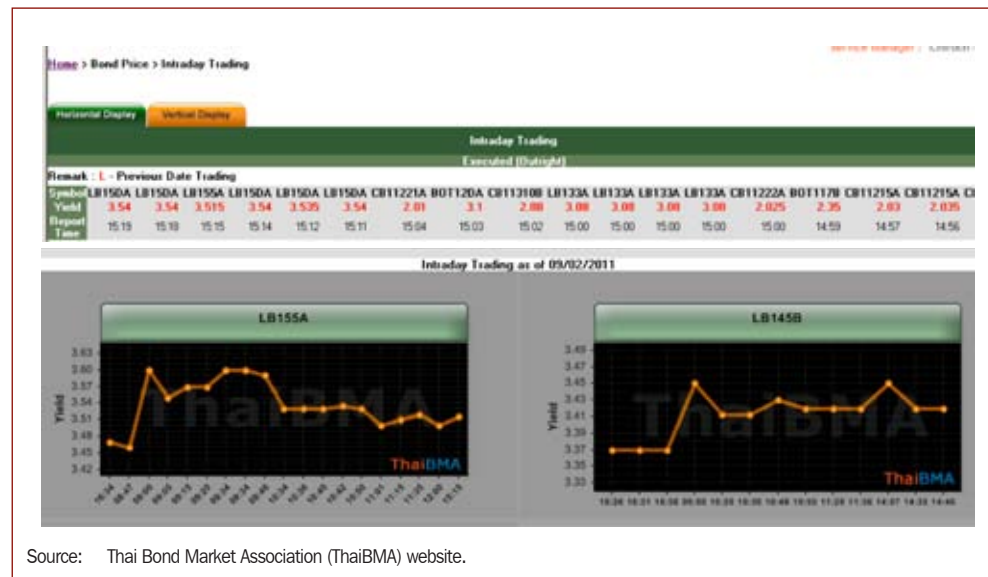
The SET now operates bond trading on both the exchange platform (AOM) and the non-exchange platform (Fixed Income and Related Securities Trading System [FIRSTS]), which aims to serve fixed-income dealers and institutional investors. Institutional and large-scale investors trade via FIRSTS.

C. Bond Information Center

The Thai Bond Market Association (ThaiBMA) serves as the information center in collecting and distributing information on the bond market. The following Securities and Exchange Commission (SEC) regulations support the role of ThaiBMA as information center and SRO for the bond market:

1. All Public Offering and some Private Placement corporate bond issues must register with ThaiBMA. While there is no such regulation applied on government securities, in practice, all government bond issues are automatically registered with ThaiBMA.
2. All licensed dealers must report transactions in each bond to the ThaiBMA within 30 minutes of trade. The data is then disseminated on a real-time basis through the ThaiBMA website.³⁶

Figure 3.1 Screenshot of Intraday Trading Information



Currently, ThaiBMA categorizes reported data into three types to facilitate the analysis and follow up of the bond market, and provides a fair and valid reference to the data as follows:

- (1) Outright transaction: a one-shot transaction under no obligation agreed upon in advance, such as the sell-and-buy-back price; generally, it refers to T+4 transactions that are handed over within 4 business days.

³⁶ Footnote 3. <http://www.thaibma.or.th/aboutus/aboutus.html>

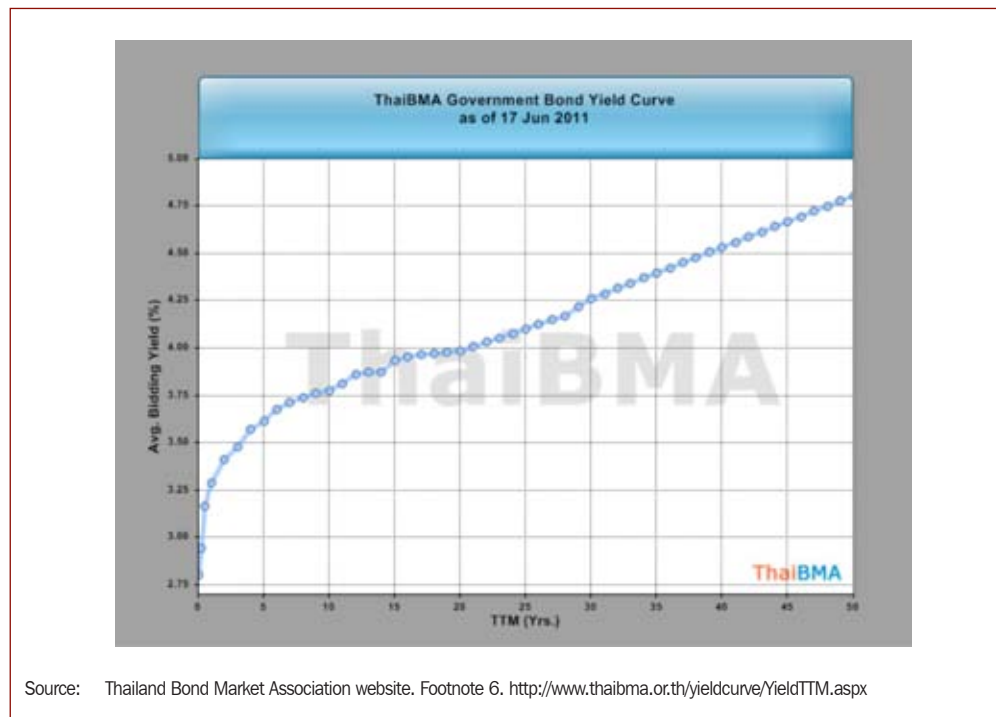
- (2) Financing transaction: under the repurchase agreement (repo) or sell-and-buy-back condition where bonds are treated as collateral.
- (3) Other transaction: any transaction other than the outright and financing transactions, such as transactions with prior agreements, transactions that are handed over after 4 business days, or transactions according to options or forward agreements, etc.

Transaction reports submitted to ThaiBMA are scrutinized by the Monitoring and Surveillance Department prior to compilation and dissemination to the general public, and for the mark-to-market process of bonds.

D. Government Bond Yield Curve and Bond Indices

ThaiBMA developed the Government Bond Yield Curve by using bidding yields quoted daily by primary dealers, which is published on the website on a daily basis. Additionally, ThaiBMA publishes reference yields of state-owned enterprise (SOE) bonds, Financial Institutions Development Fund (FIDF) bonds and Treasury bills. The yield curve information has been disseminated to the public on a daily basis since 1999. This yield curve can be found on the Thai BMA's website.

Figure 3.2 ThaiBMA Government Bond Yield Curve as of 17 June 2011



In addition to the yield curve, ThaiBMA also developed the ThaiBMA Index as a tool to track market performance. The ThaiBMA Index comprises the Total Government Bond Index, Corporate Bond Index, and the Categorized Index, is divided into several subgroups by maturity, e.g., 1–3 years, 3–7 years, 7–10 years, and over 10 years.

ThaiBMA bond indices are publicly available on a daily basis.

Figure 3.3 ThaiBMA Government Bond Index

Type	Clean Price	Chg (point)	Gross Price	Chg (point)	Total Return	Chg (point)	Yield	Average Duration	Conv
Government Bond Index	102.32	-0.04	104.03	-0.03	200.47	-0.06	3.78	5.59	55.73
Maturity Sub Group									
Index 111 (T-Bill 3M)	83.47	-0.02	84.50	-0.01	162.27	-0.01	3.00	1.89	4.01
Index 112 (T-Bill 6M)	106.92	0.12	108.71	0.12	298.90	0.12	3.47	4.00	22.70
Index 113 (T-Bill 9M)	121.90	-0.02	123.87	-0.01	256.57	-0.02	3.63	6.56	51.04
Index 114 (T-Bill 1Y)	144.24	+0.03	146.02	+0.01	280.45	+0.01	4.07	10.17	142.45
Index 115 (T-Bill 1.5Y)	94.17	-0.06	95.12	-0.06	181.35	-0.04	3.46	3.80	22.67
T-Bill 90D Bond Index	103.16	-0.04	104.42	-0.01	126.00	-0.01	3.77	3.74	24.34
Maturity Sub Group									
Index 111 (T-Bill 3M)	99.35	-0.02	100.49	-0.02	122.00	-0.01	3.14	1.77	4.42
Index 112 (T-Bill 6M)	107.22	-0.06	108.51	-0.12	126.32	-0.06	3.69	4.06	25.46
Index 113 (T-Bill 9M)	112.17	-0.06	113.47	-0.12	137.00	-0.06	3.97	6.06	56.40
Index 114 (T-Bill 1Y)	110.01	-0.02	112.03	-0.02	137.25	-0.02	4.30	3.39	100.43
Index 115 (T-Bill 1.5Y)	102.96	-0.04	104.91	-0.10	126.30	-0.02	3.68	3.41	19.44
T-Bill 180D Bond Index	106.42	-0.02	107.86	-0.02	130.16	-0.02	4.30	5.00	44.59
Maturity Sub Group									
Index 111 (T-Bill 3M)	103.13	-0.02	104.32	-0.01	123.00	-0.01	3.34	1.85	4.05
Index 112 (T-Bill 6M)	109.12	-0.01	110.62	-0.04	133.16	-0.01	3.92	3.92	10.90
Index 113 (T-Bill 9M)	100.67	-0.01	101.57	-0.01	135.07	-0.01	4.75	6.72	54.75

Source: Thai Bond Market Association (ThaiBMA) website.

E. Bond Futures

In 2010, the Thailand Futures Exchange (TFEX) launched its first interest rate-based derivatives product called “bond futures.” Recently, there are three groups of bond futures contracts in the market, which are short-term interest rate-based futures—3M BIBOR Futures and 6M THBFIX Futures—and long-term interest rate-based futures—5-year Government Bond Futures.

F. Repo Transactions

1. Repo transactions on corporate bonds are allowed. The eligible securities for repo transactions on bonds are mutually agreed between counterparties, which can come in the form of commercial papers, certificates of deposit, non-convertible debt, and convertible debt.
2. Any entities such as dealers, institutional investors and retail investors can participate in repo transactions. Any securities company authorized by the SEC can participate in repo transactions. There are no regulations in place, except on the following: 1) repo with non-resident is available for government bonds; 2) repo with retail investors is available only for government bonds.
3. For margin requirements for participants entering repo transactions, both lender and borrower have an obligation to monitor market movement, and are obligated to provide a margin if price movement is greater than a preset threshold, determined as follows:
 - a. Market Value = Gross Price % X Current Par X No. of Units
 - b. Required Securities Value = (Purchase Price + Accrued Interest)/(1- Initial margin)
 - c. Threshold = ± THB500,000
 - d. Market value < Required securities value
 - e. Margin exposure = Market value - Required securities value
 - f. Margin exposure > threshold => Call margin

IV. Possible Items for Future Improvements

A. Impediments to the Thai Bond Market

1. Limited of Investor Base

Corporate investors remain few. Therefore, transactions are within the cluster of a small number of major investors. At the same time, retail investors lack a good knowledge or understanding of the bond market. They are content with commercial bank deposits rather than with other kinds of investment. At present, as the government provides unlimited guarantee on deposits at commercial banks, many depositors choose a lower return for the security of their deposits. Meanwhile, the government has already endorsed the setting up of a Deposit Insurance Agency. As a consequence, there should be a shift of deposits away from small banks, and some of them should flow into the bond market.

2. Few Bond Issuances by the Private Sector

Currently, there are just over 100 private enterprises who issue bonds. These are few, compared to the number of companies listed on the Stock Exchange of Thailand. Another reason is that commercial banks try to offer loans at low interest rates and under attractive conditions to maintain their corporate customers of good credit standing. Therefore, these companies do not see the benefit of bond issuance in reducing costs.

B. Significant Factors

The following are the main inhibiting obstacles in the development of the corporate bond market. The scale of 1 to 5 indicates the least significant factor to the most significant factor, respectively.

Table 4.1 Factors Inhibiting the Development of the Corporate Bond Market in Thailand

Factors	Scale
Availability of easy and cheap bank loans/competition from banks against the corporate bond market	5
Buy and hold strategy adopted by investors	5
Lack of efficient market making system	3
Differential treatment in favor of government bonds / loans (such as differential tax treatment in favor of government bonds / loans.)	3
Unstable political and macroeconomic environment	3
Investors' conservative approach to corporate bond market	3
Lack of retail participation	3
Riskiness of the instrument and risk aversion of investors	3
Lack of hedging instruments against market risks	2
Crowding out by large governmental borrowings	2
Lack of liquidity attributes in secondary market and opacity of secondary market	2
Lack of efficient trading, clearing and settlement mechanisms	2
Inadequate price transparency (such as inadequate reporting requirements in OTC bond markets or non-existence of price vendors to support the valuation process in the corporate bond markets)	2
Inadequate savings level for investment in corporate bond market	1
Inefficient and expensive primary market (High issuance costs, costly disclosure requirements, etc. in issuance process)	1
Protracted pre-launch reviewing period and lengthy approval time.	1
Insufficient information disclosure by issuers	1
Lack of advanced, economical and less burdensome securities offering methods for institutional investors (traditional private placements, institutional offerings, integrated disclosure, self-registration and other hybrid regimes)	1
Lack of a benchmark yield curve from government bond issuance in pricing the corporate bond issues	1

Source: Securities and Exchange Commission Thailand.

V. Description of the Securities Settlement System

Please see the International Monetary Fund's detailed assessment of the Thailand Securities Depository by the Committee on Payment and Settlement Systems (CPSS) and International Organization of Securities Commissions (IOSCO).³⁷

A. Securities Settlement Infrastructure

As both depository and registrar, the Bank of Thailand (BOT) is responsible for the settlement of government bonds. In 2001, BOT's real-time gross settlement (RTGS) system—BAHTNET—was restructured to incorporate delivery-versus-payment (DVP) facilities on all government securities.

Most corporate bonds are cleared and settled at the Stock Exchange of Thailand (SET) subsidiary, the Thailand Securities Depository (TSD).

Debt securities clearing and settlement services provided by TSD meet the international standard according to the Group of Thirty (G-30) recommendations. DVP and Receipt versus Payment (RVP) are implemented on an RTGS basis for the clearing and settlement system in Thailand. The settlement and delivery dates are on the second day after the trade date (T+2), the procedures of which are as follows:

- (i) The seller and buyer send information regarding the delivery and receipt of securities for each transaction either via the TSD Web Service or the SWIFT Network.
- (ii) TSD verifies the information before matching. If the securities balance of the seller in the depository system is sufficient, the system will proceed with TSD sending an order to the BOT's BAHTNET system to transfer funds to the buyer's account. In case the securities balance is not sufficient, the order will be held in queue until the end of the day.

³⁷ International Monetary Fund. 2009. *Thailand: Financial Sector Assessment Program—Detailed Assessment of Observance of Thailand Securities Depository (TSD) of the CPSS/IOSCO Recommendations for Securities Settlement Systems*. IMF Country Report No. 09/150. <http://www.imf.org/external/pubs/ft/scr/2009/cr09150.pdf>

- (iii) The BAHTNET system will go through the balance of the buyer to ensure that there is a sufficient amount of funds for transferring. In case of any problems, the BOT will inform TSD immediately.
- (iv) If there is a sufficient amount of funds, the BAHTNET system will transfer the funds from the buyer's account to the seller's account and inform TSD of the transaction accordingly.
- (v) TSD sends confirmation to the buyer and seller at the end of the day.

1. The Thailand Securities Depository and Book-Entry System for Debt Instruments

TSD provides an in-house development called Post-Trade Integration (PTI) system as the book-entry system to TSD's members. The functions on the PTI system include custody, clearing and settlement, and submission of list of bondholders to the BOT. The system aims to provide the settlement mechanism for both Deliver/Receive Versus Payment (DVP/RVP) and Deliver Free of Payment (DP) and Receive Free of Payment (RF). TSD's members can submit settlement orders via SWIFT³⁸ messages or the PTI system.

