

Technical Assistance Consultant's Report

Financial Consumer Protection Assessment Report



Kingdom of Thailand: TA7998 (THA) - Development of a Strategic Framework for Financial Inclusion in Thailand (Financed by the Japan Fund for Poverty Reduction)

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Prepared by: Robert Hickson and Patamawadee Suzuki

Microfinance Services Pty Ltd

Gold Coast, Australia

For: Fiscal Policy Office

Bureau of Financial Inclusion Development Policy

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CURRENCY EQUIVALENTS

US\$1.00 = THB 31.36

ABBREVIATIONS

A2II	Access to Insurance Initiative
POS	(electronic) Points of Sale
ADB	Asian Development Bank
BIS	Bank for International Settlements
BAAC	Bank of Agriculture and Agricultural Cooperatives
BOT	Bank of Thailand
FIPD	Bureau of Financial Inclusion Policy and Development
CBFI	Community Based Financial Institution
CBFI	Community Based Financial Institution
CBO	Community Based Organization
CDD	Community Development Department (MOI)
CODI	Community Organizations Development Institute
CPD	Cooperative Promotion Department (Min. Agriculture & Coops)
CAD	Cooperatives Audit Department (Min. Agriculture & Cooperatives)
CULT	Credit Union League of Thailand
DPA	Deposit Protection Agency Act
EA	Executing Agency (of Government)
FCP	Foundation for Consumer Protection
FIBA	Financial Institutions Business Ac
FIDF	Financial Institutions Development Fund
FSMP	Financial Sector Master Plan
FPO	Fiscal Policy Office
FGD	Focus Group Discussion
GHB	Government Housing Bank
GSB	Government Savings Bank
SES	Household Socio-Economic Survey of the NSO
ICBC	Industrial and Commercial Bank of China
IAS	International Accounting Standard(s)
ILO	International Labour Organization
IMF	International Monetary Fund
I-Bank	Islamic Bank of Thailand
KTB	Krung Thai Bank
KTC	Krung Thai Card
LGP	Local Government Pawnshops Committee
LIH	Low Income Households
MAP	Making Access Possible
MFI	Microfinance Institution
MI	Microinsurance
Min Ag	Ministry of Agriculture
MOF	Ministry of Finance
MOI	Ministry of Interior
MNO	Mobile Network Operator
NCB	National Credit Bureau
NESDB	National Economic and Social Development Board
NSO	National Statistics Office
NSFI	National Strategy for Financial Inclusion
NVUCF or Village Fund	National Village and Urban Community Fund, or Village Fund
NBFI	Non-Bank Financial Institution
NGO	Non-Governmental Organization
NPL	Non-Performing Loan

OCPB	Office of Consumer Protection Board
OIC	Office of Insurance Commission
SGP	Savings Groups for Production
SEC	Securities and Exchange Commission
SMEs	Small and Medium Enterprises
SSO	Social Security Office
SFI	Specialised Financial Institution
SEPO	State Enterprise Policy Office
TA	Technical Assistance
THB	Thai Baht
TCRB	Thai Credit Retail Bank
TDRI	Thailand Development Research Institute
TMB	TMB (formerly Thai Military Bank)
DTAC	Total Access Communications
UNCDF	United Nations Capital Development Fund
Village Fund	Village Fund

Asian Development Bank Technical Assistance

TA 7998: Development of a Strategic Framework for Financial Inclusion

(Funded by the Government of Japan through the Japan Fund for Poverty Reduction (JFPR))

The Royal Thai Government (RTG) requested technical assistance from the Asian Development Bank (ADB) in 2010 to support the Government's initiative to promote financial inclusion in Thailand through a highly consultative process. Approved at the end of 2011 and initiated in early 2012, the process of developing a framework for financial inclusion began with a comprehensive diagnostic of the current state of financial inclusion in the country. The diagnostic was conducted through a collaborative effort with the United Nations Capital Development Fund (UNCDF) using its Making Access Possible (MAP) methodology to support expanding access to financial services for individuals and micro and small businesses. The first part of this diagnostic investigated supply-side and regulatory environment issues including the payments infrastructure. A qualitative and quantitative demand survey was conducted which provided valuable insights on access to finance and client behavior. Other parts of the assessment investigated fields including microinsurance, financial literacy and consumer protection. The final synthesis report brings together the assessment findings and provides key recommendations for going forward.

Reports in Thailand Financial Inclusion Series

1. Microfinance Supply Side Assessment Report
2. Microinsurance Assessment Report
3. Qualitative Demand-Side Research Report
4. Microfinance Regulation and Supervision Report
5. Financial Literacy Findings and Recommendations Report
6. Quantitative Demand Research Report – Finscope Thailand*
7. Consumer Protection Assessment Report
8. Full Diagnostic Synthesis Report

Reports are available at: <http://www.adb.org/projects/45128-001/documents>

*Finscope Thailand (funded by UNCDF) is available at:

<http://www.uncdf.org/sites/default/files/download/Thailand%20booklet%20final%2006%20August%202013.pdf>

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1 Executive Summary

This report represents one component in a comprehensive diagnostic on financial inclusion in Thailand undertaken by Microfinance Services under the authority of the Royal Thai Government's Fiscal Policy Office and funding by the Asian Development Bank. The research which has included both quantitative and qualitative studies was conducted in Thailand from May 2012 through to September 2013.

