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I. Proposed Amendment to the Share Buyback Regulation: To Boost Capital Market Competitiveness with More Flexibility

Background

A share buyback, also known as a stock repurchase, is a corporate action where a public company (especially, a listed company) (the “**Company**”) reacquires its own outstanding shares from the open market or directly from shareholders.

Share buybacks serve various functions. They can boost earnings per share (EPS) by reducing the number of outstanding shares, making the Company’s financial performance appear stronger to the market and more attractive to investors. They also act as an efficient method for returning surplus cash to shareholders, offering an alternative to dividends, and can signal management’s confidence in the Company’s future prospects, often suggesting the stock is undervalued, which can lead to an increase in stock prices. Furthermore, share buybacks can help improve financial ratios, including Return on Equity (ROE), by reducing shareholders’ equity while net income remains constant or grows, thus enhancing the profitability metric. They can also prevent the dilution of existing shares from employee stock options and even offer a degree of defense against hostile takeovers by reducing the available float.

The repurchased shares can either be reduced through capital reduction or held as treasury stock.

Current regulations

The current law and regulations governing share buybacks are (i) the Public Company Limited Act of 1992, as amended (the “**PCL Act**”), and (ii) the Ministerial Regulation Prescribing Rules and Procedures for Repurchase of Shares, Disposal of Repurchased Shares, and Deduction of Repurchased Shares of Companies of 2001, dated 23 November 2001, as amended (the “**Ministerial Regulation**”). Under the PCL Act, share buyback is only permitted for public companies in two scenarios¹:

1. **Dissenting Shareholders:** The Company can buy back shares from shareholders who dissent following an amendment to the Company’s articles of association that has an impact on their voting or dividend rights.
2. **Financial Management:** Share buyback programs are allowed for financial management purposes when the Company has retained earnings and excess liquidity, with a condition that the buyback must not lead

¹ Section 66/1 of the PCL Act

the Company into financial distress. This type of buyback is more common in the market than scenario 1.

Upon completion of a share buyback, the Company is obligated to notify the registrar of the repurchased shares and publicly disclose the information. The shares repurchased are not counted as a quorum for the shareholders' meeting, do not have any voting rights attached to them, and are not entitled to dividend payment.

Repurchased shares can be disposed of by the Company after a minimum of three (3) months from the end of each repurchase round and must be disposed of within three (3) years. The disposal of shares can be done either through: (i) rights offering to the Company's existing shareholders; (ii) offering to the Company's directors or employees; (iii) public offering; or (iv) specifically for listed companies, the Automatic Order Matching system (AOM) of SET. If the shares are not disposed of within this three-year period, the Company must cancel them through a capital reduction.

The Company can initiate a new share buyback program after a six-month waiting period from the conclusion or cancellation of the previous program.

Proposed amendments

On 17 June 2025, the Cabinet granted in-principle approval to proposed amendments concerning share buyback regulations, i.e., the draft Ministerial Regulation Prescribing Rules and Procedures for Repurchase of Shares, Disposal of Repurchased Shares, and Deduction of Repurchased Shares of Companies (No. ...) of (the "Amendment"). The Amendment, put forth by the Ministry of Commerce (the "MOC") in collaboration with the Thai Securities and Exchange Commission and the Stock Exchange of Thailand (the "SET"), is designed to enhance the competitiveness of Thailand's capital markets by providing listed companies with greater flexibility in liquidity management.

The Amendment includes:

1. **Eliminating the six-month waiting period** whereby public companies will be able to launch a new share buyback program immediately after the conclusion or cancellation of the previous program.
2. **Extending the disposal period for public companies listed on the SET** in the case where the Company's share price during the buyback period is lower than or equal to the average repurchase price whereby the disposal period can be extended by an additional two (2) years. If the Company still cannot dispose of all repurchased shares within this extended period, it can further extend the disposal period by up to one (1) more year. This means the total disposal period could be up to six (6) years, an increase from the current maximum of three (3) years. However, any such extension will require prior approval from a shareholders' meeting.

Next steps

In its approval, the Cabinet also directed the MOC to consider the views of the Office of the National Economic and Social Development Council (the "NESDC"). The NESDC has expressed concerns that these amendments could potentially create loopholes for listed companies to engage in speculative activities, leading to distorted security prices and increased risks for investors. This, in turn, could negatively impact overall capital market confidence in the long term.

In response to the Cabinet's directive, the MOC held a second public hearing on the proposed amendments to gather additional feedback from the general public. This second public hearing period was open from 1 to 15 July 2025.

The MOC will submit the feedback gathered during this period to the Office of the Council of State, which will then review the draft amendments. It is recommended that companies should closely watch for the promulgation of the revised regulation, as it is expected to reshape how businesses approach share buybacks.

We will keep you posted on any significant developments to the Amendment.

