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**Informal Workouts and Insolvency Reform Initiatives to
Address NPL Problems in Thailand**

by

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To address Thailand's NPL problems, the informal workout processes have been founded and the formal process in the court has been amended. To support the informal workout process, Thailand has instituted the central bank guidelines and initiatives for debt restructuring, Bangkok Framework, the Inter-Creditor Agreement, Debtor-Creditor Agreement, Court Mediation Center guidelines and other incentives. In addition, The Government has also amended the Bankruptcy Law to allow the qualified debtors to restructure their bad debts through the court process. Since the implementation of these measures, Thailand has witnessed a steady decline in the level of Non-Performing Loans.

The New Definition for "Non-Performing Loans"

In the second half of 2002, the Bank of Thailand's definition of NPL was revised to reflect international standard which disallows the practice of write-off from the NPL figures the portion of uncollateralised loan for which full provisioning has been made. Thus the current definition includes the entire amount of loans which are classified as substandard, doubtful, doubtful of loss, and loss. The criteria for classification are based on both aging and quality considerations as specified in BOT's Notification Regarding Worthless or Irrecoverable Assets and Doubtful Assets that may be Worthless or Irrecoverable dated 18 February 2002.¹ The substandard loans are based on loans which are overdue for over 3 months from the contractual period or where other evidences indicated that there are difficulties in the recovery of assets or claims, or where the assets or claims do not generate a normal return, as ordered by the BOT.

The result of this more stringent definition was the apparent "increase" in NPL levels from when it was under the old definition. However, steady progress is being made in the reduction of the NPLs under the new definition.

Institutions and Policies for Insolvency Workouts

A number of informal workout initiatives have been established to tackle the distressed asset problem after the severe economic crisis in 1997. They include the Central Bankruptcy Court, Financial Sector Restructuring Authority (FRA), Asset Management Corporations (AMC), State-owned Asset Management Companies, Privately-owned Asset Management Companies, Thailand Asset Management Corporation (TAMC), Corporate Debt Restructuring Advisory Committee (CDRAC), Provincial Sub-committee for Debt Restructuring, Court Mediation Center and SMEs & Personal Financial Advisory Center (SFAC).

The tools used for expediting the informal workouts include the Bank of Thailand's Notification on Debt Restructuring (or BOT's Guidelines), the Framework for Corporate Debt Restructuring in Thailand (Bangkok Framework), Inter-Creditor Agreement on Restructuring Plan Votes and Executive Decision Panel (ICA), Debtor-Creditor Agreement on Debt Restructuring Process (DCA), the Simplified Debtor-Creditor Agreement (Simplified Agreement or SA), and the BOT Initiatives for Debt Restructuring for cases in the Court Process and Legal Execution Process.

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¹ Please see BOT's Notification Regarding Worthless or Irrecoverable Assets and Doubtful Assets that may be Worthless or Irrecoverable dated 18 February 2002. (Please see http://www.bot.or.th/bothomepage/notification/fsupv/eNotification_Index.asp?instType=BF)

BOT's Guidelines for Debt Restructuring (1998)

To facilitate informal workouts, in 2 June 1998, the Bank of Thailand (BOT) issued a notification to serve as a general guideline for financial institutions in order to assist in the restructuring of the large number of distressed assets in the financial system. The guidelines were later amended on 1 June 1999 to reflect the practical issues. If the debt restructuring of any cases followed these guidelines, the cases will qualify for the pre-arranged tax benefits and duty-stamp exemptions and reduction of land transfer fees to 0.01%.

As the BOT guidelines are only general approaches for regulatory purposes, each individual financial institution must develop their own specific procedures of operation that is not only in line with the BOT guidelines, but also most compatible with its institutional structure and seek approval from the Bank of Thailand.