1.1 Findings

In Thailand the major consumer protection issue appears to be the lack of effective tools and mechanisms to prevent reckless lending (lending without heed to the best interests of borrowers) and over-indebtedness. Currently there are inadequate requirements for lenders (especially NBFIs) to undertake careful analysis of their customers' total debt liabilities and their debt servicing capacity. Reckless lending usually results when loans are fully secured by physical assets but the borrower is incapable of servicing the loan. Thus the financial interests of the lender are secured, while those of the borrower are jeopardised. In Thailand it also occurs among informal lenders or debt collection agents who by intimidation or violence are confident that they will be able to recover principal and interest.

High debt stress holds serious risk for both consumers and for the lending industry. Reckless credit follows a similar cycle as a pyramid scheme – while it grows it generates cash which hides the problems. When it unravels it has a devastating effect on the clients and the lenders alike and can easily spill over to the main stream banking sector, as it has done in South Africa and elsewhere. It also implies that the poor remain stigmatized as 'unreliable clients'.

The National Credit Bureau (NCB) is a valuable but underused tool for lenders who wish to understand the debts held and loan history of potential customers. Unfortunately, it currently does not include BAAC, AEON and smaller NBFIs and the large informal sector.

People are very reluctant to talk about their indebtedness. However, in the North and Northeast, in particular, it seems that a significant number of borrowers are caught in a perpetual debt cycle using informal sources of credit to repay SFI debt simply to allow them to re-borrow from the SFI and repay the informal lender. The FinScope study found that 12% of borrowers considered debt repayment as their main reason for borrowing. Given the sensitivity of this issue we suspect the real figure may be considerably higher. Young families facing financial stress are less cautious with respect to Debt than more mature individuals. It appears that politically motivated programs providing easy access to credit and expectations of debt amnesties or moratoriums, maybe motivating people to borrow beyond their means.

The problem of debt burden is not restricted to low income households. The Bank of Thailand (BOT) reported in 2013 that household debt in the first quarter surged by 16.24 per cent year on year, with outstanding loans standing at THB 8.97 trillion, or 77-78 per cent of GDP. Debt from credit cards and personal loans alone grew by 33.2 per cent (*The Nation Jul 10, 2013*).

The key to preventing over-indebtedness lies in early detection of debt capacity. This is not easy as it requires among the borrowers, a high level of financial maturity and a willingness for transparency. Among lenders it requires a willingness to establish suitable loan products as well as mechanisms for determining the related debt servicing capacity.

The Finscope nationwide survey conducted in 2013 across 6000 adult individuals provides some interesting opportunities to analyse the nature of indebtedness in Thailand. The analysis of this data has not been exhaustive, however, some initial findings are provided in Section 7. Some key findings include:

- Of households currently with outstanding debt (44%), 38% of these believed that they were over-indebted.

- At least 12% of all borrowings are taken out in order to repay other debts.
- Amongst the indebted the poor are more over indebted; those with monthly income is below THB 3000 have debt burdens of nearly 3 times their annual income (most probably nearly all consumption debt).
- Village Funds, savings groups and moneylenders and SFIs that serve poorer households.
- Farmers (62%) are the most indebted group in Thailand followed closely by government employees (59%).
- While these government employees represent only about 4% of the population they hold about 12% of total individual debt.
- Informally employed such as farmworkers and those receiving wages from an individual (e.g. domestic workers), and those relying on remittances; are also commonly indebted but are only able to borrow small amounts through mostly informal sources.
- Levels of savings in Thailand are not very high by global standards. In contrast to debt at 77.7% of GDP, in 2011, household savings were 5.3 per cent of GDP, and 45 per cent of households, or 9.09 million, were not capable accumulating any significant savings.
- 64% of individuals save less than THB 2,000 per month.

The qualitative demand-side research revealed a number of market conduct concerns in the provision of credit to the target market.

- Exclusion from credit
- Inappropriate timing of loan disbursement
- Inappropriate loan repayment schedules
- Slow loan approval procedures with excessive documentation requirements
- Lack of access to formal credit among undocumented migrants
- Lack of reward for proven credit worthy clients
- Unethical debt collection practices

1.2 Recommendations

General recommendations that accord with internationally accepted best practice in consumer protection for microfinance and microinsurance clients are provided in Section 3 below. These recommended practices should be read in conjunction with specific recommendations provided here and in more detail in Section **Error! Reference source not found.**

We recommend that the RTG should continue to improve its **problem oriented approach** to consumer protection through the provision of convenient and effective national facilities through which consumers are able to easily make complaints, and by improving the analysis of these complaints and the effectiveness of institutional responses to major recurrent problems. This approach is likely to result in focus upon issues that consumers find more immediate and easy to report and is less likely to identify deeper structural problems which need to be addressed separately; such as lack of choice of financial institutions, inappropriately designed financial products, overselling of financial products, client privacy, undue risk of loss of savings deposits, and of course weaknesses in the very system by which consumers are able to report their problems.

Implementation of consumer protection policies would be much more effective if managed through a single agency. We recommend that BOT's Financial Consumer Protection Centre (FCC) take full responsibility for soliciting and receiving consumer grievances from all Thai citizens regardless of the financial institution/service provider involved. All formal financial institutions and the larger credit cooperatives should be required to submit annual reports to the FCC detailing and analysing customer grievances received directly to their customer complaint centres.