The SET has successfully implemented PTI. PTI is designed based on new technology that supports straight-through processing (STP), connecting it with external systems automatically via global message standards. In addition, it integrates all financial instruments, such as equity, corporate and government bonds into one system. The introduction of PTI helped improve the efficiency and effectiveness of business operation and risk management.

Having gone live in October 2007, PTI replaces legacy systems that supported after-trade services from securities clearing and settlement to securities depository, and from securities registration to risk management of the clearing house. Besides improving performance of post-trade systems, PTI enables a variety of value-added services such as real-time linkage with BOT, equities securities borrowing and lending (SBL), and the most recent service introduced by TSD, the Repurchase Agreement (REPO). PTI not only supports but is also central to TSD. PTI's focuses are performance, cost reduction and automated processes.

Built on modern technology and global standard, PTI's capabilities are enhanced in many aspects, including:

- (i) Ease of use and setup of new user interfaces with design based on web-based technology, and utilizes CITRIX to both provide fast response and reduce bandwidth cost.
- (ii) Message specification is based on ISO 15022 standard.
- (iii) Real-time linkage with BOT's BAHTNET system and SWIFTNet to reduce risks, attaining the highest level of efficiency and meeting international standards of clearing and settlement such as DVP/RVP transactions via RTGS.
- (iv) Automated business processes with transaction, which reduce errors from human intervention.
- (v) Online business reports with ability to export them in standard format.

³⁸ SWIFT stands for Society for Worldwide Interbank Financial Telecommunication.

Table 5.1 Information on Post-Trade Integrated (as of 31 January 2008)

PTI members		96	
Securities using registration services		577	
Settlement value (average per day)			
	Equity	3,302	MB
	Government bond	196,509	MB
Depository value (scripless)			
	Equity	4,030,748	MB
	Government bond	2,540,153	MB
Registered capital amount of registrar members		1,995,157	MB
Source: ??????.			

2. Delivery Versus Payment and Real-Time Gross Settlement Mechanism

TSD applies DVP and RTGS only with gross settlement. DVP shall be employed between TSD and TSD's members. RTGS shall be implemented between TSD and the BOT. The process involves:

- (a) Receiving orders from the PTI system and automatically check the availability of such securities in the specified depository account provided by the members.
- (b) Holding such securities until the system acknowledged the payment confirmation.
- (c) Submitting payment requests to BOT through RTGS.
- (d) BOT clearing the money by submitting the payment confirmation back to PTI system. The details shall specify that BOT has deducted money from the purchaser bank account and deposited it into the seller bank account.
- (e) PTI shall transfer held securities to the purchaser's depository account as specified.

3. Post-Trade Matching Mechanism

PTI only provides the matching mechanism for over-the-counter (OTC) transactions as gross-gross settlement. Thus, TSD sets the criteria the post-trade matching mechanism for gross-gross settlement by using the following six fields:

- (i) Settlement date
- (ii) International Securities Identification Number (ISIN) code
- (iii) Amount of securities
- (iv) Sender's depository account
- (v) Receiver's depository account
- (vi) Amount of payment

However, for Delivery/Receive Free, TSD will use only five fields for the matching mechanism. The details are as follows:

- (i) Settlement date
- (ii) ISIN code
- (iii) Amount of securities
- (iv) Sender's depository account
- (v) Receiver's depository account

4. Execution Matching Mechanism

Execution matching is employed for trades on both the OTC market and the exchange. In principle, for net settlement of trades occurring on the exchange, TSD receives the matching information directly from the trading system of the exchange. For gross settlement occurring for trades originating in the OTC market, TSD utilizes PTI as the execution matching mechanism.

5. Settlement Scheme for Corporate Bonds, Government Bonds and Other Debt Securities

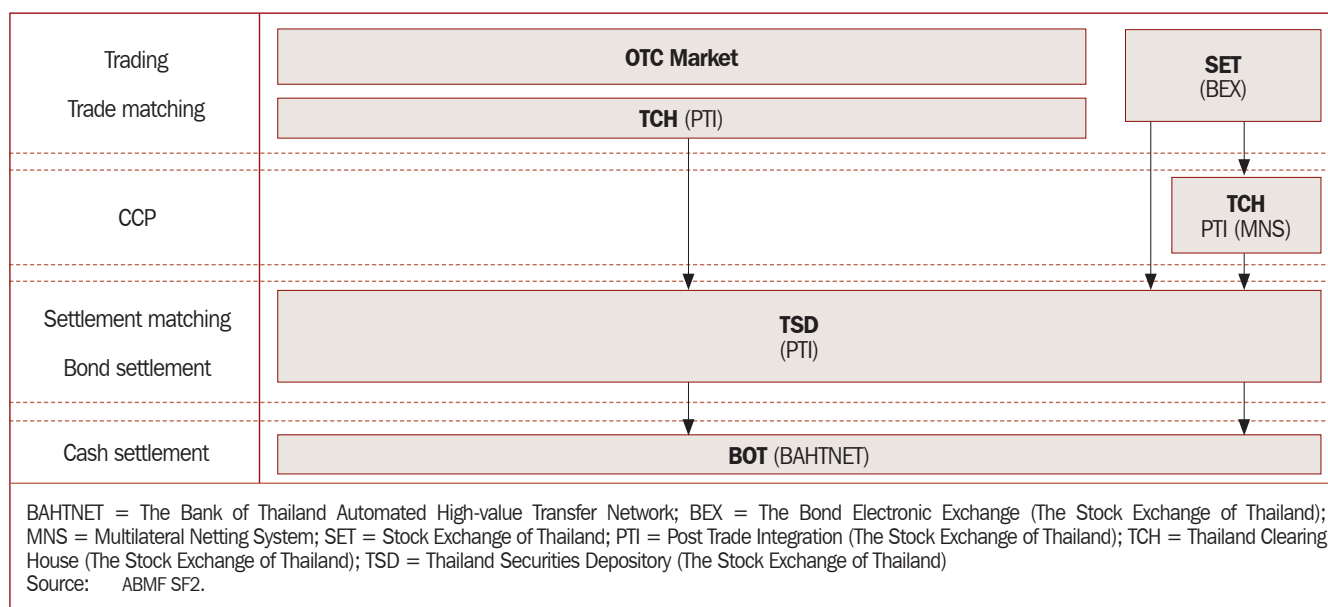
- (i) Gross-Gross for the OTC market
- (ii) Net-Net for the exchange

6. Settlement Cycle for Corporate Bonds and Government Bonds

- a. For the OTC market, the settlement cycle can be negotiated between counterparties and typically ranges from T+1 to T+3, depending on the involvement of foreign investors with time zone considerations.
- b. For the exchange, it is T+2.

B. Bond Settlement Infrastructure Diagram (Thailand)

Figure 5.1 Thai Bond Infrastructure Diagram



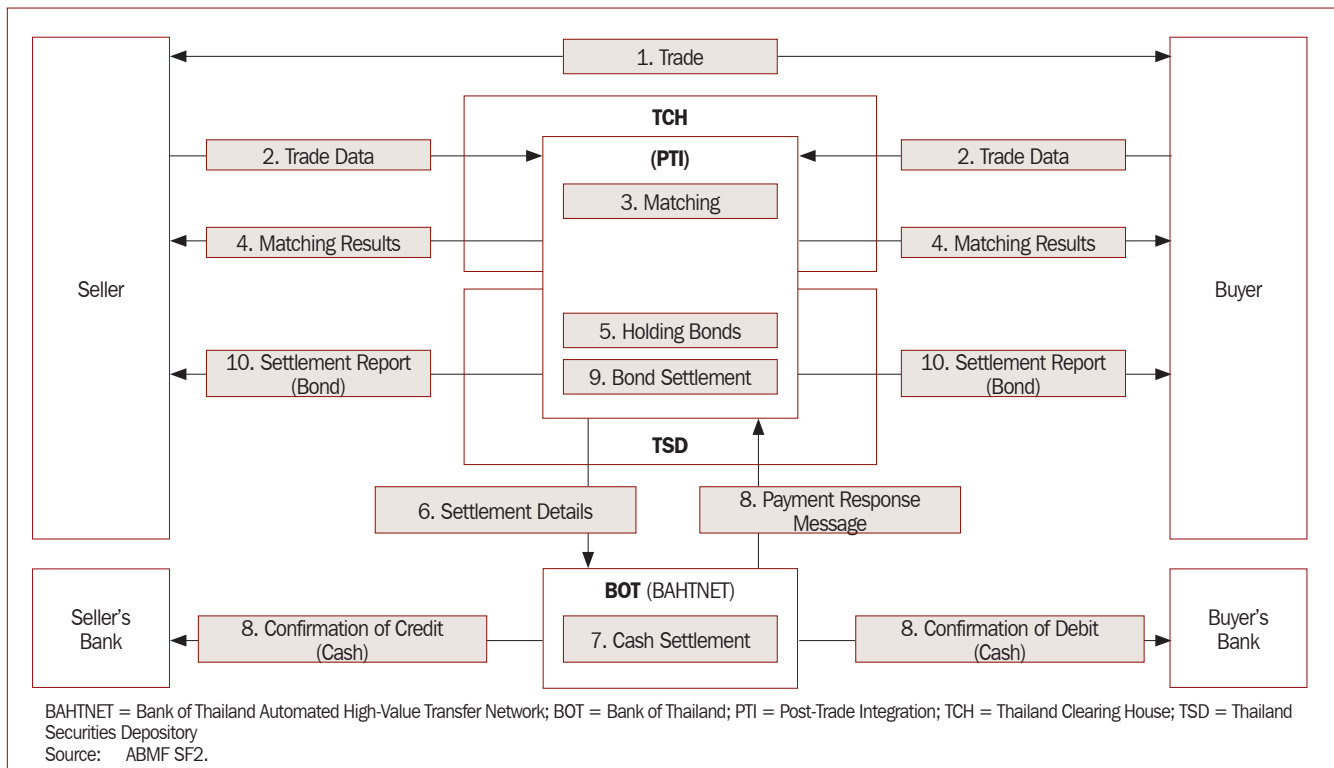
C. Brief History of the Development of the Securities Settlement Infrastructure

Prior to the year 2006, clearing and settlement was executed at the BOT both in physical and dematerialized securities. In 2006, TSD migrated the clearing and settlement of dematerialized securities (all types of debt instruments) into the PTI system. However, the BOT remains responsible for the clearing and settlement of physical securities. In addition, cash clearing for transaction in both dematerialized and physical securities must be performed by the BOT. This is the current concept for clearing and settlement in Thailand.

The Central Counterparty (CCP) function for securities was transferred from the TSD to Thailand ClearingHouse Co., Ltd. (TCH), which acts as CCP for derivatives since February 2010. TCH, as a legal entity of a clearing house for both equities and bonds for trades on the SET and via OTC trading.³⁹

D. Business Process Flowchart in the Thailand Over-the-Counter/Delivery Versus Payment Bond Market

Figure 5.2 Business Process Flowchart in the Thailand Over-the-Counter/Delivery Versus Payment Bond Market

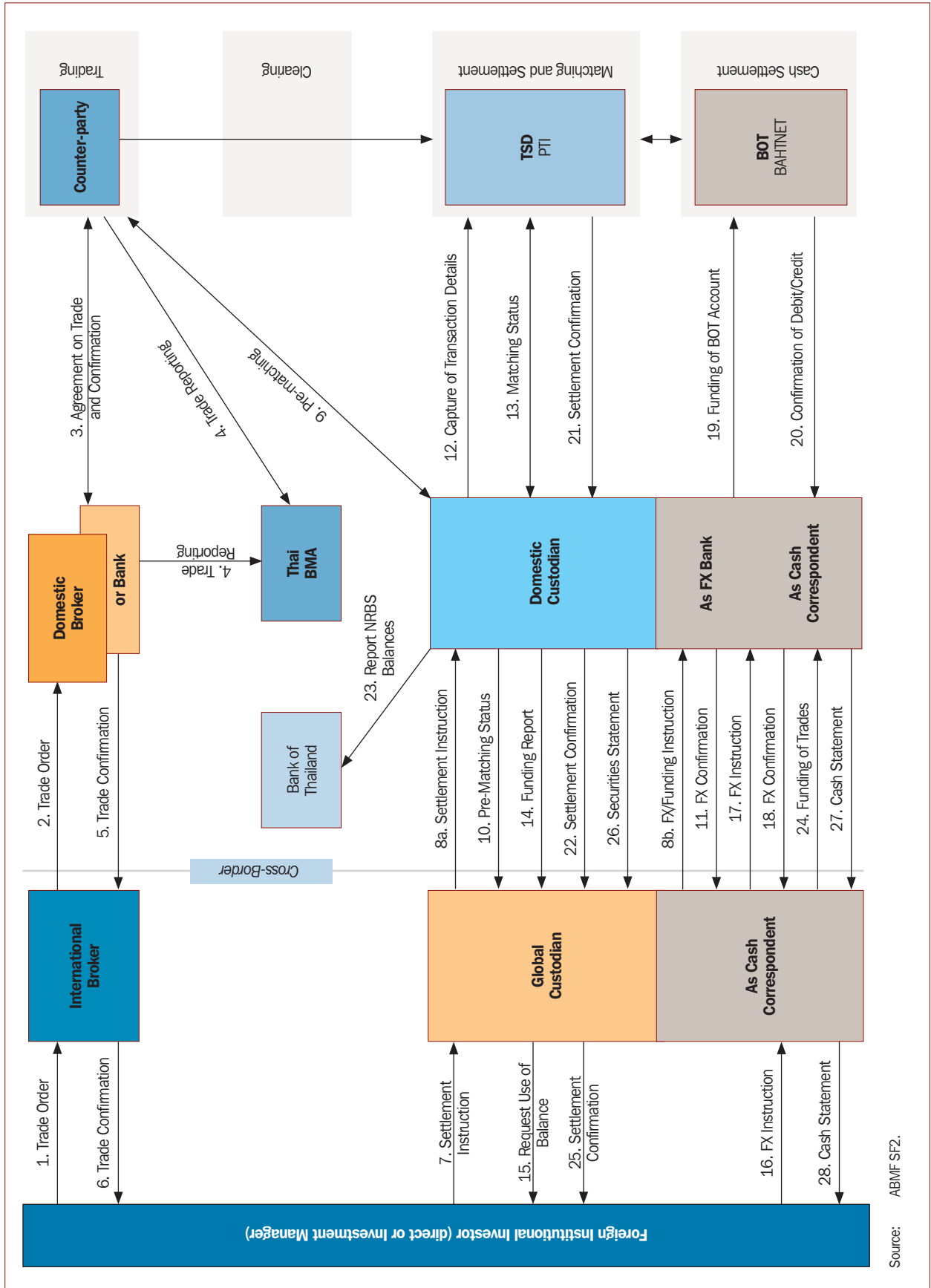


1. Seller and buyer trade via OTC market.
2. Seller and buyer send the transaction details to TCH via PTI System.
3. TCH matches trade data from seller and buyer.
4. TCH sends matching results to seller and buyer via PTI System.
5. TCH sends settlement details to TSD. Then, TSD checks availability and blocks securities in member account.
6. TSD sends cash settlement details to BOT.
7. BOT executes cash settlement.
8. BOT sends cash settlement confirmation to seller, buyer and TSD.
9. TSD releases blocked and executes securities delivery.
10. TSD sends settlement reports to seller, buyer and TCH via PTI System.

E. Thailand Bond Transaction Flow for Foreign Investors

³⁹ Thailand Clearing House Co., Ltd. <http://www.thaiclearing.com/en/PublicRelation/20100211-12.pdf>

Figure 5.3 Thailand Bond Transaction Flow for Foreign Investors



F. Role of the Thailand Clearing House

Immediately after a trading transaction is matched, the TCH as CCP, becomes a buyer to every selling member and a seller to every buying member. As a clearinghouse for all securities and derivatives traded on the SET, BEX, the Market for Alternative Investment (MAI) and the Thailand Futures Exchange (TFEX), TCH's most important role is to serve as the CCP to all trading activities on those exchanges. Thus, TCH will guarantee clearing and settlement for a concerned party; it does not matter whether any counterparty breaks their commitment. This is a crucial mechanism to lessen counterparty risk.