Bangkok Framework (1998)

In order to generate a more coordinated informal workout approach, the Board of Trade of Thailand, Federation of Thai Industries, the Thai Bankers' Association, the Association of Finance Companies and the Foreign Banks' Association jointly prepared a Framework for Corporate Debt Restructuring in Thailand in early 1998. The framework is non-binding and non-statutory but is a statement of the approach that is expected to be adopted in corporate workouts involving multiple creditors. The framework exists based on general market acceptance and its practices may be altered or amended to serve the needs of the business and financial communities. The framework is designed to promote a spirit of timely co-operation amongst concerned stakeholders for their mutual benefits.

CDRAC's Debt Restructuring Process

The Joint Public-Private Consultative Committee (JPPCC) Resolution dated 22 June 1998 established the Corporate Debt Restructuring Advisory Committee (CDRAC) to encourage and accelerate informal workouts. CDRAC's key role is to act as a facilitator or an independent intermediary in the restructuring process in order to facilitate and expedite the negotiation among all parties concerned.

CDRAC's restructuring process is based on the Inter-Creditor Agreement on Restructure Plan Votes and Executive Decision Panel Procedures (ICA), the Debtor-Creditor Agreement on Debt Restructuring Process (DCA) that are used for large and multi-creditor debtors and the Simplified Agreement (SA) that is used for small- and medium-sized debtors. These Agreements were modified from the Bangkok Framework, approved by CDRAC and signed by financial institutions in Thailand in March 1999 as part of the operation of the structured informal work-out process through the CDRAC.²

In contrast to the Bangkok Framework, the CDRAC Process is enforceable to a certain extent. All stakeholders commit to a definitive timetable for restructuring, forcing decisions to be made and actions to be taken and the process includes guidelines for all parties to follow, making the restructuring clear and concise. The structured informal process has been significantly assisted by the ICA and DCA through the efficiency enhancement of and the avoidance of unnecessary delays in the process. These Agreements provide for mechanisms to deal with any breaches of the agreements. For example, a non-complying creditor may be given a warning letter and imposed a fine by the Bank of Thailand.

² Initially, these agreements were signed by commercial banks, finance companies, EXIM Bank, and the Industrial Finance Corporation of Thailand. In 2001 and 2002, asset management companies also signed into these agreements. Only those who signed into the Agreements are bound by the CDRAC debt restructuring process.

Court Mediation Processes (2001)

Mediation permits the resolution of disputes in the interest of the disputing parties and also of the court proceedings by expediting the trial of the case in an economical way, and settles the dispute to the satisfaction of the parties. Mediation has proven to be an essential alternative available for the courts of justice to take in the settlement of disputes in court. To promote the use of proper, efficient methods of mediation, there needs to be standard rules and procedures. These rules are called the “Guidelines of the Court of Justice Administrative Committee concerning Dispute Mediation B.E. 2544 (2001)” and were laid down by virtue of the Justice Administration Act B.E. 2543 (2000)

The judges in quorum shall be empowered to mediate under the provisions of the Civil Procedure Code. These rules will not affect the power of the judges in quorum to mediate in the cases that they are in charge. After a case has entered into the Court process, the judge in quorum or a designated official may appoint one or more judges, court officials or third persons (all to the satisfaction of all parties involved) to help the Court mediate the case. The Appointees are not entitled to fees and expenses. All mediators shall disclose to all involved about any personal interest/ conflicts or relationship with any party involved. The Court may order the removal of the mediator if the mediator fails to conduct his work to the benefit of all parties involved.

Mediation Process

After the Court has ordered the appointment of mediator(s), the sending and obtaining of documents, case-file or any communications between the Court and the mediators shall be in the manner prescribed by that court. If the parties are individuals, they should attend the mediatory meeting(s) themselves, but may also appoint a representative for the purpose. If the parties are legal entities, they may appoint any representative(s) empowered (in writing) to make decisions to attend those meeting.

Before the mediation takes place, the mediator will have the parties agree in writing to mediate and be bound by the Guidelines. The mediator may discuss with the parties about and agree on the mediation procedures and guidelines before the mediation takes place. In the interest of the mediation, the mediator may ask the parties to furnish the mediator with facts or preliminary information about the dispute, including proposal for dispute resolution or may suggest that the exchange of such information be made between the parties.