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II. Navigating New Regulatory Frameworks: Key Takeaways for the Hire Purchase and Leasing of Automobiles and Motorcycles Business

1. Background

During the period from 2017 to 2021, the business of hire purchase¹ and leasing² of automobiles and motorcycles (the “**Hire Purchase and Leasing Business**”) experienced substantial growth and expansion. This can be attributed to the nature of the Hire Purchase and Leasing Business, which operates similarly to the provision of credit, for example, by providing funding for consumers who wish to purchase automobiles and motorcycles but lack sufficient funds to make the purchase through a lump sum payment; such source of funding is readily accessed by the consumers due to the low repayment amount per installment. Consequently, the Hire Purchase and Leasing Business has become widely accessible to the public, resulting in a constant increase in the volume of transactions. However, this growth has been accompanied by a large number of complaints from the service recipients concerning, among others, incorrect outstanding amounts, interest rates, fees, or issues concerning debt restructuring.

Despite the business expansion and the said consumer complaints, the Hire Purchase and Leasing Business had not formerly been regulated by any specific authority. To enhance financial safeguards, ensure economic stability, and protect consumers, the Bank of Thailand (“**BOT**”) has collaborated with the Fiscal Policy Office of the Ministry of Finance of Thailand in enacting the Royal Decree prescribing the Hire Purchase and Leasing of Automobiles and Motorcycles Business to be under the Financial Institution Business Act B.E. 2551(2008) B.E. 2568(2025) (“**Royal Decree**”), which was published on the Royal Gazette on 5 June 2025 and will come into force on 2 December 2025.

2. Key Takeaways under the Royal Decree

2.1 Scope of application of the Royal Decree

The Royal Decree generally imposes obligations on the operators of the Hire Purchase and Leasing Business which are juristic persons. However, the Royal Decree shall not be applicable to certain entities, financial institutions under the financial institution business law, cooperatives under the cooperative law, for

¹ **Section 3 of the Royal Decree.** “Hire Purchase” means the hire purchase under the Civil and Commercial Code of Thailand (“**CCC**”) where the subject property of the hire purchase is automobiles or motorcycles. (According to Section 572 of the CCC, this refers to a contract whereby an owner leases out its property and promises to sell them to the hirer, or that lets such property become the property of the hirer on the condition that the hirer shall make payment of a certain amount.)

² **Section 3 of the Royal Decree.** “Leasing” means the leasing out of automobiles or motorcycles whereby all or almost all of the risks and rewards to which the owner is entitled will be transferred to the lessee. The lessor is obligated to procure automobiles or motorcycles, in accordance with the lessee’s demand, for the utilization of the lessee. The lessee cannot unilaterally terminate the agreement before its expiration. Upon the expiration of the agreement, the right to purchase the leased automobiles or motorcycles will be subject to agreements between the lessor and the lessee. The executed agreement shall contain contents corresponding with the finance lease according to the financial reporting standards for a finance lease.

example, taxi cooperatives, and individual operators. Instead, the Royal Decree shall be applicable to any juristic persons acting as business operators regardless of the purpose of the hire purchase or leasing of automobiles or motorcycles, whether for personal use or commercial purpose.

2.2 Obligations of the operators of the Hire Purchase and Leasing Business

The Royal Decree sets out certain obligations for the operators of the Hire Purchase and Leasing Business to comply with as follows:

Obligations	Details
(1) Obligation related to service fee and interest rate³	(i) <u>to announce the</u> interest rate and service fee (regardless of its name), at the operators' office and to any media so that the public or consumers can access such information; (ii) <u>to report</u> such information in (i) above to the BOT; and (iii) <u>to notify and display</u> the method and details of calculation of the annual service fee to the public and consumers.
(2) Obligation related to accounting⁴	(i) <u>to prepare</u> an accounting statement showing the actual operational result and financial status; and (ii) <u>to maintain</u> information, accounting statements, documents, seal or any evidence related to business, assets and debts.

The performance of certain obligations above require further clarification which may be provided in the sub-regulations that have not yet been issued by the BOT.

In furtherance of the above obligations, the BOT has the authority to issue sub-regulations stipulating additional requirements on various matters that the operators of the Hire Purchase and Leasing Business shall adhere to, for example,

- (a) the form or context of an agreement to be executed between the business operators and consumers,
- (b) the rules in the event that the business operator is entitled to alter an agreement unilaterally,
- (c) the disclosure of the business operator's information⁵, and
- (d) details concerning the hire purchase and leasing, namely, the interest rate, service fee, deposit, security in the form of property, proceeds from the transactions, and penalties chargeable by the operators of the Hire Purchase and Leasing Business⁶.