Immediately after a trading transaction is matched and exchanges have been confirmed at the matching transactions by their members, the TCH, as the direct CCP, becomes a buyer to every selling member and a seller to every buying member. Therefore, a member who has bought or sold the securities has an obligation not to the party on the other side of the transaction, but to the clearinghouse, just as the clearinghouse has an obligation to the member. This is called a novation process.

G. Definition of Clearing, Settlement and Assessment

Securities clearing and settlement mean the payment, acceptance of payment, delivery, and taking delivery of, securities.⁴⁰ An extract from Table 1 of the “Detailed Assessment of Observance of Thailand Securities Depository (TSD) of the Committee of Payment and Settlement Systems (CPSS)-International Organization of Securities Commission (IOSCO) Recommendations for Securities Settlement Systems (RSSS)” enumerates details on securities clearing, settlement, and assessment.⁴¹

1. Legal Basis of the Clearing and Settlement

The securities clearing and settlement activities in Thailand are governed and regulated by specifically issued laws and regulations and by provisions in other legislations and regulations. The main laws and regulations are:

- a. The *Civil and Commercial Code* (e.g., provisions governing juristic acts, obligations, contracts);
- b. The *Securities and Exchange Act B.E. 2535 (1992)* (SEA) (Sections 50–55, 199, 224–228);
- c. The *Public Limited Company Act B.E. 2535 (1992)*;
- d. Notifications, rules, and regulations issued by the SET and TSD;
- e. The agreement between members and TSD as a central securities depository (CSD) and a clearinghouse;
- f. *BAHTNET Rules and Regulations B.E. 2549 (2006)*; and
- g. The *Bankruptcy Act B.E. 2483 (1940)*.

2. Enforceability of Transactions

The contractual arrangements between TSD and its participants are fully enforceable under the *Civil and Commercial Code*. In particular, each participant signs a contract

⁴⁰ Thailand Clearing House. Thailand Clearing House Rules and Regulations. <http://www.thaiclearing.com/en/equity/rules/TCHregulationChapter200.pdf>

⁴¹ Footnote 53.

with TSD, which binds the participant to TSD regulations. TSD regulations can be enforced through legal action.

3. Customer Assets Protection

The law and regulation require a clear segregation and application of customers' assets from those of intermediaries. At the level of the CSD, an intermediary is obliged to separate between its securities holdings and customers' holdings. TSD is also required to separate its own securities holdings and the assets of its participants. In addition, entities acting as custodians such as banks, investment firms and other financial intermediaries are legally obliged to have an internal accounting system that allows the identification of the holdings of their customers at any time.

4. Immobilization and Dematerialization of Securities

In accordance with Sec. 225 to Sec. 228 of the SEA, immobilization in the TSD system has been arranged through the transfer of securities by book entry. The transfer of securities by book entry shall be deemed to be the delivery of securities, which constitutes the legal basis for the validity of securities transfer under Sec. 199 and Sec. 51 of the SEA. Moreover, securities transferred into the name of TSD shall be presumed to be securities held by TSD on behalf of its members or of any customers of its members. However, there is no explicit legislation for the dematerialization of securities.

5. Netting Arrangements

TSD assumes the role of a CCP for a multilateral netting procedure that takes place before the settlement is executed. This netting arrangement is enforceable under Sec. 341 to Sec. 348 of the *Civil and Commercial Code*, and Sec. 102 of the *Bankruptcy Act B.E. 2483 (1940)*.

However, since Sec. 102 of the *Bankruptcy Act* allows netting of obligations only if the cause of indebtedness is incurred before the date of the receivership order, TSD may not net its obligations against the obligations of the insolvent participant which arise on that date.

6. Securities Lending Arrangements

Securities lending and collateralization arrangements are based on the outright transfer of securities. The SEC rule requires the transfer of the legal title in securities borrowed from the lender to the borrower, and the legal title in collateral is transferred from the borrower to the lender.

7. Finality of Settlement

TSD rule clearly states the timing of finality and the way finality is achieved. The transfer of funds is enforced through BOT regulation. Furthermore, there is no explicit legal protection for settlement finality, which can be challenged by a court decision. In accordance with Sec. 115 of the *Bankruptcy Act*, the court is empowered to reverse the debtor's transfer of assets during the 3 months prior to an application to adjudicate him as bankrupt, and thereafter if the court finds that the debtor transfers such assets with the intention to give undue preference to a creditor. Thus, if the court orders the receivership of a clearing house member or a settlement bank, the court may cancel the transfer of funds and securities made during that period, if the official receiver is able to prove that the transfer has been made by the debtor with the intention to cause other creditors a disadvantage.

8. Delivery Versus Payment

TSD rule clearly states that all securities transactions must be settled on a DVP basis.

9. Challenges by a Court

No court case has yet occurred.

10. Enforceability of Rules and Regulations in the Event of Bankruptcy

There is no explicit legal protection of netting procedures as well as the settlement finality when insolvency is involved. Consequently, it cannot be ruled out that transactions settled in TSD will be protected against a court decision in the event a participant becomes insolvent.

11. Cross-Border Participation

There is no cross-border participation in TSD.

12. Conflict of Law Issues

Conflict of law issues is not applicable. An assessment on a scale of 1 to 12 shows “Broadly observed.” It is recommended to implement adequate legal measures that ensure the netting arrangement is legally protected even in the event of the insolvency of a participant.

H. Challenges and Future Direction

The contractual arrangements between TSD and its participants are fully enforceable under the *Civil and Commercial Code*. Netting arrangements can be challenged in the event of bankruptcy.⁴² Explicit legislation for the dematerialization of securities should also be considered going forward.

⁴² Footnote 53, Table 2.

VI. Cost and Charging Methods

A. Average Issuing and Trading Costs for Corporate Bonds and Commercial Papers

Some of the average issuing and trading cost components are illustrated in this chapter.

1. Transfer Fees

The Thailand Securities Depository (TSD) or the bank calculates and collects a transfer fee on a transaction basis.

Table 6.1 Transfer Fees for Government Bonds and Other Securities

Menu	Fee
a. Transfer fee for all government bond transfers that are not a personal asset transfer, inheritance transfer, or any transfers according to court order or the transfer of securities between securities accounts of the same owner.	THB35
b. Other securities transfer that are not categorized in (a)	THB10

Source: Thailand Securities Depository Co., Ltd.

2. Registration and Conversion Fees

TSD charges a registration fee of B20 for conversion of local shares to foreign shares and vice versa. Asset management companies charge a registration fee of THB10 per application for open-ended unit trusts for registration of name change.

3. Underwriting Fee

The underwriting fee depends upon the negotiations.

4. Brokerage Fees

Securities brokers who are SET's members charge brokerage fee or commission on buying or selling of securities at the following rates plus 7% of value-added tax (VAT).

- (i) For shares, warrants on shares, Transferable Subscription Right (TSR), Derivative Warrants (DW), Non-Voting Depository Receipts (NVDR), or unit trust for Thai Trust Fund (TTF):

Table 6.2 Brokerage/Commission Fees on Securities Transactions

Trading Types	Brokerage/Commission Fee (% of trading value)
Internet Trading	0.15%
Non-Internet Trading	0.25%

Source: Deutsche Bank AG Domestic Custody Services, Market Guide Thailand, December 2009.

- (ii) For unit trusts, or warrants on unit trusts, brokerage or commission fees are at the rate of not less than 0.10% of trading value.
- (iii) For unit trusts of a fixed-income fund, warrants on such unit trusts, or debt instruments, the brokerage or commission fee is negotiable.
- (iv) Beginning 1 January 2010, brokerage fees as detailed in Table 6.2 were applied. However, as part of the Stock Exchange of Thailand (SET)'s plan to fully liberalize securities business in Thailand by 2012, the brokerage fee is freely negotiable starting 1 January 2012.

B. Average Ongoing Costs for Corporate Bonds and Commercial Papers

1. Maintenance Fee at the Thailand Securities Depository

TSD collects maintenance fee on the basis of the remaining securities in the depository account on a monthly basis. Since TSD does not allow individual investors to open a depository account with TSD and does not recognize investors individually, TSD charges a fee to participant members who open securities accounts for their clients directly. The fees are shown as in the following.

Table 6.3 Maintaining of Securities Depository Account Fee

Menu	Fee per THB1 million of Value of Investment	Securities depository period by calculating the outstanding value of securities
a. Debentures /convertible debentures, short-term bonds, warrants, and other similar securities	THB1 monthly	Par Value
b. Bond, Treasury bills or other types of government debt instruments in depository account. - For 100% tax-exempted foundations and financial institutions whose government bonds are legal liquidity reserve.	THB0.25 monthly	Par Value

Source: Thailand Securities Depository Co., Ltd.

2. Interest Payment and Redemption Fee at the Thailand Securities Depository

- a. **Interest Payment.** TSD collects a fee for compilation of the bondholders' list on record date at the rate of B5 per transaction, with a minimum fee of THB500 per security.

- b. **Redemption Fee.** TSD collects a fee for compilation of the bondholders' list on record date at the rate of B5 per transaction, with a minimum fee of B500 per security. TSD also collects a withdrawal fee from TSD's members for withdrawing and terminating the securities from the book-entry system at the rate B65 per one depository account.

Details about fees for registration, transfer or registrar fee, as well as for deposit and withdrawal are available on the TSD website.⁴³

⁴³ Thailand Securities Depository. <http://www.tsd.co.th/en/info/fee1.html#Deposit>

VII. Market Size and Statistics

A. Nature and Size of the Thai Bond Market

1. The size of the market for debt instruments in terms of nominal or notional principal amounts outstanding and gross market values traded for 2009 are shown in Table 7.1.

Table 7.1 Size of the Market for Debt Instruments, 2009

Debt Instruments	Nominal/Notional Amount Outstanding (USD million)	Gross Market Value Traded Per Annum ((USD million)	
		Over the Counter	Exchange
Bonds	176,564.49	447,416.87	N/A
Government bonds	144,287.10	442,249.60	N/A
Corporate bonds	32,277.39	5,167.27	N/A
Commercial papers	2,298.00	1,512.11	N/A

Source: The Thai Bond Market Association.

2. Data for Corporate Bonds Issues by Type of Issue

Table 7.2 Data for Corporate Bond by Type of Issue (USD million)

Sector	2005		2006		2007		2008		2009	
	No. of Issues	Amount	No. of Issues	Amount	No. of Issues	Amount	No. of Issues	Amount	No. of Issues	Amount
Public Issues	67	37,168	84	39,558	71	39,009	93	28,477	29	11,026
Private Placements	31	4,279	12	5,093	12	763	37	2,708	30	1,805

Source: The Thai Bond Market Association.

3. Total Corporate Bond Trades in the Secondary Market

Table 7.3 Total Corporate Bond Trades in the Secondary Market, 2005–2009

Year	Exchange Traded		Over-the-Counter Trades	
	No of Trades	Traded Value (USD million)	No of Trades	Traded Value (USD million)
2005	N/A	N/A	N/A	2,390
2006	8,535	8	N/A	2,848
2007	8,849	9	N/A	4,158
2008	6,828	7	N/A	3,567
2009	4,585	5	N/A	5,167

Source: Thai Bond Market Association.

4. Size of the Market for Each Type of Bonds

Table 7.4 Size of the Market per Type of Bonds, 2009

Type of Bond	Amount (USD million)	
	Public Issue	Private Placement
Plain Vanilla Bond ^a	11,713.97	2,487.38
Floating-Rate Bond	61.54	172.04
Fixed-Rate Bond	11,652.43	2,315.34
Structured Bond	62.37	N/A
Convertible Bond	N/A	N/A
Other Types of Bonds	N/A	12.92

^a Plain vanilla bond = floating-rate bond + fixed-rate bond
Source: Thai Bond Market Association.

5. Main Buyers in the Corporate Bond Market

Table 7.5 Main Buyers in the Corporate Bond Market

Entity	%
Mutual Funds	7.9%
Banks/Financial Institutions	6.2%
Corporate Entities	6.4%
Insurance Companies	8.6%
Pension Funds	14.8%
Retail Investors	44.7%
Others (Government sector, foundation, co-operatives, temples, etc.)	11.4%

Source: Thai Bond Market Association.

6. Market Size by Local Currency

Table 7.6 Size of Thailand Financial Market, 2002-2010

Economic Indicator	2002	2003	2004	2005	2006	2007	2008	2009	2010
Bank Loans -- THB Billion *	4,602.70	4,701.50	5,081.35	5,488.43	5,706.75	6,221.76	7,368.65	7,675.57	8,767.56 (Nov)
Equities (SET mkt. cap) -- THB Billion **	1,986.24	4,789.86	4,521.89	5,105.11	5,078.70	6,636.07	3,568.22	5,873.10	8,334.68
Domestic Bond (at par) -- THB Billion ***	2,300.00	2,518.00	2,740.38	3,366.84	4,085.26	4,885.76	5,080.05	6,114.49	6,879.48

Source: * Bank of Thailand <http://www2.bot.or.th/statistics/BOTWEBSTAT.aspx?reportID=272&language=TH>
 ** SET http://www.set.or.th/th/market/market_statistics.html
 *** ThaiBMA Monthly Report >> Thai Bond Summary >> Part1 (include non-registered bonds)

Table 7.7 Thailand Bond Market Association Outright Trading and Outstanding Value, 2009–2010 (THB million)

Type	2009		2010		% Change	
	Outright Trading	Outstanding	Outright Trading	Outstanding	Trading	Outstanding
Government Bond	1,484,396.65	2,130,820.44	1,754,405.00	2,523,158.12	↑ 18%	↑ 18%
State Own Enterprise	78,988.31	532,052.97	43,230.05	501,776.88	↓ -45%	↓ -6%
- Guaranteed	59,435.16	372,182.87	35,096.19	341,560.40	↓ -41%	↓ -8%
- Non-guaranteed	19,553.15	159,870.10	8,133.86	160,216.48	↓ -58%	↑ 0.2%
T-Bills	1,288,820.61	206,540.00	807,037.43	71,710.00	↓ -37%	↓ -65%
State Agency	11,520,110.58	1,819,657.66	13,815,524.92	2,411,731.66	↑ 20%	↑ 33%
Corporate	167,927.46	1,123,638.02	178,168.18	1,189,304.60	↑ 6%	↑ 6%
- Long-term	118,786.00	1,048,956.97	127,568.92	1,103,640.44	↑ 7%	↑ 5%
- Short-term (Commercial Paper)	49,141.46	74,681.05	50,599.26	85,664.16	↑ 3%	↑ 15%
Foreign Bond	4,485.19	55,962.00	9,322.95	57,962.00	↑ 108%	↑ 4%
Total Value	14,544,728.80	5,868,671.09	16,607,688.53	6,755,643.26	↑ 14%	↑ 15%
- Monthly Average	1,212,060.73		1,383,974.04		↑ 14%	
- No. of trading days	243		242		↓ -0.4%	
- Daily Average	59,854.85		68,626.81		↑ 15%	
No. of Outright Transaction	94,947		104,532		↑ 10.1%	
- Monthly Average	7,912		8,711		↑ 10.1%	
- Daily Average	391		432		↑ 11%	
Dealer Participation	38		35		↓ -8%	

Unit : THB Million
 Source : ThaiBMA

B. Size of Local Currency Bond Market

Table 7.8 Size of Local Currency Bond Market, Local Sources (USD billion)

Date	Govt (USD billions)	Corp (USD billions)	Total (USD billions)
Mar-95	10.44	0.69	11.13
Jun-95	10.61	0.65	11.26
Sep-95	10.99	0.57	11.56
Dec-95	11.54	0.85	12.39
Mar-96	11.64	4.80	16.44
Jun-96	12.11	4.72	16.83
Sep-96	12.12	5.80	17.92
Dec-96	13.14	5.82	18.95
Mar-97	15.51	5.49	20.99