The mediator is responsible for setting the manner in which the mediation will be made and its date, time and place. However, the mediator shall notify all the parties concerned, including the absent party, of the mediation activity carried out in their absence. When the mediation takes place before the parties, the mediator may permit on the parties themselves or any of them to be present at the mediatory meeting.

The mediator may have a draft compromise prepared for the parties, if it is appropriate. The parties involved will need to consent to the draft in the even that there are any costs involved. The mediator will carry out the mediation activity within the limits prescribed by the Court. An extension may be granted if the mediator requests it and the parties in dispute are close to resolving the conflict. However, if the mediator observes that either part carries on the mediation in a way that delays the trial of the case, then the mediator shall report the fact to the Court without delay.

After the mediation process comes to end, the mediator shall report the results of the mediation to the Court for further actions. If the parties have agreed to settle the dispute in part or admit certain facts and have agreed that such agreement be used in court proceedings, the mediator shall make proper note of agreement and notify the court of the fact.

The Bank of Thailand's New Initiatives (BOT Initiative) for Debt Restructuring (2003)

In a historic meeting between the Governor of the Bank of Thailand and all the presidents of Thai commercial banks at the end of 2002, a comprehensive timeframe and methodology to further speed up the resolution of NPLs have been developed. To speed up NPL resolutions, all agencies involved have segmented debtors into four groups and committed to the following timeframes:

1. Debtors that have successfully restructured their debt and in the process of repayment.

For debtors that have already signed the debt restructuring agreement or are in the process of signing the agreement, a successful repayment of three-month will be observed before the debtor is reclassified as a performing loan. During that period, financial institutions are committed to:

1. expedite the signing of the debt restructuring agreement if not already done so and monitor debt repayments until the debt is qualified to be reclassified within four months and
2. report on the progress made to the Bank of Thailand's Corporate Debt Restructuring Group on a monthly basis.

2. Debtors in the process of restructuring

For debtors undergoing restructuring, financial institutions are committed to:

1. expedite the debt restructuring process to be completed within one year, and
2. report results of successfully restructured cases that have signed the debt restructuring agreement to the Bank of Thailand's Corporate Debt Restructuring Group.

3. Debtors in the court process

For debtors in the court process and debtors that have received a Notice from creditors, financial institutions may submit the list of cases for which they would like the Bank of Thailand's Corporate Debt Restructuring Group to serve as mediator/facilitator in order to expedite the debt restructuring process outside of court. Target debtors for this process include debtors of financial institutions (commercial banks, finance companies, asset management companies, the Industrial Finance Corporation of Thailand and the Export-Import Bank of Thailand) that are currently in the legal process or have received repayment notices from creditors as well as debtors of the Thai Asset Management Corporation.

As with other debt restructuring programs, entry of debtors in the court process into the new program is voluntary by both the debtor and creditor. As a requirement, persons with decision-making authority from both the debtor's and creditor's sides are to participate in every meeting. The following procedures for negotiations are to be completed in no more than three meetings and within two months.

Step 1: Preparing to Negotiate

The Corporate Debt Restructuring Group (CDG) of the Bank of Thailand shall coordinate with financial institutions in order to select target debtors. Financial institutions finalize the list of target debtors and provide the contact address for the CDG and BOT's Regional Offices to inquire about the debtors' willingness to participate in the program. Creditors shall continue legal action against debtors who are unwilling to join the program. Debtors that voluntarily participate in the program and their creditors will be expected to provide information and documents as instructed by the GDG. Furthermore, each party shall send representatives with decision-making authority to the negotiation meetings, which will be organized by CDG.

Step 2: First Meeting

In the timeframe for the entire debt-restructuring negotiation process is defined. The debtor will use the developments made in the first meeting to construct a debt-repayment proposal that is to be submitted to the debtor in twenty-one days. Upon receipt of the debt restructuring plan, creditors have 14 days to consider the proposal and decide whether to accept or reject the proposal.