Similarly, we recommend that the FCC (in consultation with the Fiscal Policy Office) is also charged with responsibility for (i) the development of financial consumer protection policy and regulation for formal financial institutions (SFIs, banks and financial institutions regulated by BOT), (ii) monitoring of compliance through incorporation of consumer protection supervision in BOT's routine on-site and off-site supervision procedures, and (iii) be provided with the authority for enforcement through sanctions and penalties. BOT has already established detailed regulation covering many aspects of consumer protection for the financial institutions it oversees. However, this regulation requires adaptation with respect to SFIs, particularly BAAC due to its major involvement in lending to low income households which often have different consumer protection vulnerabilities.

Microinsurance providers and other smaller informal financial institutions should be assisted by the FCC to develop "codes of conduct" for consumer protection, where possible, through their representative bodies. Compliance with these "codes of conduct" should be monitored by the FCC through analysis of customer complaints provided directly to FCC. Sanctions and penalties should be imposed upon institutions that continue to violate these agreed codes of conduct.

SFIs and other financial institutions interested in developing market responsive financial products for low income households in Thailand would benefit greatly from the establishment of funding and technical resources to build the capacity of these institutions to conduct market research for new microfinance and microinsurance products. The establishment of these resources might be considered as part of a second phase financial inclusion project.

We recommend that Finscope and NSO's Socio-Economic Survey are used routinely as tools for monitoring financial inclusion, in particular analysis of household over-indebtedness in Thailand. This will require the development of specific analytical techniques to help better understand the data and trends over time. The primary responsibility for undertaking regular analysis of this data should be assigned to a specific institution(s) or joint committee including at least FIPD and the Bank of Thailand.

Our initial analysis suggests that immediate attention is required to assist households borrowing to repay other debts and low income households with high levels of consumption debt. Village Funds and savings groups who are the major providers of debt to these low income households require training in accounting procedures, simple financial analysis and credit assessment procedures. Further research is required to better understand the needs of highly indebted groups such as farmers, government employees and the informally employed. Greater attention should be paid to strategies to promote greater self-reliance through savings and other forms of asset accumulation.

All formal and semiformal financial institutions in Thailand should be required to advertise interest rates as annualised percentage rates (APR) or effective interest rates (EIR) to facilitate cost comparisons between service providers. Both financial institutions and insurance providers should be required to prominently display the total minimum total cost of the product over its life (inclusive of all interest and mandatory charges) as well as any additional penalty costs for which the client may become liable.

Instead of requiring SFIs to "take over" informal moneylender debts, a more effective approach to reducing informal sector interest rates may be through the development of policies and incentives to increase formal and semiformal financial institution competition in this market; together with more comprehensive market information from the NCB. Greater competition would not only result in lower interest rates being offered to the low income household market but improve choice and quality of financial and insurance products available to this market. This could be achieved, in part, by providing a regulatory window for Microfinance Institutions (MFIs) to operate in the low income household market. In China and Cambodia microfinance licences have been issued in which a number of regulatory concessions have been offered (eg. lowered minimum capital requirements) in exchange for the acceptance of operating limitations (eg. restrictions on loan size, increase capital

adequacy requirements and more conservative risk management) which largely confines these institutions to the low income market¹.

Another strategy to improve competition among institutions serving the low income household market is to remove the current interest rate distortions created by the state owned SFIs. These subsidised interest rates currently ensure that privately owned financial institutions cannot compete for the low income household market. This does not necessarily require these low income households to be disadvantaged. In Australia, the United States and Europe governments continue to provide interest-rate subsidies to disadvantaged sectors of the economy, or sectors they wish to promote, by offering demand-side subsidies rather than supply-side subsidies. These demand-side subsidies usually involve the provision by the government of a “fixed” portion of the total interest payments made by target households. This allows all licensed financial institutions to compete with each other on product quality and price².

The recent requirement for registration of debt collectors is probably insufficient in itself to ensure high standards of debt collection conduct. We suggest that all third party agencies engaged in the practice of debt collection of loans that are originally issued by a regulated financial institution should be required to obtain a license from the FCC and be required to operate within the FCC’s code of conduct guidelines with respect to debt collection practices.

In the marketing of insurance policies insurers should be able to market in innovative ways and the OIC should not restrict unusual marketing approaches as long as they are honest. The simple policy document should be final word on policy content. Brochures and marketing materials are unlikely to be fully comprehensive so the need for simplicity in conveying the marketing message should be viewed with that realization. Thus, just because policy items are not included in the marketing material, this should not be considered a legal lapse. However, wilful distortions of the actual policy costs or benefits during marketing should not be allowed.

The cost of delivering individualized policy documents to each policyholder (or individual in a group) may prove too high in the case of microinsurance. Where possible other methods should be allowed such as scratch off documents, mobile receipts, or generic receipts for group members; all with unique numbers that can be linked to full policies through call centres or the insurer’s webpage. As clients are purchasing these policies without full policy documentation these policies should be preapproved by OIC. Risk based approaches should set general characteristics of a legal policy and should not require OIC approval for the policy or marketing language. Such innovation is important to help reduce the costs of microinsurance.

Low-income populations are vulnerable to deceptive selling and fraud and not well aware of the insurance concept. Supervisors therefore, need to pay extra attention to consumer protection issues that may arise at different stages of the process such as advertising, collection and issue of disclosures, advice, sale, enrolment, servicing and claims.

2 Introduction

This report undertakes an assessment of consumer protection in Thailand following the Client Protection Principles proposed by the Smart Campaign Secretariat at the Centre for Financial Inclusion (July 2011) as a framework for analysis. The report forms part of a series of diagnostic studies on financial inclusion in Thailand conducted from May 2012 through to

¹ Under ADB technical assistance projects, Microfinance Services Pty Ltd designed the regulatory framework for the licensing of the first privately owned financial institutions in China and for Microfinance Deposit-Taking Institutions in Cambodia.