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Table 7.8 continuation

Date	Govt (USD billions)	Corp (USD billions)	Total (USD billions)
Jun-97	15.92	5.81	21.72
Sep-97	9.80	3.88	13.68
Dec-97	7.64	3.01	10.65
Mar-98	9.98	3.45	13.44
Jun-98	13.46	2.94	16.40
Sep-98	14.86	3.18	18.04
Dec-98	20.33	4.12	24.45
Mar-99	23.28	3.94	27.21
Jun-99	24.74	4.17	28.91
Sep-99	23.42	3.95	27.37
Dec-99	26.57	4.96	31.53
Mar-00	26.51	5.14	31.65
Jun-00	26.53	5.23	31.76
Sep-00	26.64	5.07	31.72
Dec-00	25.89	5.16	31.05
Mar-01	26.64	4.78	31.42
Jun-01	27.19	5.21	32.4
Sep-01	29.14	5.64	34.78
Dec-01	30.12	5.69	35.81
Mar-02	32.04	5.56	37.60
Jun-02	33.92	6.12	40.04
Sep-02	39.63	5.76	45.39
Dec-02	40.41	6.50	46.92
Mar-03	40.68	6.45	47.13
Jun-03	41.98	6.78	48.76
Sep-03	46.74	7.79	54.52
Dec-03	46.50	11.55	58.05
Mar-04	48.04	11.43	59.47
Jun-04	47.46	11.09	58.55
Sep-04	50.89	10.82	61.71
Dec-04	54.43	12.22	66.65
Mar-05	56.90	12.11	69.00
Jun-05	57.58	12.55	70.13
Sep-05	62.21	13.06	75.27
Dec-05	64.93	14.06	78.99
Mar-06	72.43	15.69	88.12
Jun-06	75.66	17.90	93.56
Sep-06	79.54	20.21	99.75
Dec-06	87.00	24.52	111.52
Mar-07	95.27	23.89	119.16
Jun-07	98.57	26.75	125.32
Sep-07	103.48	27.22	130.70
Dec-07	111.48	27.72	139.19
Mar-08	126.91	29.30	156.21
Jun-08	121.23	29.09	150.32
Sep-08	119.11	27.78	146.88
Dec-08	112.11	28.83	140.94
Mar-09	118.64	28.71	147.35
Jun-09	125.66	33.45	159.11

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Table 7.8 continuation

Date	Govt (USD billions)	Corp (USD billions)	Total (USD billions)
Sep-09	136.40	35.76	172.17
Dec-09	141.20	35.66	176.86
Mar-10	153.52	37.52	191.03
Jun-10	159.55	38.26	197.81
Sep-10	176.27	40.42	216.69
Dec-10	182.94	41.70	224.63
Mar-11	180.87	44.16	225.03
Jun-11	177.88	44.05	221.93

Source: AsianBondsOnline. http://asianbondsonline.adb.org/thailand/data/bondmarket.php?code=LCY_in_USD_Local

C. Size of Local Currency Bond Market in Percentage of Gross Domestic Product

Table 7.9 Size of Local Currency Bond Market in Percentage of Gross Domestic Product, Local Sources

Date	Govt (in % GDP)	Corp (in % GDP)	Total (in % GDP)	Govt (USD billions)	Corp (USD billions)	Total (USD billions)
Mar-95	6.8	0.4	7.3	10.44	0.69	11.13
Jun-95	6.7	0.4	7.1	10.61	0.65	11.26
Sep-95	6.8	0.4	7.1	10.99	0.57	11.56
Dec-95	6.9	0.5	7.5	11.54	0.85	12.39
Mar-96	6.9	2.8	9.7	11.64	4.80	16.44
Jun-96	7.0	2.7	9.7	12.11	4.72	16.83
Sep-96	6.8	3.3	10.1	12.12	5.80	17.92
Dec-96	7.3	3.2	10.5	13.14	5.82	18.95
Mar-97	8.7	3.1	11.7	15.51	5.49	20.99
Jun-97	8.4	3.1	11.5	15.92	5.81	21.72
Sep-97	7.5	3.0	10.5	9.80	3.88	13.68
Dec-97	7.6	3.0	10.6	7.64	3.01	10.65
Mar-98	8.1	2.8	10.9	9.98	3.45	13.44
Jun-98	12.0	2.6	14.6	13.46	2.94	16.40
Sep-98	12.5	2.7	15.2	14.86	3.18	18.04
Dec-98	16.1	3.3	19.4	20.33	4.12	24.45
Mar-99	19.1	3.2	22.3	23.28	3.94	27.21
Jun-99	20.0	3.4	23.3	24.74	4.17	28.91
Sep-99	20.8	3.5	24.3	23.42	3.95	27.37
Dec-99	21.5	4.0	25.5	26.57	4.96	31.53
Mar-00	21.3	4.1	25.4	26.51	5.14	31.65
Jun-00	21.7	4.3	26.0	26.53	5.23	31.76
Sep-00	23.1	4.4	27.6	26.64	5.07	31.72
Dec-00	22.8	4.5	27.4	25.89	5.16	31.05
Mar-01	24.1	4.3	28.4	26.64	4.78	31.42
Jun-01	24.4	4.7	29.1	27.19	5.21	32.40
Sep-01	25.4	4.9	30.3	29.14	5.64	34.78
Dec-01	25.9	4.9	30.8	30.12	5.69	35.81
Mar-02	26.8	4.6	31.4	32.04	5.56	37.60
Jun-02	26.7	4.8	31.5	33.92	6.12	40.04
Sep-02	32.1	4.7	36.7	39.63	5.76	45.39
Dec-02	32.0	5.1	37.1	40.41	6.50	46.92

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Table 7.9 continuation

Date	Govt (in % GDP)	Corp (in % GDP)	Total (in % GDP)	Govt (USD billions)	Corp (USD billions)	Total (USD billions)
Mar-03	31.3	5.0	36.3	40.68	6.45	47.13
Jun-03	31.1	5.0	36.1	41.98	6.78	48.76
Sep-03	32.4	5.4	37.8	46.74	7.79	54.52
Dec-03	31.1	7.7	38.9	46.50	11.55	58.05
Mar-04	31.3	7.4	38.8	48.04	11.43	59.47
Jun-04	31.5	7.4	38.8	47.46	11.09	58.55
Sep-04	33.3	7.1	40.4	50.89	10.82	61.71
Dec-04	32.6	7.3	40.0	54.43	12.22	66.65
Mar-05	33.6	7.2	40.8	56.90	12.11	69.00
Jun-05	35.3	7.7	43.0	57.58	12.55	70.13
Sep-05	36.9	7.7	44.7	62.21	13.06	75.27
Dec-05	37.6	8.1	45.7	64.93	14.06	78.99
Mar-06	38.4	8.3	46.8	72.43	15.69	88.12
Jun-06	38.3	9.1	47.3	75.66	17.90	93.56
Sep-06	38.8	9.9	48.7	79.54	20.21	99.75
Dec-06	39.3	11.1	50.4	87.00	24.52	111.52
Mar-07	41.7	10.5	52.2	95.27	23.89	119.16
Jun-07	41.8	11.3	53.2	98.57	26.75	125.32
Sep-07	42.7	11.2	53.9	103.48	27.22	130.70
Dec-07	44.1	11.0	55.0	111.48	27.72	139.19
Mar-08	45.8	10.6	56.4	126.91	29.30	156.21
Jun-08	45.3	10.9	56.2	121.23	29.09	150.32
Sep-08	44.1	10.3	54.4	119.11	27.78	146.88
Dec-08	42.9	11.0	53.9	112.11	28.83	140.94
Mar-09	46.8	11.3	58.1	118.64	28.71	147.35
Jun-09	48.0	12.8	60.8	125.66	33.45	159.11
Sep-09	51.5	13.5	65.0	136.40	35.76	172.17
Dec-09	52.1	13.2	65.3	141.20	35.66	176.86
Mar-10	52.8	12.9	65.7	153.52	37.52	191.03
Jun-10	53.5	12.8	66.3	159.55	38.26	197.81
Sep-10	53.9	12.4	66.3	176.27	40.42	216.69
Dec-10	54.4	12.4	66.8	182.94	41.70	224.63
Mar-11	53.2	13.0	66.2	180.87	44.16	225.03

Source: AsianBondsOnline, Footnote 60. http://asianbondsonline.adb.org/thailand/data/bondmarket.php?code=LCY_in_GDP_Local

D. Size of Foreign Currency Bond Market in Percentage of Gross Domestic Product, Bank for International Settlementment

Table 7.10 Foreign Currency Bonds to Gross Domestic Product Ratio

Date	as % of Gross Domestic Product (GDP)	Foreign Currency-Denominated Bonds (USD billion)	GDP (USD billion)
Dec-95	3.3	5.5	166.2
Dec-96	5.4	9.6	179.8
Dec-97	11.7	11.8	100.7
Dec-98	9.4	11.9	126.2
Dec-99	10.4	12.9	123.7
Dec-00	10.5	11.9	113.5

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Table 7.10 continuation

Date	as % of Gross Domestic Product (GDP)	Foreign Currency-Denominated Bonds (USD billion)	GDP (USD billion)
Dec-01	8.6	10.0	116.1
Dec-02	7.9	10.0	126.4
Dec-03	6.1	9.1	149.4
Mar-04	5.3	8.2	153.5
Jun-04	5.7	8.7	150.8
Sep-04	6.1	9.3	152.7
Dec-04	5.8	9.7	166.7
Mar-05	5.8	9.8	169.3
Jun-05	6.8	11.2	163.2
Sep-05	6.3	10.7	168.6
Dec-05	6.2	10.8	172.9
Mar-06	5.7	10.8	188.4
Jun-06	5.7	11.3	197.6
Sep-06	5.8	11.8	204.9
Dec-06	5.1	11.3	221.3
Mar-07	4.7	10.7	228.4
Jun-07	4.1	9.6	235.7
Sep-07	4.0	9.6	242.3
Dec-07	3.7	9.4	252.9
Mar-08	3.5	9.6	277.1
Jun-08	3.5	9.4	267.6
Sep-08	3.5	9.3	270.1
Dec-08	3.4	9.0	261.4
Mar-09	3.4	8.7	253.4
Jun-09	3.4	8.8	261.6
Sep-09	3.3	8.7	264.7
Dec-09	3.1	8.5	270.9
Mar-10	2.9	8.3	290.7
Jun-10	2.7	8.0	298.2
Sep-10	2.5	8.2	326.9
Dec-10	2.4	8.1	336.2
Mar-11	2.5	8.4	339.7

Source: AsianBondsOnline. http://asianbondsonline.adb.org/thailand/data/bondmarket.php?code=FCY_in_GDP

E. Size of Foreign Currency Bond Market, Local Sources

Table 7.11 Foreign Currency Bonds Outstanding, Local Sources (USD billion)

Date	Government (USD billion)	Banks and Financial Institutions (USD billion)	Other Corporates (USD billion)	Total Foreign Currency (USD billion)
Mar-04	4.59	1.88	2.17	8.65
Jun-04	5.52	2.03	2.13	9.68
Sep-04	5.58	2.03	2.52	10.13
Dec-04	5.51	2.03	2.54	10.08
Mar-05	5.73	2.03	2.38	10.14
Jun-05	6.55	2.09	2.84	11.48
Sep-05	6.20	1.77	3.45	11.42
Dec-05	6.13	1.77	3.62	11.51

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Table 7.11 continuation

Date	Government (USD billion)	Banks and Financial Institutions (USD billion)	Other Corporates (USD billion)	Total Foreign Currency (USD billion)
Mar-06	6.08	1.52	3.53	11.12
Jun-06	6.24	1.84	3.33	11.41
Sep-06	6.19	2.22	3.22	11.63
Dec-06	5.71	2.56	3.18	11.45
Mar-07	5.72	2.05	3.06	10.84
Jun-07	2.88	2.05	3.59	8.51
Sep-07	2.95	2.05	3.64	8.64
Dec-07	2.98	2.05	3.54	8.57
Mar-08	3.23	2.05	3.58	8.87
Jun-08	2.47	2.05	3.67	8.20
Sep-08	2.47	2.05	3.67	8.20
Dec-08	1.72	2.07	3.63	7.41
Mar-09	1.47	2.07	3.55	7.08
Jun-09	1.48	1.62	3.56	6.66
Sep-09	1.37	1.62	3.59	6.58
Dec-09	1.35	1.47	3.57	6.39
Mar-10	1.10	1.47	3.57	6.14
Jun-10	1.13	1.31	3.59	6.03
Sep-10	1.17	1.98	3.62	6.77
Dec-10	1.44	3.00	3.28	7.72
Mar-11	1.42	3.18	3.45	8.05

Source: AsianBondsOnline. http://asianbondsonline.adb.org/thailand/data/bondmarket.php?code=FCY_Bonds_Outstanding

F. Issuance Volume of Local Currency Bond Market

Table 7.12 Issuance Volume of Local Currency Bond Market (USD billion)

Date	Govt. (in USD billions)	Corp (in USD billions)	Total (in USD billions)
Mar-95	0.3907	0.3627	0.7533
Jun-95	0.5002	0.2038	0.7040
Sep-95	1.1175	0.7616	1.8791
Dec-95	1.3748	0.7666	2.1414
Mar-96	1.1876	0.1155	1.3031
Jun-96	2.0995	0.8286	2.9281
Sep-96	1.9485	0.6599	2.6084
Dec-96	2.4693	0.5097	2.9791
Mar-97	4.2876	0.1428	4.4305
Jun-97	3.5830	0.1820	3.7650
Sep-97	0.5229	0.1457	0.6686
Dec-97	0.4367	0.1044	0.5411
Mar-98	0.9256	0.0733	0.9989
Jun-98	4.6916	0.0576	4.7492
Sep-98	1.4119	0.0711	1.4830
Dec-98	5.7998	0.7970	6.5968

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Table 7.12 continuation

Date	Govt. (in USD billions)	Corp (in USD billions)	Total (in USD billions)
Mar-99	3.2601	2.2012	5.4612
Jun-99	6.4198	2.6779	9.0978
Sep-99	1.5744	0.5113	2.0857
Dec-99	3.0153	2.3363	5.3516
Mar-00	1.2346	1.6844	2.9190
Jun-00	2.3304	0.6578	2.9882
Sep-00	3.7196	0.4277	4.1473
Dec-00	3.4378	1.0063	4.4441
Mar-01	8.2571	0.9264	9.1835
Jun-01	3.2244	0.5088	3.7332
Sep-01	3.4692	0.1566	3.6258
Dec-01	4.1584	0.7907	4.9491
Mar-02	4.4400	0.4414	4.8814
Jun-02	5.1542	0.1977	5.3520
Sep-02	10.1138	0.3915	10.5053
Dec-02	3.9753	1.2593	5.2346
Mar-03	4.7725	0.6667	5.4393
Jun-03	3.7262	1.0728	4.7990
Sep-03	5.0926	1.2266	6.3192
Dec-03	4.2288	1.8447	6.0734
Mar-04	6.0785	0.4473	6.5258
Jun-04	7.2968	1.0570	8.3538
Sep-04	9.4108	0.2387	9.6495
Dec-04	6.3967	1.4983	7.8950
Mar-05	9.5158	0.5990	10.1148
Jun-05	11.8062	1.6968	13.5030
Sep-05	11.7823	0.6731	12.4554
Dec-05	9.7225	1.7406	11.4631
Mar-06	13.4524	3.6373	17.0897
Jun-06	13.0906	5.4300	18.5206
Sep-06	13.6557	6.4401	20.0959
Dec-06	17.4549	8.2827	25.7376
Mar-07	42.0456	5.8512	47.8967
Jun-07	31.1880	9.3858	40.5738
Sep-07	39.3326	8.8741	48.2068
Dec-07	38.6566	9.9103	48.567
Mar-08	60.3590	9.3801	69.7391
Jun-08	79.0564	12.0193	91.0758
Sep-08	86.7390	8.8507	95.5897
Dec-08	72.9802	7.7924	80.7726
Mar-09	79.1154	5.4059	84.5214
Jun-09	79.4020	8.5343	87.9363
Sep-09	74.0677	7.3633	81.4310
Dec-09	57.4405	7.7038	65.1443
Mar-10	73.8476	6.2227	80.0703
Jun-10	70.6473	8.4827	79.1300