Step 3: Second Meeting – Creditor announce results

In the second meeting, the creditor announces whether the debt restructuring plan as submitted by the debtor is accepted or rejected. In the event that the plan is accepted, both parties are to draft and sign a Debt Restructuring Agreement for presentation to the court as soon as possible. In the event that the creditor rejects the plan, the creditor must provide their reasons for rejecting the plan along with their requirements for an acceptable debt restructuring plan. Debtors will have 14 days to amend their plan for re-submission to creditors. Creditors will then have 14 days to consider the revised plan.

Step 4 Third Meeting (If Necessary)

In the third meeting, the creditor announces whether the revised debt restructuring plan as submitted by the debtor is accepted or rejected. In the event that the plan is accepted, both parties are to draft and sign a Debt Restructuring Agreement for presentation to the court as soon as possible. In the event that the revised plan is rejected, creditors shall continue to take legal action. In the event that either party fails to meet a deadline, the negotiation process is considered a failure and in-court legal action is to be resumed.

4. Debtors in the legal execution process

The Bank of Thailand's Corporate Debt Restructuring Group also aims to expedite the resolution of cases in the Legal Execution Process by serving as an out-of-court mediator/facilitator in order to expedite the debt restructuring process outside of court. debtors for this initiative include debtors of commercial banks, finance companies, asset management companies, the Industrial Finance Corporation of Thailand and the Export-Import Bank of Thailand that are currently in the legal execution process including cases where the court has pronounced judgment. As with the facilitation of cases in the Legal Process, entry of cases in the Legal Execution Process is voluntary by both debtors and creditors.

Participation in this initiative requires the representation of authority from both the debtor and creditor in every meeting. For cases in the Legal Execution Process, a resolution is to be reached through the following procedures in no more than two meetings and within 45 days:

Step 1: Preparations

The Corporate Debt Restructuring Group (CDG) of the Bank of Thailand shall coordinate with creditors and debtors in the legal execution process who are willing to join in the BOT initiatives. Voluntary debtors and creditors provide information and documents as instructed by the CDG. Each party shall send representatives with decision-making authority to every meeting. Each party shall prepare preliminary debt restructuring alternatives to resolve the debt.

Step 2: Convening the First Meeting

The timeframe for the entire debt-restructuring negotiation process is established. In the event that the creditor and debtor are able to reach an agreement, the creditor shall request the Legal Execution Officer to stay or cease the legal execution proceedings. In the event that the creditor requires the debtor to revise the debt restructuring proposal, the debtor will have 15 days to revise the plan for the second meeting. In the event that the creditor and debtor are *not* able to reach an agreement, the legal execution proceedings shall continue.

Step 3: Convening the Second Meeting (If necessary)

In the event that the creditor and debtor are able to reach an agreement, the creditor shall request the Legal Execution Officer to stay or cease the legal execution proceedings. In the event that the creditor and debtor are *not* able to reach an agreement or the time-limit has been violated, the legal execution proceedings shall continue.

Recent Developments in CDRAC's Effort in the Resolution of NPLs

1. CDRAC's Target Debtors in August 2003

(1) 2003 Target Debtor

1. 74% of Debtors in the Legal Process have been Successfully Restructured

As at the end of August 2003, creditors have submitted 2,217 debtors with credits outstanding of 18,507 million baht that are in the legal process to be restructured under the BOT initiatives. Of these, 449 debtors with credits outstanding of 5,846 million baht have agreed to enter into the initiatives.

It is noteworthy that the 144 debtors that have been successfully resolved represents 74% of the 194 debtors with credits outstanding of 1,302 million baht. Over the month of August 2003 alone, an additional 35 cases with credits outstanding of 203 million baht have been successfully restructured.