² The government subsidy to the borrower maybe say 5 percentage points and the financial institutions compete on the additional interest and fees that they apply.

September 2013, which include assessments of access to microfinance (savings, credit, payments and transfers); microinsurance; financial consumer protection; financial literacy services; and an analysis of the broader regulatory framework affecting access to financial services. These studies have been conducted under the authority of the Fiscal Policy Office and funding by the Asian Development Bank.

The following items are explored:

1. Appropriate product design and delivery
2. Prevention of over-indebtedness
3. Transparency
4. Responsible pricing
5. Fair and respectful treatment of clients
6. Privacy of client data
7. Mechanisms for complaint resolution

3 International “Good Practice” in Consumer Protection for Clients of Microfinance and Microinsurance

As the provision of formalised microfinance has evolved and expanded the size and complexity of the industry and its products has brought with it risks which can no longer be dismissed as the lesser evil to financial exclusion. In the past, when microfinance was usually practised on a smaller scale by government agencies such as BAAC and development oriented NGOs (often funded by international donors), these risks were, to a large extent, mitigated by the strong ethical commitment of these MFIs.

Uncollateralised microfinance loans also enforced mutual incentives of borrower and lender to maintain a productive and harmonious relationship. Both parties were equally anxious to maintain the mutually beneficial relationship. Failure to do so would result in financial losses by the MFI and loss of access to on-going loans and savings for the client.

On the other hand, in the early days of microfinance MFIs typically were able to offer village-based financial services in the absence of any formal competition and had only to offer substantially cheaper prices than the informal market in order to secure customers. This lack of competition often resulted in clients being forced to accept whatever product(s) on offer by the MFI. As these MFIs often considered they were providing a charitable service to disadvantaged households, these MFIs often considered that their customers (beneficiaries) should be simply grateful for the low-cost services being provided. In the case of some of the religious or development oriented MFIs, financial services were often “bundled” with other products and services considered “good for clients” such as evangelization, politicization or a variety of social, educational or health initiatives.

Opening the microfinance market to greater private and public sector competition provides many benefits to clients in terms of reducing price and other transaction costs, accessibility of services and product innovation. Unfortunately in Thailand and India the dominance of subsidised government agencies providing microfinance has prevented this dynamic market competition.

In the absence of enforced codes of conduct (that include transparency and full product disclosure) some smaller commercial financial service providers (such as some of Thailand’s smaller NBFIs and moneylenders) have taken an exploitative short-term opportunistic approach towards their clients. However, private financial institutions with longer term vision attempt to build a brand association of quality with their products and services. *This is important if they are to generate repeat customers for whom the fixed costs of establishing a financial relationship are much lower.*

The need to establish specific client protection principles for microfinance and microinsurance clients prompted the establishment of The Smart Campaign Secretariat at the Centre for Financial Inclusion in Washington DC. The Smart Campaign has developed

seven key principles that should be considered in ensuring adequate protection of microfinance and microinsurance clients. In addition valuable contributions have been made by the International Development Law Organisation (IDLO) in Italy, the Consultative Group to Assist the Poor (CGAP) based in the World Bank and the Alliance for Financial Inclusion headquartered in Bangkok. Valuable guidelines on consumer protection for microinsurance have been also been developed by the World Bank.

3.1 Appropriate product design and delivery

Guiding Principle

Providers will take adequate care to design products and delivery channels in such a way that they do not cause clients harm. Products and delivery channels will be designed with client characteristics taken into account.

Appropriate product design implies that financial products I genuinely designed with the client's interests at heart. To the greatest extent possible, they should be easy to understand and well within the client's capacity to comply with his or her obligations of the contract. Product attributes should be developed on the basis of a systematic process of market research which allows the financial institution to clearly understand the typical *needs* and *capabilities* of the market to which the products targeted. For example, for loan products the size and frequency loan repayment schedule should closely accord with typical client cash flow. In general we find that small retail businesses with steady cash flow prefer small frequent repayment instalments while employees are likely to require monthly repayments to coincide with salary disbursements. Farmer's cash flow typically follows a seasonal pattern and there may require lump sum loan repayments to coincide with the seasonal sale of livestock or crops.

Products should be as simple as possible to understand in terms of client obligations and fee structure. If clients are more accustomed to monthly interest rates these should be provided in addition to a standardised effective annual percentage rate. Bundling of products (such as requiring the purchase of insurance prior to taking a loan) should be avoided as much as possible to ensure that clients are not being sold unwanted products. Clients should never be required to waive their rights to: take legal action against the provider, receive information about their product, and cancel usage of the product or privacy of their personal data.

In Thailand, BAAC which dominates the formal microfinance market, has not undertaken a systematic approach to market segmentation and adaptation of its products according to the needs of individual market segments. Lack of effective competition to BAAC has removed the imperative to continually modify its financial products in accordance to individual needs. Rather than responding directly to the needs of its clients BAAC is required to respond to the directives of the government in terms of product policies, which unfortunately cannot be intimately aware of the needs of different market segments of BAAC clients. The Village Funds, savings groups and village moneylenders operate in the same market as BAAC yet have insufficient capital to provide substantial competition, therefore, BAAC continues to hold the dominant share of the market for microfinance.

If loan products require compulsory savings these should be accessible immediately after all loan repayment obligations have been met. In the case of loan and insurance products, a *cooling off period* should be allowed following the signing of a contract in case the client decides that taking the product is not in their interest, once they've had an opportunity to fully consider the matter.