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Table 7.12 continuation

Date	Govt. (in USD billions)	Corp (in USD billions)	Total (in USD billions)
Sep-10	91.1676	7.3938	98.5614
Dec-10	100.6942	8.9455	109.6397
Mar-11	105.9510	12.6381	118.5891
Jun-11	94.2306	9.8378	104.0684

Source: AsianBondsOnline. http://asianbondsonline.adb.org/thailand/data/bondmarket.php?code=Issuance_Volume_LCY

G. Foreign Holdings in Local Currency Government Bonds

Table 7.13 Foreign Holdings in Local Currency Government Bonds (THB billion)

Date	Foreign Holdings (THB billion)	Total (THB billion)	% of Total
Mar-03	5.895	1,205.714	0.49
Jun-03	8.379	1,208.865	0.69
Sep-03	14.281	1,262.357	1.13
Dec-03	15.479	1,214.282	1.27
Mar-04	23.454	1,221.262	1.92
Jun-04	25.447	1,232.255	2.07
Sep-04	28.242	1,430.236	1.97
Dec-04	27.553	1,414.176	1.95
Mar-05	33.005	1,432.745	2.30
Jun-05	36.141	1,430.157	2.53
Sep-05	31.933	1,531.149	2.09
Dec-05	45.275	1,559.649	2.90
Mar-06	47.496	1,635.195	2.90
Jun-06	72.543	1,685.044	4.31
Sep-06	47.566	1,730.778	2.75
Dec-06	47.132	1,729.477	2.73
Mar-07	23.707	1,835.216	1.29
Jun-07	12.893	1,835.566	0.70
Sep-07	5.518	1,833.671	0.30
Dec-07	16.090	1,873.902	0.86
Mar-08	34.207	1,940.598	1.76
Jun-08	51.177	1,983.035	2.58
Sep-08	61.249	1,987.562	3.08
Dec-08	55.565	1,931.562	2.88
Mar-09	53.730	2,187.210	2.46
Jun-09	55.320	2,241.923	2.47
Sep-09	78.888	2,380.537	3.31
Dec-09	76.298	2,362.102	3.23
Mar-10	95.269	2,470.979	3.86
Jun-10	108.515	2,566.677	4.23
Sep-10	157.458	2,596.700	6.06
Dec-10	187.473	2,594.930	7.22
Mar-11	213.283	2,546.577	8.38
Jun-11	227.844	2,557.284	8.91

Source: AsianBondsOnline. http://asianbondsonline.adb.org/thailand/data/bondmarket.php?code=Foreign_Holdings

H. Domestic Financing Profile

Table 7.14 Domestic Financing Profile

Date	Domestic Credit (% of Total)	Bonds (% of Total)	Equity (% of Total)	Domestic Credit (USD billion)	Bonds (USD billion)	Equity (USD billion)	Total (USD billion)
Dec-00	0	51.52	48.48	0	31.05	29.22	60.27
Dec-01	67.54	16.2	16.26	149.29	35.81	35.95	221.05
Dec-02	63.64	18.48	17.89	161.56	46.91	45.41	253.88
Dec-03	52.45	15.59	31.96	195.28	58.05	119.02	372.34
Dec-04	53.28	17.10	29.61	207.64	66.65	115.39	389.68
Dec-05	50.39	19.32	30.30	206.03	78.99	123.89	408.90
Dec-06	48.93	22.63	28.44	241.12	111.52	140.16	492.80
Mar-07	55.33	20.17	24.51	326.92	119.16	144.81	590.89
Jun-07	52.85	19.83	27.32	334.02	125.32	172.65	632.00
Sep-07	51.34	19.82	28.84	338.55	130.70	190.20	659.45
Dec-07	50.98	20.29	28.73	349.79	139.20	197.13	686.12
Mar-08	51.23	21.19	27.58	377.69	156.21	203.31	737.2
Jun-08	51.73	21.89	26.38	355.25	150.32	181.13	686.71
Sep-08	55.47	22.88	21.65	356.05	146.89	138.99	641.93
Dec-08	59.33	23.49	17.18	356.06	140.94	103.13	600.13
Mar-09	58.63	24.87	16.50	347.36	147.35	97.75	592.45
Jun-09	54.90	24.00	21.10	364.05	159.11	139.91	663.07
Sep-09	52.07	23.98	23.95	373.84	172.16	171.95	717.95
Dec-09	52.43	23.78	23.79	389.96	176.86	176.96	743.78
Mar-10	51.49	23.9	24.61	411.60	191.04	196.72	799.36
Jun-10	50.85	24.45	24.69	411.36	197.81	199.72	808.89
Sep-10	48.48	23.37	28.16	449.57	216.69	261.12	927.39
Dec-10	48.74	22.92	28.34	477.67	224.64	277.73	980.04
Mar-11	49.93	22.22	27.85	505.53	225.03	281.97	1,012.54

Source: AsianBondsOnline. http://asianbondsonline.adb.org/thailand/data/bondmarket.php?code=Domestic_Financing_profile

I. Trading Volume

Table 7.15 Trading Volume (USD billion)

Year	Govt Bonds	Corp Bonds	Total
Mar-01	10.82	0.29	11.11
Jun-01	7.73	0.69	8.42
Sep-01	6.99	0.67	7.66
Dec-01	7.97	0.39	8.36
Mar-02	9.34	0.52	9.86
Jun-02	10.30	0.51	10.81
Sep-02	13.67	0.52	14.19
Dec-02	14.61	0.56	15.17
Mar-03	13.90	0.96	14.86
Jun-03	15.65	0.86	16.51
Sep-03	15.44	1.18	16.62

continued on next page

Table 7.15 continuation

Year	Govt Bonds	Corp Bonds	Total
Dec-03	13.17	2.26	15.43
Mar-04	19.10	1.13	20.23
Jun-04	15.68	0.65	16.33
Sep-04	16.35	0.59	16.94
Dec-04	20.20	0.49	20.69
Mar-05	25.92	0.60	26.52
Jun-05	23.67	0.65	24.32
Sep-05	21.82	0.39	22.21
Dec-05	22.10	0.56	22.66
Mar-06	19.14	0.5	19.64
Jun-06	19.75	0.41	20.16
Sep-06	27.86	0.71	28.57
Dec-06	46.26	0.86	47.12
Mar-07	66.02	1.19	67.21
Jun-07	70.55	1.17	71.72
Sep-07	81.06	1.00	82.06
Dec-07	85.02	0.56	85.58
Mar-08	125.00	0.83	125.83
Jun-08	136.99	1.01	138.00
Sep-08	138.63	0.64	139.27
Dec-08	116.21	0.98	117.19
Mar-09	115.43	1.45	116.88
Jun-09	112.61	1.15	113.76
Sep-09	97.99	1.29	99.28
Dec-09	94.77	1.02	95.79
Mar-10	116.09	1.56	117.65
Jun-10	110.59	1.13	111.72
Sep-10	143.28	1.61	144.89
Dec-10	157.31	1.40	158.71
Mar-11	163.09	2.08	165.17
Jun-11	0.13	1.34	1.47

Source: AsianBondsOnline. http://asianbondsonline.adb.org/thailand/data/bondmarket.php?code=Trading_Volume

VIII. Presence of an Islamic Finance (Islamic Bond [*Sukuk*]) Market

A. Current Development of an Islamic Bond Market in Thailand

Thailand is at the early stage of developing an Islamic bond market. The specific regulations for issuance and offering of *Sukuk* were announced in early January 2011. The regulatory framework is under the *Securities and Exchange Commission Act* and the *Trust for Transactions in Capital Market Act*.

B. Regulations on Plain Vanilla *Sukuk*

Thailand has just launched regulations for plain vanilla *Sukuk* for Thai issuers only. Regulations on issuance of plain vanilla *Sukuk* are in line with regulations for bond issuance on approval criteria, filing criteria, credit rating requirement, and tax issues. However, *Sukuk* do not have a shelf registration regime. Issuers have to get approval from the Securities and Exchange Commission (SEC) for every new issue.

C. Specific Regulation on *Sukuk*

A *Shariah* advisor has to certify whether the *Sukuk* structure is *Shariah* compliant. A financial advisor has to certify the qualification of the *Shariah* advisor, and a legal advisor has to certify that a trust deed shall be enforceable under Thai law.

D. Infrastructure for *Sukuk*

Sukuk mostly have the same infrastructure as for bonds such as the trading venue, which can either be on the over-the-counter (OTC) market or the Bond Electronic Exchange (BEX).

IX. Brief History of Debt Market Development

A. Measures for Bond Market Development

Under the Capital Market Development Committee, measures for bond market development can be summarized as follows:

1. Development of the Government's Cash Management Methods and Study

Alternatives of amending laws relating to the treasury reserve are regularly explored so that the government can issue Treasury bills efficiently. Also, this will help decrease the cost of funds that the government faces.

2. The *Rural Decentralization Act*

The *Rural Decentralization Act* has empowered local administrative bodies to raise funds from the bond market for the development of public utilities. However, in practice, only large urban administrative bodies, such as the Bangkok Metropolis, Chiangmai, Phuket, and others are capable of doing so. These administrative bodies may issue revenue bonds to and redeem the capital investment plus interest from investors with income from public utilities.

3. Development of Private Repo and Security Borrowing and Lending

One way to improve liquidity of bond instruments is the promotion of private repo and Securities Borrowing and Lending (SBL). The Bank of Thailand (BOT) have been taking the lead in promoting these transactions provided by institutional investors who heavily invest in bonds, entered into, such as funds and insurance companies etc. These bonds will be used as a tool for monetary policy through bilateral repo with primary dealers (PDs) of the BOT. These PDs are able to carry forward this transaction through the exchange or private repo. In the future, there will be an expansion of the private repo base to include non-banking institutions, private enterprises, and foreign investors. This strengthens the secondary market by injecting more liquidity and activities in the private repo market.

X. Next Steps ⇔ Future Direction

A. Capital Market Master Plan (2002)

The government launched Thailand's first Capital Market Master Plan in early 2002 in an effort to develop and diversify the country's sources of funds. The plan outlined broad initiatives that are considered as the main policy framework for the Thai capital market development. These initiatives include promoting good governance, enlarging the investor base, increasing the quantity and variety of financial instruments, enhancing infrastructure, and reforming the supervisory system.

B. Capital Market Master Plan II (2006)⁴⁴

The second phase of the plan was released in February 2006 covering the period 2006 to 2010. It was proposed by the Federation of Thai Capital Market Organizations (FeTCO) and government bodies related to the Thai Ministry of Finance (MOF) to the MOF. The proposed plan emphasizes principal measures to develop and strengthen the Thai capital market to be ready for changes in the global markets. The proposal was also seen to make the capital market become more stable to support the growth of the economy in a more sustainable manner.

Thailand's Minister of Finance, Dr. Thanong Bidaya, chaired the workshop on developing the Thai Capital Market Master Plan II held on 1 February 2006. According to Dr. Thanong,

The government still emphasizes the continued development of the Thai capital market to be in line with international standards. The Thai Capital Market Master Plan II will be for the 5-year period from 2006-2010. It will essentially make the Thai capital market an efficient channel for fundraising, as well as a good savings choice. It will not only help increase the overall market capitalization, but will also improve price stability.

⁴⁴ Bank of Thailand. 2006. *Thailand's Financial Sector Master Plan Handbook*. <http://www.bot.or.th/Thai/FinancialInstitutions/Highlights/MasterPlan/Documents/FSMP.pdf>

The seven principal measures under the master plan include the equity, bond, and derivatives markets. Also, it involves listed companies, intermediaries, investors, as well as the supervisory bodies. The goals of this second phase plan include increasing the proportion of institutional investors from the current 10% of the total turnover to 20%; working with the SET 100 companies to adjust their price-earnings (P/E) ratios to make their P/E better reflect their actual value; working with the SET100 as well as other large-scale companies whose major shareholders are the public sector; and raising the standards of listed companies by offering incentives and privileges.

As for the bond market, it will be continue to be promoted to encourage its growth to enable it to attain the same volume as the money market. Greater participation by retail investors will also be encouraged. More market product innovations such as derivatives instruments and securitization will be introduced. These innovations will help reduce the risks of both entrepreneurs and investors.

To help strengthen intermediary institutions, their capabilities will be improved so that they become better versed in offering integrated products and have a more suitable capital base prior to opening up for foreign competition.

The liberalization of trading fees will also be undertaken on a step-by-step basis, provided that the types and sizes of transactions are carefully considered. Business operators will therefore have sufficient lead time to prepare or adjust to the liberalization.

With regards to raising the standards of corporate governance, there will be incentives and education schemes to help push forward this effort. It is targeted that education outreach efforts will cover every academic institution in the country by 2010.

The SEC and the SET will be developing as well as supervising the capital market. Adjustments of rules or regulations to further improve the market's accessibility, and to bring it in line with current trends, products and technologies, will be considered.

C. Capital Market Masterplan (2009)⁴⁵

The most recent Capital Market Masterplan was detailed by the Thai Ministry of Finance in a press release on 4 November 2009: the Economic Cabinet approved the Capital Market Masterplan as proposed by the Capital Market Development Committee, which is chaired by the Minister of Finance.

The capital market is important to a country's economic and social system. It plays the crucial roles of capital raising for both public and private sectors, promoting balance and stability in the financial system, decreasing dependency on the banking sector, driving the economy forward and creating jobs, as well as being an alternative method for savings. A strong capital market will lessen the impact of economic fluctuations which can be compounded by the fast-flowing nature of capital. However, there are still many issues besetting the Thai capital market. Few institutional investors, small

⁴⁵ Footnote 13. http://www2.mof.go.th/press_releases_detail.php?id=21; Footnote 14. http://www.set.or.th/en/about/vision/files/Executive_Summary.pdf

retail investor base, limited financial products, high transaction costs, and lack of efficient regulatory enforcement are some examples. Moreover, Thailand's capital markets in recent times have grown at a very slow pace. The size of the stock market compared to the gross domestic product (GDP) is only 51% as of June 2009, which is smaller than other countries in the region such as Hong Kong (845%), Singapore (202%), Malaysia (104%), and South Korea (66%). Should this trend continue, Thailand's capital market will stagnate and become increasingly marginalized. Various studies have shown that inadequate development of the capital markets will impact its ability to raise, channel and monitor resources efficiently. In the end, this will lead to loss of growth opportunities, standard of living and prosperity.

In recognizing the importance of the capital market, Prime Minister Abhisit Vejjajiva appointed the Capital Market Development Committee (The Committee) on 27 January 2009. This appointment is a continuation from the committee appointed on 25 March 2008. The Committee is tasked with formulating an overall master plan for the development of Thai capital market as well as monitoring the implementation of such plan. The Committee comprises of the Minister of Finance as the chairperson and experts from public and private sectors.

In formulating the Capital Market Development Masterplan (The Masterplan), the Committee solicited inputs and opinions from all stakeholders, and formed the vision and the 5-year development objectives (2009-2013) as follows:

- (i) The Thai capital market is the primary mechanism for aggregating, channeling, and monitoring economic resources.
- (ii) The goal of the capital market is to perform these tasks efficiently to increase overall competitiveness of Thailand.

The Committee has formulated six primary missions and objectives to realize this vision:

1. Six Primary Missions

- a. The capital market must be easily accessible to investors seeking investment opportunities and corporations seeking funds.
- b. Increase quality and variety of products and services.
- c. Reduce cost of funds to issuers and any intermediary and transaction costs to investors to enable Thai companies to become more competitive.
- d. Develop efficient infrastructure framework in legal, regulations, accounting, tax, information, technology, and enforcement.
- e. Educate investors and ensure that adequate protection mechanisms are in place.
- f. Promote competition in the Thai capital market and build links with the global market system.