2. 85% of Debtors in the Legal Execution Process are Successfully Restructured

As at the end of August 2003, creditors have submitted the names of 891 debtors in the legal execution process with credits outstanding of 4,825 million baht, which they would like to re-negotiate with. After only two months, 14 debtors with credits outstanding of 111 million baht have indicated their willingness to renegotiate and are currently doing so under the CDRAC process. Moreover, the Bank of Thailand's Regional Offices have received walk-in requests to participate in the re-negotiation process from 113 debtors with credits outstanding of 399 million baht. It is noteworthy that 85% of debtors that reached a resolution during the re-negotiation process have been successfully restructured.

(2) The 1998 – 2002 Target Debtors

Since 1998 to date CDRAC has approved a total 15,386 target cases with credits outstanding of 2,841,749 million baht. Currently, there remain only 157 debtors with credits outstanding of 73,102 million baht in the negotiation process. The remaining 15,229 debtors with credits outstanding of 2,786,647 million have been resolved.

A total of 10,344 cases with credits outstanding of 1,390,781 million baht have been successfully restructured, representing 85% of the debtors that came into the CDRAC restructuring process. Most of these debtors are in the commerce sector, followed by the personal consumption sector and the industrial sector.

2. Debtors of Financial Institution System in July 2003

From 1998 to the end of July 2003, a total of 599,933 cases with credits outstanding of 2,902,185 million baht have been successfully restructured by financial institutions (comprising of Thai commercial banks, foreign banks, finance companies and credit fanciers). Over the month of July 2003, a total of 6,110 additional debtors with credits outstanding of 20,365 million baht have been resolved. Of these, private Thai commercial banks were able to restructure the most debtors with 6,525 cases followed by state-owned banks with 1,147 cases. The majority of restructured debtors are represented by the personal consumption sector followed by wholesale and retail trade sector and the industrial sector. (Table 7) Most debtors successfully restructured are based in Bangkok and the

Central Region. As at the end of July 2003, there remains 32,056 debtors with credits outstanding of 110,300 million baht in the debt re-negotiation process.

Recent Measures for Debt Restructuring

In addition to the Government's extension of debt-restructuring benefits, the Bank of Thailand (BOT) has also made some of the following regulatory modifications since 2002. The Revenue Department has extended the exemption period for income tax, value-added tax, specific business tax and stamp duties and the Land Department has also extended the reduction of the registration fee of real-estate and buildings to 0.01% for cases that have been restructured in compliance with the BOT guidelines until the end of 2003.

The BOT has modified its guidelines that concern debt restructuring and supervision of financial institutions in order to create a more uniformed debt restructuring effort throughout the financial system. For example, commercial banks are now allowed to hold more than 10% of the shares of a debtor's company until the 31st December 2003. Commercial banks are allowed to sell real-estate that have been transferred into their possession between 1 January 1997 to 31 December 2003 that they have not in possession for five years, or have been in possession for five years but can be sold for more than the minimum requirement. Commercial banks are also allowed to conduct rent and leasing activities involved in debt restructuring up until 31 December 2003.

Authorities and the private sector will continue to work closely to resolve the remaining NPLs in the financial sector. The Bank of Thailand is working on the Financial Sector Master Plan to create a blueprint for a competitive financial system. Corporates are regaining health through firm and steady reforms. Meanwhile, sound monetary and fiscal policies and a positive economic outlook for the coming years support the continued corporate and financial sector reforms.

Legal Reforms³

1. Bankruptcy Laws

The Thai Government has recently made major amendments to the country's bankruptcy law, including those that would allow for the rehabilitation of struggling businesses. The appropriate legal framework for the new Thai bankruptcy law was designed to be in-line with international best-practices. Bankruptcy policies from other countries were studied, including those used in the English law, with the English Administration under the Insolvency Act of 1986, the Singapore Organization Law and the renowned Chapter 11 of the United States Bankruptcy Code. The amendments to the Thai Bankruptcy Act would prove to be not only be practical but also be functional in the Thai business context.

Thailand's House of Representatives and Senate approved and adopted the long-awaited amendment to Thailand's 1940 Bankruptcy Act on March 4, 1998. The amendment became effective on April 10, 1998 in the form of the Bankruptcy Act Amendment No. 4.