Exclusions under health insurance policy should be avoided as much as possible. Where absolutely necessary these should be made very clear to the prospective policyholder. Credit providers should avoid compulsory requirement of credit life insurance is a condition of loan contracts. It is preferable for credit providers to build the risk of the death of a borrower into their interest rate and accommodate these losses in their loan loss reserve.

3.2 Prevention of over-indebtedness

Guiding Principle

Providers will take adequate care in all phases of their credit processes to determine that clients have the capacity to repay without becoming over-indebted. In addition, providers will implement and monitor internal systems that support prevention of over-indebtedness and will foster efforts to improve market level credit risk management (such as credit information sharing).

Small businesses and inexperienced applicants for personal credit notoriously overestimate their debt capacity. For this reason it is incumbent upon credit institutions to undertake detailed credit assessments (client underwriting process) on all prospective borrowers, particularly first-time borrowers. In undertaking their credit assessments providers should take all possible steps to determine pre-existing loan repayment obligations (including but not restricted to credit reference bureaus) of their clients and undertake monthly cash flow analysis for the duration of the loan product. This is particularly important for new clients and repeat clients with poor loan repayment history.

The use of collateral and guarantee should not substitute for detailed credit assessment. Financial institutions Total loan repayments from all sources generally should not exceed 40% of total disposable income. This data is not readily available in Thailand, however, our analysis shows that outstanding loans, particular amongst low income individuals, can represent as much as 3 times the individual's annual income. The annual debt repayment burden to annual income ratio will depend upon the average term (repayment duration) of these loans; however, intuitively we can expect the ratio to exceed 40% for many Thai borrowers.

Financial institutions should also provide loan officers with a qualitative description of over-indebtedness in order that they not rely solely on quantitative formulas. For example, "borrowers should not have to make significant sacrifices to their standard of living or business affairs, in order to repay debts".

Credit providers should look for signs that customers are cross financing loan repayments from other loans. Loans requiring a balloon repayment at the end of the loan and "back-to-back" loans (such as recurrent BAAC agricultural loans) are very susceptible to this practice. Typically a borrower takes a short term loan (often from a moneylender) to repay a formal financial institution loan, then repays the short term loan provider once the formal financial institution provides a new loan. Loan applications that immediately follow a previous loan repayment may require investigation in this regard. The Finscope study indicates that in Thailand at least 12% of all borrowing is used to repay other loans.

Paradoxically, loans that are too small for the credit need of a borrower can lead to greater indebtedness if that borrower must turn to a more costly credit provider to fill the financial deficit. This is a common practice in Thailand where many individuals top up their borrowings from formal and community-based financial institutions using moneylenders.

3.3 Transparency

Guiding Principle

Providers will communicate clear, sufficient and timely information in a manner and language that clients can understand, so that clients can make informed decisions. The need for transparent information on pricing, terms and conditions of products is highlighted.

Transparency in communicating finance and insurance product features is important in ensuring clients and their guarantors are able to make fully informed decisions on whether to purchase products and avoidance potential grievances should products not fulfil client expectations.

First and foremost, all critical product information (pricing in particular) should be highlighted in clear language and large font, in product advertising, information brochures and on any

contracts that the client is required to enter into. This critical product information should be also summarised in a section titled “Key Facts”. In the case of clients that have low levels of financial or reading literacy these features must be carefully explained to clients preferably in the presence of friends, family or community members. In addition to clear and complete communication of product features and customer obligations, service providers must confirm they have understood these features and obligations and also fully advise clients of their legal rights associated with purchase of the product. Product features and costs should not be unduly complicated such that even when fully explained it is still difficult for the customer to clearly understand the total cost of their full obligations.

It is highly desirable that all financial institutions are required to advertise interest rates as annualised percentage rates (APR) or effective interest rates (EIR) to facilitate cost comparisons between service providers. The total minimum total cost of the product over its life (inclusive of all interest and mandatorily charges) should be prominently displayed as well as any additional penalty costs for which the client may become liable. Additional charges should only be added where they cannot be practically included in the core interest or insurance premium cost. In the case of Islamic banking the estimated profit share to be retained by the bank should be clearly communicated and this should be also shown as an equivalent effective interest rate to allow Islamic finance clients to compare this cost with the non-Islamic competition. This is not currently required of financial institutions in Thailand.

Savings products should clearly advise clients of any restrictions to accessing savings, fees including account closure fees, how interest is calculated, minimum balance requirements and in the case of compulsory savings associated with loans, any restrictions or cost of accessing these funds. Compulsory saving should not be used as a way to disguise the true cost of credit products³. Ideally interest paid on compulsory savings should be the same as that charged on the loan that they secure in order to ensure compulsory savings cannot be a used to say surreptitious source of additional revenue.

In the case of insurance products transparency requirements pose unique problems in that the client is purchasing a product whose suitability can only be assessed at some indefinite time in the future and is purchased from a provider whose future ability to fulfil its obligations is also unpredictable. Features of insurance policies that must be clearly portrayed relate not only to the full cost of premiums but, importantly, the amount and any restrictions on payments in the case of a claim; and the conditions upon which claims are recognised as valid (i.e. any applicable exclusions). In particular clients applying for insurance policies must be clearly advised on the disclosure requirements and the penalties or implications of nondisclosure.

Payment products should provide clear guidance on fees charged, foreign exchange rates (if applicable), delivery time, location and collection procedure, security measures and procedures to follow in the case of unsuccessful transmission to the recipient.