2. Eight Important Reform Measures

The Masterplan consists of eight important reform measures that will affect the course of development and bring about major changes in the system.

a. Measure 1: Abolish the Monopoly and Improve Competitiveness of the Stock Exchange of Thailand

Liberalization of capital flows and competitive pressure increase the chances of the SET being marginalized. To make the SET responsive to fast-changing business environments, its business structure must be transformed to increase efficiency and promote competitiveness. The first step is to demutualize the SET, convert it into a public company (The Exchange Company), separate the exchange business from capital market development work, and establish a Capital Market Development Fund (CMDf) with the mission of long-term capital market development. The SET's monopoly on exchange businesses will also end. Therefore, there may be other trading platforms permitted to trade listed stocks.

The Exchange Company will be allowed to permit persons other than securities firms incorporated in Thailand to have direct access if it wishes to in order to increase liquidity and expand the investment base to promote linkage with the global capital market, and decrease limitations which currently obstruct the growth of Thai capital market.

b. Measure 2: Liberalization of Securities Business to Promote Market Efficiency

This measure, while in line with recent trends of liberalization in the financial system, also aims to increase the competitiveness of the Thai capital market and enable it to withstand the impact of fast capital flow. Liberalization of licenses will foster market competition. Securities firms will have to adjust by forming alliances with strategic partners to increase its efficiency by offering new products in the long run.

c. Measure 3: Reforming Legal Framework

Currently, there are draft laws relating to the capital market being proposed to the House of Representatives which are:

- (1) *Amendment Act to Royal Enactment on Special Purpose Juristic Persons for Securitisation B.E.*,
- (2) *The Draft of Commercial Collateral Act B.E.*, and
- (3) *The Amendment Act to the Civil and Commercial Code B.E.*

The government should keep pushing for passage of these laws.

The Committee also had the resolution to propose further reforms, including:

- (1) Laws to facilitate mergers and acquisitions activities,
- (2) Adopt civil penalty, and
- (3) Amend the *Civil Procedure Code* to include class action lawsuits, which would help make enforcement of the *Securities and Exchange Act* more efficient.

d. Measure 4: Streamline the Tax System

This measure aims to make the tax system more efficient to transactions, improve fairness, and provide tax incentives for transactions that the state would like to promote for the development of capital market. Taxation areas to streamline include those related to mergers and acquisitions, investments in debentures, elimination of double taxation on dividends, equalize tax incentives on direct investment and investment through intermediaries, transfer of investments in provident funds, public savings funds, life insurance premiums, Islamic bonds, securities borrowing and lending of the BOT, and venture capital.

e. Measure 5: Develop Financial Products

Currently, the Thai capital market has few financial products to choose from, which cannot take care of the diverse needs of investors, thus making the market relatively unattractive. This measure aims to push for the development of new products which would help increase the variety of instruments and consequently help develop the market. Examples of new products are infrastructure fund to promote investments by the private sector, life annuities, interest rate derivatives, inflation-indexed government bonds, Islamic bond, venture capital, and divestiture of MOF's shares of publicly traded companies.

f. Measure 6: Establishment of a National Savings Fund

The MOF proposed a *National Savings Fund Act*, and the cabinet, in a meeting on 20 October 2009 agreed to the first draft. The National Savings Fund will cover workers outside the formal system comprising approximately 70% of the total labor force of Thailand. The objective is to institutionalize savings for retirement, create equality of opportunity, and ensure that these informal sector workers are provided with some income after retirement. The National Savings Fund will become a major source of savings and investments in Thailand and will contribute to the development of Thai capital markets. It will help lessen the volatility of capital movements and also indirectly promote new financial products.

g. Measure 7: Developing a Culture of Savings and Investments

This measure aims to provide choices when investing in provident fund and Government Pension Fund, so that investors' needs are met. It will also encourage investors to be proactive about acquiring new knowledge on financial products so that investors can truly determine what types of products suit them.

h. Measure 8: Development of the Domestic Bond Market

This measure aims to develop the government's cash management methods and study alternatives to amending laws relating to treasury reserves, so that the government can issue treasury bills efficiently. The government should also be able to manage treasury reserves for yields by such means as depositing the reserves with other institutions instead of the BOT. This will help decrease the cost of funds that the

government faces. Moreover, the BOT will take the lead in developing and promoting the private repo and securities borrowing and lending markets, providing the bond market with another tool to manage liquidity efficiently with low risks. Overall, this would lead to further growth in the market.

Aside from the eight reform measures, the Masterplan consists of 34 further measures that should be implemented. These measures are important in changing the basic framework and developing new infrastructures in the long run, which would lead to the fulfillment of the Masterplan's main objectives.

After the Masterplan has been approved, the drafting subcommittee will transform into the Implementation and Oversight Committee charged with overseeing, monitoring, and assessing the implementation of the Masterplan. The new committee will use key performance indicators to assess the progress and efficiency of implementation.

The Committee believes that success in implementing the Masterplan, aside from directly benefiting the capital market, will have far-ranging benefits to society and economy as a whole. It will improve competitiveness, promote savings and retirement planning, improve linkage between Thai and global capital markets, and benefit all sectors of society. The results will be reflected and noticeable in the capital market structure itself. The Thai capital market will grow larger with more liquidity, which will strengthen balance and stability of the financial market. It will become a key driver in economic development, which will be observable in the prosperity of Thai people in the long run.

D. Future Direction

In December 2010, the BOT signed an agreement with the SEC, the SET, the Thai Bond Market Association, and the Public Debt Management Office (PDMO) to create the Thailand Financial Instruments Information Center (TFIIC). TFIIC is part of the Thai government's 5-year Capital Market Masterplan, which aims to collect information on financial instruments by related sources, share information, and provide linkages among related agencies.

E. Group of 30 Compliance

“The so-called G-30 Recommendations were originally conceived as the Group of Thirty's Standards on Securities Settlement Systems in 1989, detailing in a first of its kind report nine recommendations for efficient and effective securities markets and covering legal, structural and settlement process areas. The recommendations were subsequently reviewed and updated in 2001, under leadership of the Bank for International Settlements (BIS), and through the efforts of a Joint Task Force of the Committee On Payment and Settlement Systems (CPSS) and the Technical Committee of the International Organisation of Securities Commissions (IOSCO). Compliance with the G30 Recommendations in individual markets is often an integral part in securities industry participants' and intermediaries' due diligence process.”

Table 10.1 Group of Thirty Compliance Recommendations

G-30 Compliance Recommendation		Implemented
1	Eliminate paper and automate communication, data capture, and enrichment	Yes
2	Harmonize messaging standards and communication protocols	Yes
3	Develop and implement reference data standards	Yes
4	Synchronize timing between different clearing and settlement systems and associated payment and foreign exchange systems	Yes
5	Automate and standardize institutional trade matching	Yes
6	Expand the use of central counterparties	Yes
7	Permit securities lending and borrowing to expedite settlement	Yes
8	Automate and standardize asset servicing processes, including corporate actions, tax relief arrangements, and restrictions on foreign ownership	Yes
9	Ensure the financial integrity of providers of clearing and settlement services	Yes
10	Reinforce the risk management practices of users of clearing and settlement service providers	Yes
11	Ensure final, simultaneous transfer and availability of assets	Yes
12	Ensure effective business continuity and disaster recovery planning	Yes
13	Address the possibility of failure of a systematically important institution	Yes
14	Strengthen assessment of the enforceability of contracts	Yes
15	Advance legal certainty over rights to securities, cash, or collateral	Yes
16	Recognize and support improved valuation methodologies and closeout netting arrangements	Yes
17	Ensure appointment of appropriately experienced and senior board members (of the boards of securities clearing and settlement infrastructure providers)	Yes
18	Promote fair access to securities clearing and settlement networks	Yes
19	Ensure equitable and effective attention to stakeholder interests	Yes
20	Encourage consistent regulation and oversight of securities clearing and settlement service providers	Yes

Source: Group of 30 (G30). 2003. *Global Clearing and Settlement – A Plan of Action*. <http://www.partad.ru/wrld/word/g30app1.pdf>

F. Group of Experts Barrier Report Market Assessment – Thailand (April/2010)

“The GoE Report refers to the published results in 2010 of the Group of Experts (GoE) formed under Task Force 4 of the Asian Bond Market Initiative (ABMI). In the report, published under the leadership of the Asian Development Bank (ADB), a group of securities market experts from the private and public sector in ASEAN+3 as well as International Experts, assessed the ASEAN+3 securities markets on potential market barriers, the costs for cross-border bond transactions and the feasibility for the establishment of a Regional Settlement Intermediary (RSI). The findings in the GoE Report lead to the creation of ABMF.”

Table 10.2 Group of Experts Barrier Report Market Assessment – Thailand

Potential Barrier area	Current situation	Market Assessment Questionnaire scores	Overall barrier assessment
Quotas	There are no restrictions on foreign investment in local bonds.	OK	OK
Investor registration	There is no requirement for foreign investor registration. However, the documentation required for custodian account opening in Thailand needs to be notarised and consularised. Account-opening is a costly and time-consuming process. These documents are also required by the registrar agents for bond re-registration, and for some corporate events. Documents must be updated every year. This is strictly speaking not an investor registration issue.	OK	OK

continued on next page

Table 10.2 continuation

Potential Barrier area	Current situation	Market Assessment Questionnaire scores	Overall barrier assessment
FX controls - conversion	FX must be linked to securities trades. Each FX (or non-FX related payment transaction) equal to or greater than USD 20,000 must be reported by the sub-custodian to the Bank of Thailand (BoT), stating the purpose of the transaction. Foreign investors may net security transactions against a single foreign exchange, provided that all the settlement dates are the same. Same-day, next day and forward value FX are permitted if there is an underlying transaction. If there is no underlying transaction, then for buying THB from a commercial bank, FX is permitted up to THB 300 million across accounts per entity group, and for selling THB to commercial banks FX is permitted up to THB 10 million across accounts per entity group. Spot FX is permitted with no underlying transaction. Third party FX trades with resident financial institutions require proof of relevant underlying investment activity. However, while third party FX is permitted, it may not be supported by custodians. Investors commented that currency controls are a problem and that FX is difficult.	LOW	LOW
FX controls - repatriation of funds	As noted above, FX must be supported by an underlying securities transaction. Otherwise, for selling THB to commercial banks, FX is permitted up to THB 10 million across accounts per entity group.	LOW	LOW
Cash controls - credit balances	Many banks or investors must have two types of accounts (NRBS and NRBA), therefore there is more reporting and control. Funds must be managed separately and cannot be transferred across account type. Cash balances held by foreign investors are capped at THB300 million (c USD 9 million) across all accounts for the same account type (NRBA and NRBS) per custodian bank. The BoT may force non-resident investors to sell THB in excess of this limit to the BoT at the penalty rate. Many investors mentioned Thailand as a problem in this area.	HIGH	HIGH
Cash controls - overdrafts	Overdraft facilities provided by Thai financial institutions to foreign investors are capped at THB300 million (c USD 9 million) per group of non-residents per custodian bank. The BoT must approve the use of overdraft facilities and an investor's use of a facility must be based on extenuating circumstances such as clerical errors. Foreign investors are not permitted to overdraw their THB cash accounts for the purpose of funding securities settlement. Custodian banks can request for 1 day long balance on behalf of non resident investor if there is an evidence of next day trade or it is a US public holiday, etc. The monitoring is manual and difficult to control operationally and as a result, commonly not offered to the investors. Several investors mentioned Thailand as a problem in this area.	LOW	LOW
Taxes	All non-resident investors are exempted from withholding tax on interest and capital gains tax from government and government agency bonds. Corporate bond interest (including state enterprise bonds) is taxed at 15%, withheld at source. The tax may be exempted or reduced by tax treaties.	LOW	LOW
Omnibus accounts	Omnibus accounts are allowed.	OK	OK
Settlement cycle	The settlement cycle for bonds is T+2 (or by agreement)	OK	OK
Message formats	The Thailand Securities Depository (TSD) uses SWIFT format for settlement messages but not for corporate event messages. Local market participants in general do not use SWIFT, apart from custodians.	LOW	LOW
Securities numbering	ISIN are available for all local bond issues, and are available on issue date. SWIFT and ISIN codes are used among banks and custodians in instructions for bonds. However, investors commented that this area was a problem as most market players were still using the local codes. Several market participants mentioned Thailand as a problem in this area.	OK	LOW
Matching	There are trade matching and settlement pre-matching systems for bond trades.	OK	OK
Dematerialisation	All government (and some corporate bonds - depending on the registrar agents) are dematerialised.	LOW	LOW
Regulatory framework	The perceived regulatory risk, especially fear of capital controls, is a factor that deters foreign investors. Investors commented that the regulations can be complex and unclear, and that regulations are changed too often and sometimes without enough notice.	-	HIGH

Source: Asian Development Bank. 2010. *Asian Bond Markets Initiative Group of Experts Final Report: Barriers to Cross-Border Investment and Settlement in the ASEAN+3 Bond Markets*. [https://wpqr1.adb.org/LotusQuickr/asean3goe/Main.nsf/h_58E34A1388F9070B48257729000C0A4E/90F408746827C16248257729000C1334/\\$file/Part3.pdf](https://wpqr1.adb.org/LotusQuickr/asean3goe/Main.nsf/h_58E34A1388F9070B48257729000C0A4E/90F408746827C16248257729000C1334/$file/Part3.pdf)

Appendixes

Appendix 1. “Survey on Primary Market Questions for IOSCO Jurisdictions”

Box A1. Survey on Primary Market Questions for IOSCO Jurisdictions

IOSCO EMERGING MARKETS COMMITTEE
TASK FORCE ON DEVELOPMENT OF CORPORATE BOND MARKETS
(Joint Project with the World Bank)

PLEASE SEND YOUR RESPONSES NO LATER THAN JANUARY 7, 2011.

Questions on Primary Market Issuance of Corporate Bonds

1. Assuming you have both public and private issuance regimes, do you also have a type of “hybrid regime” in place for corporate bonds? Hybrid regimes provide an exemption from filing a full prospectus but may require filing a simplified or short-form prospectus or other registration/information document. They can be based on either private or public issuance regulations but contain elements of both (e.g., private issue with secondary market trading). Hybrid regimes can take different forms. A common type entails a prospectus-exempt public offer if an issue is targeted solely at qualified investors or the denomination size is sufficiently large (e.g., []50,000 in the EU), ensuring nonparticipation of retail investors. Another example is the US Rule 144A market, where private placements are allowed to be traded among qualified investors. Because one of the conditions for prospectus exemption is for an offer made solely to institutional investors, this may be known as an Institutional Offerings regime in your country.

Yes, we have a type of hybrid issuance regime as known as Private Placement: Institutional and High Net worth Offerings regime.

2. What is the estimated extent of use of each of the different issuance regimes based on percent of total issuance? (Please fill in for “pure public offer” and “pure private placement” even if you do not have a hybrid regime.)

- Pure Public Offer 44%
- Pure Private Placement 11%
- Hybrid Regime (PP: II & HNW) 45%

If you answered yes to question 1, please proceed to the next set of questions.

Questions on the Hybrid Issuance Regime:

Prospectus Exemption

3. Is the hybrid regime based on private or public issuance regulations (i.e., is it a public offer with prospectus exemption or is it a private placement with public elements, such as permission to list and trade in the secondary market)? Please explain.

It is a private placement with public elements to list and trade in the secondary market.

continued on next page

Box A1 continuation

4. What key law or regulation established the hybrid regime (e.g., Regulation D and Rule 144A in the U.S.; Prospectus Directive in the EU) and in what year?

Notification of the Securities and Exchange Commission No.KorChor 4/2552

Re: Exemption from Filing of Registration Statement for the Offer for Sale of Debt Securities

Dated March 31, 2009

Notification of Capital Market Supervisory Board No.TorChor 9/2552

Re: Application for and Approval of Offer for Sale of Newly Issued Debt Securities

Dated March 31, 2009

Notification of Capital Market Supervisory Board No.TorChor 10/2552

Re: Filing of Registration Statement for Offer for Sale of Debt Securities

Dated March 31, 2009

5. What are the key conditions for prospectus exemption (examples include: offers addressed solely to qualified investors, offers with a large denomination amount per unit, etc.). Please list all applicable conditions and provide explanations as necessary.