The New Law – the 1998 Amendment (Amendment No. 4)

The 1998 Amendment adds a new chapter to the old Act, Chapter 3/1, which introduces *alternative avenues* for creditors to seek satisfaction of amounts owed to them. Of particular significance, the amendment is designed to *rehabilitate a debtor's business and to render viable a distressed company while protecting the interests of the creditors*. Under Section 94(2) of the old law, a party extending new loans to insolvent companies did so at its own risk during the known insolvency

³ Adapted from *The Reform of Thai Bankruptcy Law in the Wake of the Asian Financial Crisis* by Karen Wong, Chiridacha Phunsunthorn, and Tiziana Sucharitkul

of the receiving company. This naturally was an impediment to the restructuring of viable businesses as it prevented institutions from lending funds to entities in need.

The amendment allows new creditors, such as those putting fresh funds into a cash-strapped company, to seek the right of repayment under the reorganization plan by sending a letter to the planner or, by a repayment request with the receiver. This aspect allows parties to inject new capital into ailing businesses without the fear that they will be denied the opportunity to regain their investment.

The New Law – the 1999 Amendment (Amendment No. 5)

To further refine and strengthen the 1998 amendment, the Parliament passed the Bankruptcy Act Amendment No. 5, in March 1999. This amendment also addressed the issue concerning the exemption of guarantors of debts from bankruptcy suits. In Thailand, personal guarantees are often given by individuals to lenders as security against the borrowing of loans. Such guarantees act as a check against poor corporate management, lack of accounting standards, and the improper channeling of funds by insiders. The immunity from bankruptcy to personal guarantors conflicted with international business standards and was successfully removed in the 1999 amendment.

Another issue of contention under the 1940 Act concerned the time period after which a person declared bankrupt would be discharged. Originally under the old law, the time frame was ten years. A compromise was reached and is currently reflected in Section 35 of the 1999 Amendment Act, which shortens the time period from ten to three years on the condition that the bankrupt person is not guilty of any misconduct or fraud contributing to his insolvency.

The 1999 amendment also resolved issues involving the rights of small creditors. Under the 1998 amendment, small creditors were unable to make themselves heard because many privileges were reserved for creditors who owned a minimum of two thirds of the total outstanding debt. Thus small creditors could not participate in many aspects of the re-organization process, such as the nomination of the planner or the drafting of the reorganization plan itself. The 1999 amendment attempted to resolve this dilemma by introducing a mechanism of classification of creditors. Under Section 90/46 of the 1999 amendment, classes of creditors are set up according to the percentage of debt owed and each class has equal rights as the plan must be approved by each of them or, with some exceptions, by a group of creditors owed a minimum of 75% of the debt.

There are three types of creditors who are automatically deemed to accept the plan and who are therefore excluded from the classification. They are (i) creditors who are to be repaid within fifteen days of the plan, (ii) creditors who receive payments under existing contracts, and (iii) subordinated creditors. Furthermore, the 1999 amendment increased the amount of debt required before a bankruptcy proceeding could be initiated against a debtor. The 1998 amendment had raised the amount to Baht 50,000 for a natural person and to Baht 500,000 for a juristic entity. Section 9 of Amendment No. 5, however, further increased the amount to Baht 1,000,000 for an individual and Baht 2,000,000 for a juristic entity.

The 1999 amendment also extends the definition of acts which the court can set aside as acts committed for undue preference. Acts, such as debtors' transfers of assets done three months before or after a filing of a petition for adjudication of bankruptcy, are deemed committed for undue preference; a one-year rule is implemented for "insiders of the debtors". Thus, if the transferee of a debtor's assets is an "advantaged creditor" (an advantaged creditor includes directors, managers, partners, and shareholders owning more than 5% of the shares, and their spouses and minor children, and juristic persons holding more than 30% of the equity), the court can cancel a transfer done one year prior to the application for bankruptcy. Section 115 reads in part "[I]f any advantageous creditor is an insider of the debtor, the court is empowered to order the cancellation of the transfer or any act done under paragraph one which had been committed between the period of one year before the application for

adjudication of bankruptcy and thereafter." Section 114 also allows transfers at below market value to be set aside.