2.3 Monitoring the Operators of the Hire Purchase and Leasing Business

The governing regulatory body under the Royal Decree is the BOT. The BOT is authorized to appoint an inspector to check the business, assets and debts of the business operator, including any related person, whether in general or specifically. The inspector has the duty and authority to:

- (1) order a director, a manager, an employee, or an auditor of the business operator to give a statement concerning the business operator's assets and debts and to hand over a copy of the information, accounting statements, documents, seal or any evidence or display information thereof; and
- (2) seize or confiscate any assets, documents or objects which are involved in an offence for the benefit of examination or legal proceedings.

If the operator of the Hire Purchase and Leasing Business or the person having the management power of the business operator⁷ is found to be in violation of this Royal Decree or any sub-regulation issued

³ Sections 7 and 9 of the Royal Decree.

⁴ Sections 13 and 15 of the Royal Decree.

⁵ Section 8 of the Royal Decree.

⁶ Section 10 of the Royal Decree.

⁷ **Section 3 of the Royal Decree.** "Person having management power" means

(i) a manager, vice manager, executive director or managing partner of the business operator, as the case may be, or the person having a position equivalent thereto;

(ii) a person to whom the business operator executed an agreement granting all or part of the management power; or

(iii) a person, based on circumstance, having controlling or influencing power over a manager, director or managing partner or management of the business operator for them to comply with the order of such person with respect to the determination of the policy or operation of the business operator.

thereunder, the BOT shall:

- (i) issue a warning letter to the business operator or related person to suspend any violating act or to comply with the regulations, or
- (ii) issue an order prohibiting the violating act or demanding compliance.

Furthermore, in the event that the business operator violates the Royal Decree or engages in unfair or exploitative acts towards consumers which may cause severe damage, the BOT may issue an order to the business operator to rectify its operation or to temporarily suspend an operation partially or entirely for a specified period.

2.4 Penalties

The Royal Decree stipulates the penalties for the operators of the Hire Purchase and Leasing Business in the event of a violation of the Royal Decree, which are referenced from the penalties under the Financial Institution Business Act B.E. 2551(2008) (“FIBA”) as summarized in the table below. The penalty to be imposed is limited to the fine penalty, but the range thereof is considerably high for certain violations.

Violation	Fine Penalty
Not announcing the interest rate and any service fee at the office and to any media or not reporting information to the BOT	- Fine not exceeding THB 500,000; and - Daily fine not exceeding THB 5,000 throughout the period of violation or until compliance is met (in accordance with Section 125 of the FIBA)
Not notifying and displaying the method and details of calculation of the annual service fee to the public and consumers	
Not preparing an accounting statement showing the actual operational result and financial status	- Fine not exceeding THB 1,000,000; and - Daily fine not exceeding THB 10,000 throughout the period of violation or until compliance is met (in accordance with Section 128 of the FIBA)
Not complying with an order to suspend or prohibit the violating act or to rectify the operation	
Not maintaining information, accounting statements, documents, seal or any evidence related to business, assets and debts	- Fine not exceeding THB 300,000; and - Daily fine not exceeding THB 3,000 throughout the period of violation or until compliance is met (in accordance with Section 124 of the FIBA)

Most importantly, the fine penalties also extend to a director or the person having management power or any person responsible for the operation of the business operator if an offence is committed on such person’s (i) instruction or act or (ii) omission to instruct or act.

The prescription period for an offense is 2 years from the date the BOT discovers the offense or within 5 years from the date of committing such offense.

3. Conclusion

The operators of the Hire Purchase and Leasing Business should prepare for due compliance with the Royal Decree which will become effective in December this year.

The details of certain obligations under the Royal Decree and other requirements with respect to the Hire Purchase and Leasing Business may be further elaborated in the sub-regulations to be issued by the BOT. Thus, the operators of the Hire Purchase and Leasing Business should proactively monitor the updates and be prepared to make necessary adjustments to their practices.

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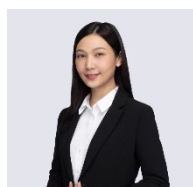
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This article provides comparative analysis of real estate regulations in different jurisdictions worldwide, with answers to crucial questions in key areas such as: acquisition of real estate, including recording conveyance documents, foreign investors, investment entities, leases and mortgages and contracts and financing, including liens, interest, enforcement, protection of collateral, covenants and bankruptcy.



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Nagashima Ohno & Tsunematsu, based in Tokyo, Japan, is widely recognized as a leading law firm and one of the foremost providers of international and commercial legal services. The firm's overseas network includes locations in New York, Singapore, Bangkok, Ho Chi Minh City, Hanoi, Jakarta* and Shanghai. The firm also maintains collaborative relationships with prominent local law firms. The over 600 lawyers of the firm, including about 50 experienced lawyers from various jurisdictions outside Japan, work together in customized teams to provide clients with the expertise and experience specifically required for each client matter.

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