Characteristics of the Offer for Sale of Debt Securities under Exemption from filing of the registration statement and draft prospectus with the Office:

- 1) an offer for sale of corporate bonds with the following characteristics:
 - (1) an offer for sale of newly issued corporate bonds which is not opposed to the transfer restriction filed with the Office in any of the following manners:
 - (a) an offer for sale to no more than ten investors within any four-month period;
 - (b) an offer for sale of the whole amount of corporate bonds to institutional investors established or certified under foreign law;
 - (c) an offer for sale to the person who has been the company's creditor prior to the offer for sale for the purpose of debt restructuring;
 - (d) an offer for sale of corporate bonds as being granted an exemption by the Office due to necessity and appropriateness which does not affect the general public and investor protection measures are provided adequately;
 - (2) an offer for sale of corporate bonds in any succeeding step in any of the following manners:
 - (a) an offer for sale of corporate bonds which is not opposed to the transfer restriction filed with the Office. In case of an offer for sale of corporate bonds with restriction of transfer among institutional investors or high net worth investors, credit rating shall be arranged for such bonds;
 - (b) an offer for sale of corporate bonds without transfer restriction which meets the following conditions:
 1. the registration statement and the draft prospectus for the offer for sale of such bonds have been filed at the first step of offering;
 2. the issuer has adequately provided continual information disclosure;
 3. the corporate bonds being offered for sale has credit rating arrangement
6. Does the law/regulation make any kind of distinction between debt and equity offerings or is the prospectus exemption provided to all securities equally with similar terms and conditions?

There is a distinction between debt and equity offerings.

7. Does the law/regulation make a distinction between retail and professional investors? The latter can be institutional investors or qualified investors (including natural persons) defined by a specific criteria. (For example, in the US, there are three levels of professional investors: Sophisticated Investor, Accredited Investor, and Qualified Institutional Buyer.)

Yes

- 1) If yes, please explain any segmentation of investors on a spectrum ranging from non-professional (retail) to most professional and indicate which ones apply to the hybrid regime.
 1. Non-professional investors
Retail
 2. Professional investors
High net worth => hybrid regime
Institutional investors => hybrid regime
- 2) What is the definition (criteria) of a professional investor for the purposes of the hybrid regime/prospectus exemption?
 - (1) "Institutional investors" means:
 1. commercial banks;
 2. finance companies;
 3. securities companies for management of proprietary portfolios or private funds or investment projects established under laws governing finance business, securities business and credit foncier business;
 4. credit foncier companies;
 5. insurance companies;
 6. government units and state enterprises under laws governing budgetary procedures or any other juristic persons established under specific laws;

continued on next page

Box A1 continuation

7. Bank of Thailand;
8. international financial institutions;
9. Financial Institutions Development Fund;
10. Government Pension Fund;
11. provident funds;
12. mutual funds;
13. foreign investors with the same characteristics as investors under (1) to (12), mutatis mutandis;

(2) "High net worth investors" means:

1. individual persons having forty million baht or more of assets, excluding liabilities of such persons;
2. juristic persons having two hundred million baht or more of assets as recorded in the latest audited financial statements

8. Do you have suitability tests in place for classification of investors according to different levels of professionalism?

No.

9. Under the hybrid regime, does the issuer have to file any form of simplified or short-form prospectus or registration form with the regulator?

Yes.

- a) If so, does this document need to be approved by the regulator or is it simply a notification for the purposes of registering the information with the regulator? Please explain.

Yes. An offeror of debt securities shall file with the Office registration statement in three copies together with draft prospectus. For an offer of corporate bonds to institutional investors or high net worth investors with registration of transfer restriction among such groups of investors, Form 69-S (short-form registration statement) shall be filed prior to each offer.

- b) If the document needs to be approved by the regulator, what is the timeframe within which the approval has to be made?

Filing of Form 69-S and draft prospectus shall become effective within the next business day after the date of filing such registration statement and draft prospectus in full.

Transferability / Secondary Market Trading

10. Does the regulation allow for a security issued via the hybrid regime to be traded?

Yes.

- a) If so, what are the conditions for trading (i.e., is there a holding period, can it only be traded among professional/qualified investors, etc.)?

It can only be traded among institutional investors or high net worth investors.

- b) If not included in the conditions for trading, is there a distinction between retail and professional investors? Please explain.

- c) What is the definition of professional investor, if different from the issuance (i.e., initial prospectus exemption) stage?

11. In practice, are securities issued via the hybrid regime commonly traded in the secondary market?

Yes.

Listing

12. Does the regulation allow for the securities issued via the hybrid regime to be listed and traded on a stock exchange?

Yes.

- a) If so, is there a special segment of the exchange where they are listed/traded?

Corporate Bond segment in BEX.

13. Please describe the conditions, if any, that need to be met in order to list a security issued via a hybrid regime on the exchange (e.g., disclosure of specified information, etc.)

continued on next page

Box A1 continuation

The condition is a corporate bond which can be transferred only to institutional investors or high net worth investors.

- a) Are these conditions less onerous than those required for public issues or are they the same?

Yes.

Continuous Disclosure

14. Are hybrid regime issuers subject to any continuous disclosure requirements? Please answer for the three scenarios below.

In general => the issuer shall have duty to prepare and submit the following reports on financial position and operational result to the Office:

- (1) quarterly financial statement reviewed by an auditor;
- (2) financial statement for any accounting period examined and for which an opinion has been given by an auditor;
- (3) annual report;
- (4) any other reports concerning the information of the company as specified in the notification of the SEC.

Intermediary Obligations

15. Does the regulatory framework provide the securities regulator with the mandate to intervene in case of false or misleading statements related to securities issued via:

- The hybrid regime?
- The pure private placement regime?

Prior to closing of an approved offer for sale of debt securities, if the offeror has disclosed material facts which are not stated in registration statement and draft prospectus to any specific person for the purpose of analyzing the appropriateness of investment in the offered debt securities or making decision to invest in the offered debt securities, the offeror shall proceed to disclose such facts in registration statement and draft prospectus immediately. In this regard, the disclosure shall be made no later than the effective date of registration statement or, in cases where registration statement has already become effective, no later than the following business day as from the day on which such facts are disclosed to such particular person.

- a) If not, are intermediaries (e.g., investment banks underwriting new issues) held accountable for providing accurate and truthful information through some other regulatory avenue?

Investment

16. Are regulated institutions allowed to invest in securities issued via the hybrid regime? Please provide an answer for each, explaining any limitation (e.g., limit of 10% of total assets)

- Pension funds:
- Insurance companies:
- Mutual / investment funds: 15% of NAV, if the issues obtain rating of investment grade.
- Banks:

17. Are regulated institutions allowed to invest in securities issued via the pure private placement regime? Please provide an answer for each, explaining any limitation (e.g., limit of 10% of total assets)

- Pension funds:
- Insurance companies:
- Mutual / investment funds: 15% of NAV, if the issues obtain rating of investment grade and listed at the ThaiBMA.
- Banks:

Source: Securities and Exchange Commission Thailand

Appendix 2. ASEAN Bond Market Development Scorecard: Thailand

Table A1.1 ASEAN Bond Market Development Scorecard: Thailand

	ASEAN Bond Market Development Scorecard	Regulatory / Market Development	Resident / Non-Resident / Both	Thailand	
				✓=Yes X=No	
A	ISSUER				
1	Market Access				
a)	Acceptance of MTN programmes	Reg	Both	✓	
ai)	International MTN programmes	Reg	Both	X	MOF is considering this issue. Applying the international MTN program may work against the MOF's objectives of balancing the financial system, given the risk that the MTN program may hinder development of less-developed domestic bond markets, levels of development across the region remain unequal. Furthermore, in instances where domestic liquidity is tight, it may raise the cost of raising funds in the domestic market.
aii)	Local MTN programmes	Reg	Both	✓	Shelf filing
b)	Removal of discriminatory restrictions on issuance by non-residents	Reg	Non-resi	✓	Thailand has opened up for NR issuers; however, approval remains subject to MOF and BOT's consideration (use of proceeds, credit rating, and overall financial system liquidity). Thai SEC has adopted ASEAN standard, which means a Singaporean firm may submit the filing document used in Singapore to the Thai SEC, for bond issuance in Thailand.
2	Transparency				
a)	Disclosure standards - Adoption of ASEAN and Plus Standards	Reg	Both	✓	
ai)	Accounting standards - Adoption of IFRS for cross-border offerings	Reg	Both	✓	ASEAN Standard (form 69-FD, or 69-base)
aii)	Auditing standards - Adoption of ISA for cross-border offerings	Reg	Both	✓	ASEAN Standard (form 69-FD, or 69-base)
B	INVESTOR				
3	Market Access				
a)	Non-resident market access	Reg	Non-resi	✓	
ai)	Elimination of investor registration requirements	Reg	Non-resi	✓	
aii)	Removal of discriminatory restrictions on investment by non-resident investors	Reg	Non-resi	✓	
aiii)	Removal of discriminatory restrictions on non-resident institutional investors' portfolio composition	Reg	Non-resi	✓	
aiv)	Removal of restrictions on non-resident LCY borrowing (i.e. intraday credit/overnight credit, etc.)	Reg	Non-resi	X	NRs can obtain Baht through swap transaction.
b)	Removal of investment restrictions on resident investors	Reg	Resi	✓	
c)	Existence of clear legislation on bond holders' rights	Reg	Both	✓	Details about bondholders' rights are stated in the prospectus. It is easy access to both prospectus and covenants governing bondholders' rights through the SEC and issuers website. In addition, there is a regulation on bondholders' representative to ensure that bondholder rights are clearly defined and therefore protected.

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Table A1.1 continuation

	ASEAN Bond Market Development Scorecard	Regulatory / Market Development	Resident / Non-Resident / Both	Thailand	
				✓=Yes X=No	
4	Transparency				
a)	Disclosure of government bond issuance calendar	Reg	Both	✓	A yearly plan is announced following a dialogue between BOT, MOF, ThaiBMA, PDs and investors. Quarterly schedule is announced two Fridays before the beginning of each quarter.
b)	Regular data on holdings by investor class, i.e. banks, insurance/pension funds, foreigners, retail	Reg	Both	✓	monthly basis (only on government bonds) quarterly basis (on corporate bonds) http://www.thaibma.or.th/CorpBondHolder_report/CorpBondHolderPage.aspx
c)	Availability of benchmarks at regular intervals	Mkt Dev	Both	✓	Regular benchmark bond tenor (5/10/15/20/30 years) is offered every other month
d)	Inclusion in an internationally accepted bond index	Mkt Dev	Both	✓	iBoxx ABF Thailand Index (International Index Company Limited: IIC)
5	Funding / Hedging Instruments				
a)	Availability of active repo / securities borrowing and lending market	Mkt Dev	Both	✓	
ai)	Term ≤ 2 weeks	Mkt Dev	Both	✓	
aii)	Term ≥ 2 weeks	Mkt Dev	Both	✓	
aiii)	PD to PD activity (Onshore interbank)	Mkt Dev	Both	✓	
aiv)	PD to non-PD allowed	Mkt Dev	Both	✓	
av)	Bank to non-bank (i.e. end user customer) allowed	Mkt Dev	Both	✓	
avi)	Use of Global Master Repo Agreement	Mkt Dev	Both	✓	
b)	Availability of active interest rate swap market	Mkt Dev	Both	✓	(up to 5 years maturity)
bi)	Use of ISDA Master Agreement	Mkt Dev	Both	✓	
c)	Availability of active futures market	Mkt Dev	Both	✓	Trading Interest Rate Future by end of 2010
ci)	Government bond futures	Mkt Dev	Both	✓	5Y Gov Bond Futures (18 Oct 2010)
cii)	Short-term Interest rate futures	Mkt Dev	Both	✓	3M BIBOR Futures & 6M THBFX Futures (Nov 29, 2010)
d)	Suitably wide range of securities eligible for central bank liquidity	Reg	Resi	✓	
di)	Inclusion of government-guaranteed LCY bonds under permitted instruments for the central bank repo facility	Reg	Resi	✓	
dii)	Inclusion of government-guaranteed LCY bonds under local statutory reserve requirements	Reg	Resi	✓	
diii)	Incorporation into reserve ratios/ creation of separate regulatory reserve ratio(s) for government-guaranteed LCY bonds	Reg	Resi	✓	
div)	Incorporation into reserve ratios/ creation of separate regulatory reserve ratio(s) for supranational bonds	Reg	Resi	✓	Accepted only in emergency case
6	Tax Treatment				
a)	Exemption from withholding tax	Reg	Both	X	
ai)	Exemption from withholding tax on government bonds - resident	Reg	Resi	X	

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Table A1.1 continuation

	ASEAN Bond Market Development Scorecard	Regulatory / Market Development	Resident / Non-Resident / Both	Thailand	
				✓=Yes X=No	
a ii)	Exemption from withholding tax on government bonds - non-resident	Reg	Non-resi	X	
a iii)	Exemption from withholding tax on corporate bonds - resident	Reg	Resi	X	
a iv)	Exemption from withholding tax on corporate bonds- non-resident	Reg	Non-resi	X	
7	Settlement and Custody				
a)	Use of SWIFT as standardized message format	Mkt Dev	Both	✓	
b)	Use of ISIN securities numbering scheme	Mkt Dev	Both	✓	
c)	DvP - Use of electronic trade-matching	Mkt Dev	Both	✓	
d)	DvP - Use of settlement pre-matching	Mkt Dev	Both	✓	
e)	DvP - Effective depository links for cross-border settlement and custody	Mkt Dev	Both	X	
<p>^a Thai BMA. Footnote 3. http://www.thaibma.or.th/CorpBondHolder_report/CorpBondHolderPage.aspx</p> <p>Notes: ✓ = Yes X = No</p> <p>ASEAN = Association of Southeast Asian Nations; BIBOR = Bangkok Interbank Offered Rate; BOT = Bank of Thailand; DvP = delivery versus payment; IFRS = International Financial Reporting Standards; ISDA = International Swaps and Derivatives Association; ISIN = International Securities Identification Number; LCY = local currency; MOF = Ministry of Finance MTN = medium-term notes; NR = non-resident; PD = primary dealer; SEC = Securities and Exchange Commission of Thailand; SWIFT = Society for Worldwide Interbank Financial Telecommunication; ThaiBMA = Thai Bond Market Association Source: Securities and Exchange Commission Thailand.</p>					