Furthermore, fraudulent transactions may also be set aside pursuant to Section 237 of the Thai Civil and Commercial Code which reads, in part, that a "...creditor is entitled to claim cancellation by the Court of any juristic act done by the debtor with knowledge that it would prejudice his creditor; but this does not apply if the person enriched by such act did not know, at the time of the act, of the facts which would make it prejudicial to the creditor, provided, however, that in case of a gratuitous act the knowledge on the part of the debtor alone is sufficient."

2. Establishment of the Bankruptcy Court

The reorganization of a debtor company is very much a court-supervised affair whereby the court oversees the entire restructuring of the business of the distressed entity. From the beginning of the procedure until the very end, the court makes inquiries and issues orders. In light of the lack of case law in this field, Thailand established a court specifically to hear bankruptcy cases.

The Act Establishing the Bankruptcy Court and Bankruptcy Case Procedure was passed on June 18, 1999. The Act creates a Central Bankruptcy Court for the Bangkok Metropolitan Area as well as Area Bankruptcy Courts. It also sets out the procedures to be followed in the handling of such cases, mandates the appointment of judges, allows the Bankruptcy Court limited authority to develop some of its procedures, and provides for provisions to deal with existing cases that arose prior to the establishment of the Bankruptcy Court. As bankruptcy cases differ in essence from general civil cases and as such cases affect the economy as a whole, the creation of a forum in which cases are heard by judges with special knowledge of business and financial matters was hailed. In addition to offering judges with specialized experience and training in the areas of law concerned, specialists may also be called to comment on matters of the case.

Another advantage presented by the Act Establishing the Bankruptcy Court and Bankruptcy Case Procedure is that hearings of bankruptcy cases are now expedited. Previously, only one trial date was set for each case per month. This resulted in cases being prolonged for months or years, generating excessive costs for creditors and encouraging debtors to avoid paying off their debts as they realized that the time frame worked to their advantage. Currently, cases concerning the reorganization of businesses are required to be heard continuously on a daily basis until completion, and the court avoids postponing hearings. This has resulted in cases being completed within one month of the date of filing. Cases have also been expedited due to the fact that writs or notice of summons may now be served by mail and no longer have to be physically presented to defendants.

3. Foreclosure Laws

In line with the amendment to the Bankruptcy Act and the establishment of the Bankruptcy Court, new foreclosure laws have also been passed. The new laws will allow most foreclosure cases to be completed within a twelve to eighteen month time frame. Apart from giving the courts discretionary power to deny appeals based on case delaying tactics, the laws also direct that "non-complicated cases" are to be heard continuously every day until judgment is rendered. This is in contrast to the old law under which cases could be extended for months. Moreover, the execution process which follows the foreclosure adjudication has also been shortened due to the fact that (a) there can only be one objection to a bid price at an auction and (b) if the price, at the second auction, is close to the one offered at the first auction, the property must be sold. Previously, the process could be prolonged as anyone was allowed to object to a bid price at the auction. In addition to such new elements to the law, the expansion of the Courts of Appeal will also allow for faster process if foreclosure cases are taken to the appeal stage.

Conclusions

The debt restructuring efforts of financial institutions together with insolvency process and legal reforms in Thailand have all contributed to the lowering of the NPL levels over the past several years. It is further expected that the level of NPLs that have been restructured and are in the process of repayment and NPLs in the Court Process and the Legal Execution Process will further be further reduced. With the continued legal reforms and the joint-effort of all parties involved, it is expected that NPLs will continually decline, reaching a level of below 10% of total credits in the system by the end of 2004. As the economy continues to expand steadily and sustainably, there will be a fewer new NPLs and re-entry of already restructured NPLs.

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