3.4 Responsible pricing

Guiding Principle

Pricing, terms and conditions will be set in a way that is affordable to clients while allowing for financial institutions to be sustainable. Providers will strive to provide positive real returns on deposits.

In a competitive market there is usually little need for intervention from concerned authorities on pricing of financial and insurance products. In cases in which a variety of service providers are not providing appropriate products to the different market needs, it becomes possible to for individual providers to hold an effective monopoly on a vital product or

³ Interest-free compulsory savings provide a free source of capital to lending institutions and, therefore, increase profitability at the expense of the borrower in addition to their ostensible purpose of securing loans.

service. Moneylenders typically are able to charge very high rates because other financial institutions are not willing or able to offer similar services on similar terms (ie. quick access, collateral free, document free loans). In Thailand the cost of microfinance from SFIs is relatively low by international comparison due to operating and financial subsidies provided to the SFIs by government. Nevertheless moneylenders continue to thrive typically charging 5 to 20 times the interest rates charged by SFIs and other formal financial institutions. This is largely due to the informal flexibility of their service.

It is good policy for financial service providers to determine product costs through a systematic costing and pricing process in which the price represents the actual cost to the institution of providing the product together with a reasonable profit margin. This is usually done through Activity Based Costing (ABC) is promoted by CGAP or Allocation Based Costing, the process developed by MicroSave. In non-competitive situations responsible providers should compare their prices to for-profit competitors operating in similar environments as a check to ensure that prices are neither unreasonably high all, in the case of subsidised financial service providers, not unreasonably low such as to exclude private sector competition which ultimately will benefit consumers.

With insurance products, cost benefit on an individual basis is difficult to determine due to the uncertain return (i.e. claims) to premium costs. Claims ratios or loss ratios can, however, be calculated by the insurance institution to determine the percentage of premium revenue which is paid out in successful claims. Generally a minimum claims ratio 50% should be used as a lower limit although it is not uncommon for microinsurance providers to operate on a claims ratio of around 40%. When regarded purely on the basis of return on investment insurance is generally a low yielding instrument. For example, an insurance company that pays THB 5 million per year to borrow THB 50 million (10%) as a claims reserve; and with a claims ratio of 50% earns THB 100 million in gross premium revenues per year while paying THB 50 million in claims per year; has a gross annual return on investment of 1000%. The institution lending money on the other hand has a gross annual return on investment of 10%. Of course the insurance company has high operational costs which greatly reduce its real annual return on investment but this doesn't reduce the overall high cost of insurance to the insured community.

3.5 Fair and respectful treatment of clients

Guiding Principle

Financial service providers and their agents will treat their clients fairly and respectfully. They will not discriminate. Providers will ensure adequate safeguards to detect and correct corruption as well as aggressive or abusive treatment by their staff and agents, particularly during the loan sales and debt collection processes.

Microfinance and microinsurance service providers should take extra care in training and ensuring clients are treated with the utmost respect. These clients are more susceptible to receiving disrespectful or discriminatory treatment as often institution staff belong to a higher income bracket which may cause social divisions between them and their clients. In particular they should be zero tolerance for any form of corruption, fraud or inappropriate selling practices (eg. overselling or aggressive selling) that is sometimes facilitated by the low levels of financial literacy of microfinance and microinsurance clients. Anecdotal evidence suggests that some BAAC loan officers pressure clients into taking repeat loans in order to fulfil their loan disbursement quotas.

Staff of financial and insurance institution should undertake training and commit to a code of ethical behaviour and practice of non-discrimination with respect to clients. In particular this includes appropriate overdue debt collection practices in which clients with overdue interest or principal repayments should be treated with the same respect as other clients. Many of the complaints received by the Foundation for Consumer Protection (FCP) relate to violent or unethical debt collection practices, particularly by private debt collection agencies and moneylenders.

3.6 Privacy of client data

Guiding Principle

The privacy of individual client data will be respected in accordance with the laws and regulations of individual jurisdictions. Such data will only be used for the purposes specified at the time the information is collected or as permitted by law, unless otherwise agreed with the client.

Financial and insurance service providers should establish their own policies on client data privacy that go beyond national privacy statutes. Private data should be defined as any client-identifiable information which is not already readily available in the public realm. Data shared with credit reference bureaus should not be shared elsewhere and this must be only done with signed client consent. If client data is to be shared with other goods or service providers this should be only done with details explanation and absolute client consent.

The financial service provider must ensure that procedures and facilities are in place to ensure the physical security of client data. All client data privacy policies and security measures should be explained to clients including their obligations to safeguard their own data, in particular personal identification codes which can provide access to savings accounts. Data that could be used for discriminatory purposes such as information about ethnicity, religion or political affiliations should generally not be collected. In cases where governments wish to monitor levels of financial inclusion amongst ethnic or religious groups, this data should be collected only with consent of the client.

Complaints regarding inappropriate disclosure of private information are not common in Thailand and are mostly confined to privacy abuse during debt collection procedures.

3.7 Mechanisms for complaint resolution

Guiding Principle

Providers will have in place timely and responsive mechanisms for complaints and problem resolution for their clients and will use these mechanisms both to resolve individual problems and to improve their products and services.