Appendix 3. ASEAN Bond Market Development Scorecard: ASEAN

Table A1.2 ASEAN Bond Market Development Scorecard: ASEAN

	ASEAN Bond Market Development Scorecard	Regulatory / Market Development	Resident / Non-Resident / Both	Brunei Darussalam	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam
A	ISSUER												
1	Market Access												
a)	Acceptance of MTN programmes	Reg	Both	X	X	✓	X	✓	X	✓	✓	✓	✓
ai)	International MTN programmes	Reg	Both	X	X	✓	X	✓	X	✓	✓	X	X
aii)	Local MTN programmes	Reg	Both	X	X	✓	X	✓	✓	✓	✓	✓	✓
b)	Removal of discriminatory restrictions on issuance by non-residents	Reg	Non-resi	X	X	X	X	✓	X	✓	✓	✓	X
2	Transparency												
a)	Disclosure standards - Adoption of ASEAN and Plus Standards	Reg	Both	X	X	X	X	✓	X	X	✓	✓	X
ai)	Accounting standards - Adoption of IFRS for cross-border offerings	Reg	Both	X	X	X	X	✓	✓	✓	✓	✓	X
aii)	Auditing standards - Adoption of ISA for cross-border offerings	Reg	Both	X	X	X	X	✓	✓	✓	✓	✓	X
B	INVESTOR												
3	Market Access												
a)	Non-resident market access	Reg	Non-resi	X	X	✓	X	✓	X	✓	✓	✓	✓
ai)	Elimination of investor registration requirements	Reg	Non-resi	X	X	X	X	✓	X	✓	✓	✓	✓
aii)	Removal of discriminatory restrictions on investment by non-resident investors	Reg	Non-resi	X	X	X	X	✓	X	✓	✓	✓	✓
aiii)	Removal of discriminatory restrictions on non-resident institutional investors' portfolio composition	Reg	Non-resi	X	X	X	X	✓	X	✓	✓	✓	✓
aiv)	Removal of restrictions on non-resident LCY borrowing (i.e. intraday credit/overnight credit, etc.)	Reg	Non-resi	X	X	X	X	X	X	X	✓	X	X
b)	Removal of investment restrictions on resident investors	Reg	Resi	X	X	✓	X	✓	✓	✓	✓	✓	✓
c)	Existence of clear legislation on bond holders' rights	Reg	Both	X	X	✓	X	✓	✓	✓	✓	✓	✓
4	Transparency												
a)	Disclosure of government bond issuance calendar	Reg	Both	✓	X	✓	✓	✓	✓	✓	✓	✓	✓
b)	Regular data on holdings by investor class, i.e. banks, insurance/pension funds, foreigners, retail	Reg	Both	✓	X	✓	✓	✓	✓	✓	X	✓	X
c)	Availability of benchmarks at regular intervals	Mkt Dev	Both	X	X	✓	X	✓	X	✓	✓	✓	X
d)	Inclusion in an internationally accepted bond index	Mkt Dev	Both	X	X	✓	X	✓	X	✓	✓	✓	X

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Table A1.2 continuation

	ASEAN Bond Market Development Scorecard	Regulatory / Market Development	Resident / Non-Resident / Both	Brunei Darussalam	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam
5	Funding / Hedging Instruments												
a)	Availability of active repo / securities borrowing and lending market	Mkt Dev	Both	X	X	✓	✓	✓	X		✓	✓	X
ai)	Term ≤ 2 weeks	Mkt Dev	Both	✓	X	✓	✓	✓	X	✓	✓	✓	X
aii)	Term ≥ 2 weeks	Mkt Dev	Both	✓	✓	✓	X	✓	X	✓	✓	✓	X
aiii)	PD to PD activity (Onshore interbank)	Mkt Dev	Both	✓	✓	✓	X	✓		✓	✓	✓	✓
aiv)	PD to non-PD allowed	Mkt Dev	Both	✓	✓	✓	X	✓		✓	✓	✓	✓
av)	Bank to non-bank (i.e. end user customer) allowed	Mkt Dev	Both	✓	✓	✓	✓	✓	X	✓	✓	✓	✓
avi)	Use of Global Master Repo Agreement	Mkt Dev	Both	X	X	X	X	✓	✓	✓	✓	✓	X
b)	Availability of active interest rate swap market	Mkt Dev	Both	X	X	✓	X	✓			✓	✓	X
bi)	Use of ISDA Master Agreement	Mkt Dev	Both	X	X	X	X	✓	✓	✓	✓	✓	X
c)	Availability of active futures market	Mkt Dev	Both	X	X		X	X			X	✓	X
ci)	Government bond futures	Mkt Dev	Both	X	X		X	X	✓	X	X	✓	X
cii)	Short-term Interest rate futures	Mkt Dev	Both	X	X		X	X	✓	X	X	✓	X
d)	Suitably wide range of securities eligible for central bank liquidity	Reg	Resi	X	✓	X	X	✓	✓		✓	✓	✓
di)	Inclusion of government-guaranteed LCY bonds under permitted instruments for the central bank repo facility	Reg	Resi	X	✓	X	X	✓	✓	✓	✓	✓	✓
dii)	Inclusion of government-guaranteed LCY bonds under local statutory reserve requirements	Reg	Resi	X	X	X	✓	✓	✓	✓	✓	✓	✓
diii)	Incorporation into reserve ratios/creation of separate regulatory reserve ratio(s) for government-guaranteed LCY bonds	Reg	Resi	X	X	X	✓	✓	✓	X	✓	✓	✓
div)	Incorporation into reserve ratios/creation of separate regulatory reserve ratio(s) for supranational bonds	Reg	Resi	X	X	X	X	✓		X	✓	✓	✓
6	Tax Treatment												
a)	Exemption from withholding tax	Reg	Both		X		✓	X	✓	X	✓	X	X
ai)	Exemption from withholding tax on government bonds - resident	Reg	Resi	X	X		✓	X		X	✓	X	X
aii)	Exemption from withholding tax on government bonds - non-resident	Reg	Non-resi	✓	X		✓	✓		X	✓	X	X
aiii)	Exemption from withholding tax on corporate bonds - resident	Reg	Resi	X	X		✓	X		X	✓	X	X
aiv)	Exemption from withholding tax on corporate bonds- non-resident	Reg	Non-resi	Partial	X		✓	✓		X	✓	X	X
7	Settlement and Custody												
a)	Use of SWIFT as standardized message format	Mkt Dev	Both	X	X	Partial	✓	✓	✓	✓	✓	✓	✓
b)	Use of ISIN securities numbering scheme	Mkt Dev	Both	X	X	Partial	X	✓	✓	✓	✓	✓	✓
c)	DvP - Use of electronic trade-matching	Mkt Dev	Both	X	X	✓	X	X		✓	✓	✓	✓
d)	DvP - Use of settlement pre-matching	Mkt Dev	Both	X	X	✓	X	✓		✓	✓	✓	X
e)	DvP - Effective depository links for cross-border settlement and custody	Mkt Dev	Both	✓	X	X	X	✓		✓	✓	X	X
Notes: ✓ = Yes X = No Source: <Please indicate source>.													

Appendix 4. Scorecard-Related Explanation

Scorecard Explanation

Extract from “the Joint Media Statement of the 14th ASEAN Finance Ministers’ Meeting (AFMM)”

Nha Trang, Viet Nam, 8 April 2010

Capital Market Development and Integration

9. Strong, efficient and liquid capital markets are important in attracting more investment to the region, facilitating greater inter-regional trade flows, and ensuring ASEAN’s long-term competitiveness. To further develop our bond markets, we endorsed the formation of a set of “bond market development” indicators, which will serve as benchmark reference points to measure the state of ASEAN’s bond market development, and as a **scorecard** to identify key priorities for bond market integration and development in ASEAN. Recognizing the varying levels of bond market development across the region, we agreed for targeted capacity building initiatives to collectively enhance liquidity and efficiency in our capital markets. At the same time, promoting ASEAN as an asset class remains an important task. We will therefore step up our investor outreach efforts to deepen and broaden the investor base in the region.

10. We have also made substantial progress in integrating our capital markets to enhance our competitiveness in the global arena. Work is underway to create brand recognition for ASEAN products, lift standards of regulations, build mutual and global trust in ASEAN standards through mutual recognition regimes, and facilitate flow and access into our markets. The “ASEAN and Plus Standards” for multi-jurisdictional offerings of securities have been adopted in Malaysia, Singapore and Thailand. We will promote dual listing of securities and cross-border offerings of debt securities and collective investment schemes. We are encouraged by the progress made towards the establishment of ASEAN exchange linkages. We welcome the initiative to develop mutual recognition framework for capital market professionals across the region. Through the tax authorities, we will explore ways to address withholding tax issues affecting regional capital market development.

The ASEAN and Plus Standards Scheme⁴⁶

Introduction

The ASEAN and Plus Standards Scheme was developed by the ASEAN Capital Markets Forum (ACMF) to facilitate cross-border offerings of securities within the ASEAN region.

⁴⁶ Association of Southeast Asian Nations. <http://www.asean.org/22674.pdf>

The Scheme brings ease and cost savings to issuers who make offerings of securities across borders within ASEAN.

The Scheme therefore enhances the attractiveness of ASEAN as a combined capital market for fund-raising, as well as underlines the combined ASEAN securities as an attractive asset class by raising the disclosure standards among ASEAN members to international level.

Scope of the ASEAN and Plus Standards Scheme

The ASEAN and Plus Standards Scheme will apply:

1. To multi-jurisdiction offerings within ASEAN of plain equity and debt securities that require the registration of prospectuses or registration statements.
2. To all issuers, ASEAN and non-ASEAN alike, making such offerings within ASEAN.

The ASEAN and Plus Standards Scheme (the Scheme)

The Scheme introduces two levels of Standards, comprising a set of common ASEAN Standards, and a set of limited additional standards known as the Plus Standards.

1. **The ASEAN Standards** are based on the standards on cross-border offerings set by the International Organization of Securities Commissions (IOSCO). However, the ASEAN Standards do exceed some of the dated IOSCO standards where appropriate. They also fully adopt the accounting and auditing standards of the International Financial Reporting Standards (IFRS) and International Standards on Auditing (ISA).
2. **The Plus Standards** contain additional standards that are required by some ASEAN jurisdictions due to their individual market practices, laws or regulations.

The ASEAN and Plus Standards' Documents

The following documents are details of the ASEAN Standards as well as the details of the distribution timelines.

Equity Securities	Debt Securities
1. ASEAN EQUITY SECURITIES DISCLOSURE STANDARDS http://www.asean.org/22674-1.pdf	1. ASEAN DEBT SECURITIES DISCLOSURE STANDARDS http://www.asean.org/22674-2.pdf
	2. LIST OF SUPPORTING DOCUMENTS REQUIRED BY EACH JURISDICTION Issuer is required to submit the following documents to regulator in host jurisdiction when seeking the approval/registration. http://www.asean.org/22674-3.pdf

Questions and answers regarding the ASEAN Standards Scheme can be found in the FAQs.

1. Who will benefit from this ASEAN and Plus Standards Scheme?

The Scheme will benefit both ASEAN and non-ASEAN issuers who make multi-jurisdiction offerings of plain equity and debt securities within ASEAN which require the registration of disclosure documents. It will be easier for these issuers as they can comply with one common set of ASEAN Standards in their preparations of disclosure documents, together with some additional requirements set forth in the Plus Standards. This is in contrast to the current practices where issuers have to separately comply with each jurisdiction's disclosure requirements if they seek to do multi-jurisdiction offerings.

2. Do issuers have to comply with other requirements in order to make multi-jurisdiction offerings of securities in ASEAN? This will depend on each individual ASEAN members' regulatory framework because the cross-border offerings under this Scheme are still subject to regulatory approval of the host jurisdictions where the securities are offered. However, having this Scheme in place, the issuers will benefit from the ability to issue one set of disclosure documents together with some wrap-around for additional requirements (prescribed under the Plus Standards) to investors. Issuers who are interested in this Scheme are encouraged to consult with respective securities regulators or the ACMF Secretariat at strategy@sec.or.th

3. Why is it necessary to have the Plus Standards? The Plus Standards are in place to comply with specific requirements in the market practices, laws or regulations of each jurisdiction. However, the ACMF has agreed to reduce the number of Plus Standards, in periodic reviews, to achieve greater harmonization in order to provide maximum benefits to issuers.

4. Which IOSCO Disclosure Standards are the ASEAN Standards benchmarked against? The ASEAN Standards are benchmarked against the following IOSCO Standards:

- 1) IOSCO International Disclosure Standards for Cross-Border Offerings and Initial Listings by Foreign Issuers (1998) on which the ASEAN Standards for the offerings of equity securities are based, and
 - 2) IOSCO International Disclosure Standards for Cross-border Offerings and Listings of Debt Securities by Foreign Issuers (2007) on which the ASEAN Standards for the offerings of debt securities are based.
- Both documents are available on the IOSCO's web site www.iosco.org

The Implementation of the Scheme Since the development of the Scheme, the ACMF agreed that the timeframe for the adoption of the ASEAN Standards by ACMF members would depend on the readiness of each member on an opt-in basis.

On June 12, 2009, the Securities Commission, Malaysia, the Monetary Authority of Singapore and the Securities and Exchange Commission, Thailand, announced, through a press release, that they have implemented the ASEAN and Plus Standards Scheme. The joint press release and the FAQs can be found here.

<http://www.asean.org/22674-4.pdf>

FREQUENTLY ASKED QUESTIONS ASEAN and Plus Standards Scheme

1. What is the ASEAN and Plus Standards Scheme? The ASEAN and Plus Standards Scheme was developed as part of a harmonisation initiative by the ASEAN Capital Markets Forum (ACMF) to facilitate cross-border offerings of securities within the ASEAN region.

The Scheme introduces two levels of standards, comprising a set of common ASEAN Standards, and a set of limited additional standards known as the Plus Standards. The ASEAN Standards are a set of common standards governing disclosures for plain (*1) equity and debt offerings and are based on standards on cross-border offerings set by the International Organization of Securities Commissions (IOSCO). The Plus Standards are the respective additional standards that may be prescribed by the individual ASEAN jurisdictions where harmonisation is not yet possible due to their individual market practices, laws or regulations. Further details of the Scheme are available on:

<http://www.aseansec.org/acmf/introduction.htm>

continued on next page

FAQ ASEAN continuation

2. What is the purpose of having the ASEAN and Plus Standards Scheme? The Scheme will benefit ASEAN and non-ASEAN issuers who make multi-jurisdiction offerings of plain equity and debt securities within ASEAN by increasing efficiency and reducing costs. Under the Scheme, when an issuer wishes to make a multi-jurisdiction offer of securities, the issuer needs to provide only a common set of disclosure documents based on the ASEAN Standards, together with the appropriate wrap-around for the Plus Standards, to investors in each jurisdiction. For example, Malaysian issuers who undertake cross-border offerings in Singapore and Thailand would be required to provide a set of disclosure documents based on the ASEAN Standards to the investors in Singapore and Thailand, along with the wrap-around based on the Plus Standards of Singapore and Thailand.

3. Have all member countries of ASEAN implemented the ASEAN and Plus Standards Scheme? The timeframe for the implementation of the Scheme depends on the readiness of each ASEAN member on an opt-in basis. As at 12 June 2009, Singapore, Thailand and Malaysia have announced the implementation of the Scheme under their respective jurisdictions.

4. I would like to undertake a cross-border offering of securities in two jurisdictions that have implemented the ASEAN and Plus Standards Scheme. Is it sufficient that my prospectus comply with the disclosure requirements of the ASEAN Standards? In addition to complying with the ASEAN Standards, which are the same set of rules applied to jurisdictions who adopted the Scheme (at present Malaysia, Singapore and Thailand), the issuer must also comply with the Plus Standards of the respective jurisdictions, and the prospectus registration procedures of these jurisdictions. The issuance of securities may also be subject to other requirements from each jurisdiction. In this regard, the issuer would need to refer to the regulations and guidelines from the respective jurisdictions concerned.

5. The requirements of the Plus Standards in Country A are different from those in Country B. With which should my prospectus for a cross-border offering of securities comply? Your prospectus must comply with all the disclosure requirements stipulated by each member country. If the standards differ on a particular item, the general rule is that the stricter requirement should apply. If different requirements apply on the same issue, the prospectus should comply with both requirements.

6. Will ACMF members eventually reduce the number of their respective Plus Standards? Members of the ACMF have agreed to work towards reducing the number of Plus Standards over time so as to maximise the benefits of the ASEAN and Plus Standards Scheme to issuers. As such, it is envisaged that the ASEAN and Plus Standards Scheme will evolve and progress towards greater overall convergence of the disclosure standards in participating ASEAN jurisdictions.

(*1) The Scheme will apply to offers of shares and plain-vanilla debt securities only. It will not apply to: (i) Options, warrants or any other rights or interests in shares or debt securities; or (ii) Debt securities that are not plain-vanilla.

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Prof. Shigehito Inukai
Faculty of Law, Waseda University
1-6-1, Nishiwaseda, Shinjuku-ku, Tokyo, 〒169-8050
Tel & Fax (Direct): + 81-(0)3-3202-2472
Mobile: +81-(0)80-3360-7551
E-Mail: shige.inukai@me.com