All financial service providers should provide quick and effective mechanisms for clients to report and resolve complaints. Generally an initial response should be provided to the client within 48 hours. Many microfinance and microinsurance clients are not comfortable making telephone based complaints (eg. via a national hotline) or doubt that this type of communication will effectively resolve their issue. Therefore, microfinance and microinsurance institutions should provide opportunities for face-to-face communication with the representative of the organisation preferably at the village level as well as branch level. Written feedback or complaint in the form of pre-printed forms or webpages can provide a useful structure for financial institutions to monitor client concerns, however, they are not always convenient or appropriate. During the application process client should be advised of their right to complain and the mechanisms by which they may do this.

Financial institutions should systematically analyse complaints and other feedback in order to correct problems with, or improve, their products and services. If the issue cannot be resolved within a reasonable period of time (say two weeks) the financial institution should direct the client to a higher authority for complaint resolution such as a national consumer protection centre or ombudsman for financial services.

In Thailand, formal financial institutions are generally well equipped with complaint handling and resolution procedures. Less attention is paid to the systematic analysis of complaints and the use of this information to improve service delivery procedures and product attributes.

4 Existing Thai Policies and Regulation on Consumer Protection for Customers of Financial Services

Household financial products can be categorized into 3 groups, namely capital market, money and lending market, and insurance.

The common financial products for household in the **capital market** are stocks and debt instruments. The market is under Securities and Exchange Act, A.D. 1992 and Notifications and Circulars of the regulators, Office of Securities and Exchange Commission (SEC) and Stock Exchange of Thailand (SET). Consumers can invest in the products through mediums such as securities companies (stocks and bonds) and banks (bonds).

Deposit, loans, e-banking, e-money and foreign exchange are products available in the **money and lending market**. In general, banks, under supervision of the Bank of Thailand (BOT), offers these products and are governed by Commercial Banking Act, A.D. 1962. **Hire purchase and leasing** is operated by both banks and non-banks. For banks, the hire purchase and leasing businesses (financial lease) have to comply with the BOT's regulation under the Banking Act while non-banks activities will be under Civil and Commercial Code, A.D. 1929

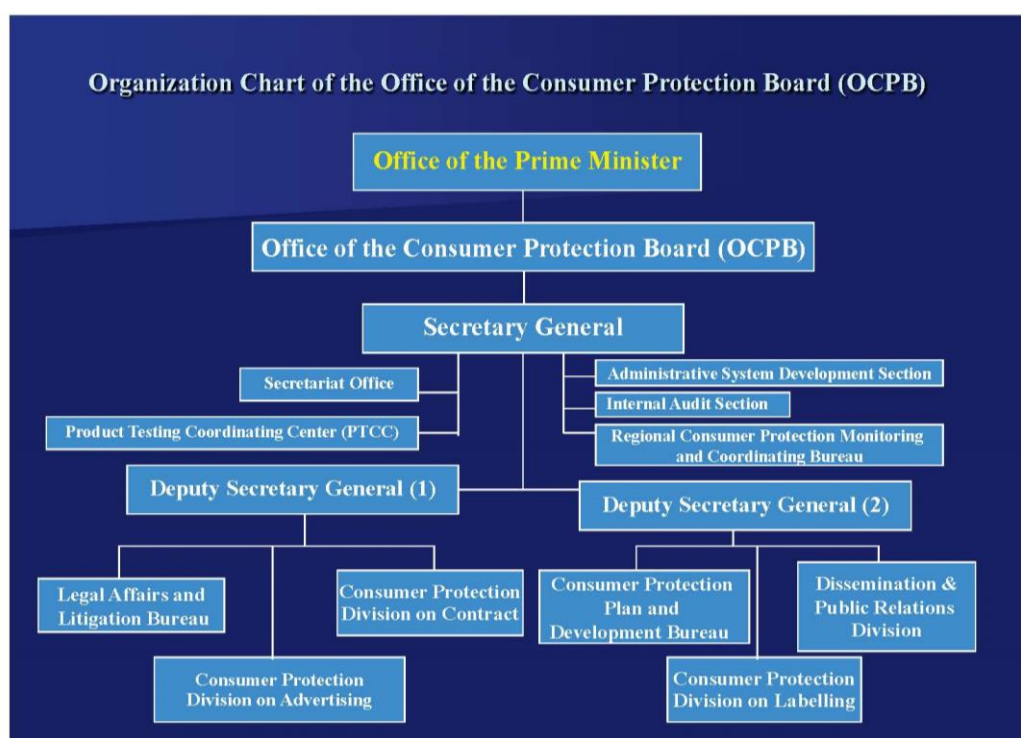
Both **life and non-life insurance** in Thailand is regulated by the Department of Insurance (DOI) under Life Insurance Act, A.D. 1992 and Non-life Insurance Act, 1992. The insurance operators have to comply with Ministerial Regulation and Notification of the Ministry of Commerce, Notifications of DOI and Notifications of Registrar.

4.1 Authorities responsible for financial consumer protection in Thailand

The Office of Consumer Protection Board (OCPB) under the Office of the Prime Minister, has the overall responsibility for consumer protection (see Figure 1). However, financial services represent only 1 out of their 7 focus areas. OCPB has regulations on: credit cards, hire purchase cars and motorbikes, hire purchase electrical items and loans for personal use. For receiving complaints OCPB has a hotline (1166) and prepaid complaint lodgement forms with 7-11 stores. OCPB is also represented in every Provincial Governor's Office. OCPB does not have any specific regulation on insurance. It passes on any complaints received to the OIC.

With regard to financial services, the OCPB co-operates with each of the relevant financial authorities for the purposes of public relations and dispute resolution.

Figure 1 Organisational Chart for the Office of Consumer Protection Board



Source: OCPB

OCPB conducts random investigations to ensure financial institutions are complying with regulations on loan contracts. Penalties for infringement include up to one year jail or THB 100,000. They also undertake investigations in response to complaints with regard to deceitful advertising. Penalties of up to THB 50,000 or six months jail apply.

For financial matters, there are many authorities other than OCPB which play roles in financial consumer protection in accordance with their mandates, for example, the Bank of Thailand (financial products and services with emphasis on banking-related issues), the Stock Exchange of Thailand and Securities and Exchange Commission Thailand (investment issues to serve investors and the potential ones), the Office of Insurance Commission (issues related to insurance and business conducts of insurance companies) and the Ministry of Finance (issues related to services provided by specialized financial institutions i.e. Government Housing Bank, Government Savings Bank).

In January 2012 the Bank of Thailand established the Financial Consumer Protection Centre (FCC) to provide recourse to consumers who are unable to resolve grievances directly with their financial institution. However, this is for commercial bank and the 28 BOT regulated NBFIs clients only. Customers of Specialised Financial Institutions SFIs are referred to the Ministry of Finance.

Specialised Financial Institutions are supervised by the Bureau of Financial Policy and Financial Institutions within the Ministry of Finance. The responsibility for consumer protection lies with the Bureau of Financial Inclusion Policy Development (FIPD).

The Office of the Insurance Commission (OIC) is responsible for the protection of consumers of insurance products. Fraud, particularly by insurance agents, is an important concern for OIC. This includes fraudulent selling of policies as well as failure to process and settle valid claims. The OIC provide consumer protection instructions to all insurance companies. These include procedures on disclosure and transparency as well as deadlines for processing and paying of claims. If an insurance company is found non-compliant with these regulations OIC can revoke its license and suspend its operations. There are 2 separate funds for life and nonlife insurance which can take over insurance policies should this occur.

In order to protect equity and debt products' buyers, the Securities Investor Protection Fund has been established under the Securities and Exchange Commission (SEC). Furthermore, a complaint to SEC can be filed in many ways. Examples are using an online form, letter, or calling the Help Centre. SEC also requires transparent disclosure of the information and possible risk to consumers. SEC, in addition, enforces that customer's fund and assets must be segregated from those of brokers.

The Foundation for Consumer Protection is financially independent and member-based, providing advocacy on behalf of consumers. The FFC was established in 1994 as a non-government and non-profit consumer organisation working directly with consumers to do policy and advocacy work. FFC's consumer magazine "Smart Buyer Magazine" is a bi-monthly magazine with more than 12,000 subscribers. FFC also established a Complaints and Legal Assistance Centre in 1994 in conjunction with its Magazine. Relevant complaint cases are relayed to the mass media, in particular through a weekly one hour television programme called Consumers' Assembly.

4.2 Legal basis for consumer protection

The rights of the consumer are enshrined within the Constitution of the Kingdom of Thailand (2007). The right of consumers to be protected in Thailand is provided in Article 57 of the current Thai Constitution (1997).

Section 61

- (1) Consumers shall have the right to receive factual information
- (2) Consumers shall have the right to make a complaint for remedy (consumer redress)
- (3) Autonomous consumer protection organization

Section 84

- (1) The State shall regulate business activities for free and fair competition, anti-monopoly and consumer protection

Moreover, the Consumer Protection Act, 1979 (revised 1998)⁴ outlines the broad rights of the consumer. These can be categorized as follows:

- (1) The right to be informed of the appropriate and correct description and quality of the goods or services concerned;
- (2) The right to freely choose or seek the goods or service;
- (3) The right to a safe use of goods or service;
- (4) The right to fairness in the conclusion of a contract;
- (5) The right to be heard by the appropriate competent authorities as well as the right to be compensated in case where there exist damages resulting from a violation of consumer's rights.

The 2nd law designed to protect consumers is the Unfair Contract Terms Act, 1997 which recognises that consumers are generally disadvantaged in their ability to negotiate contracts with business entities. This Act identifies "unfair" contract terms and provides legal consequences for businesses convicted of undertaking unfair contract terms.

Overseeing the fairness of contractual arrangements with consumers is the "Committee on Contracts", whose members are nominated by the Consumer Protection Board. The Committee is composed of representatives from various governmental and private agencies namely: the Council of State; the Ministry of Justice; the Office of Attorney General; the Bar Association; academic institutions; the Association of Lawyers; businessmen specializing in banking, finance, real estate and private consumer organisms. This committee currently has control over contracts associated with; credit cards, vehicle hire purchase and the sale of

⁴ see Appendix 1

condominium units. It is currently considering expanding its purview to include loans by financial institutions, mobile phone services and sale of real estate.

Due to the high incidence of complaints with regard to credit card contracts, the Committee on Contracts has issued in the Royal Gazette guidelines to be followed in the preparation of credit card contracts. These include a list of prohibited (unfair) clauses⁵ as well as a list of required clauses⁶ aimed at protecting the interests of users of credit cards.

Of the various authorities overseeing financial service provision in Thailand the BOT has the most comprehensive regulation in place. Section 39 of the Financial Institution Business Act 2008 gives the Bank of Thailand power to prescribe to banks and BOT supervised NBFIs, requirements for consumer protection.

Section 39

For the purpose of consumer protection, the Bank of Thailand shall have power to prescribe the following matters in the notification for one or several types of financial institutions to comply with:

- (1) accepting deposits of money, accepting money from the public, borrowing money, making investments, granting of credits, incurring contingent liabilities, and undertaking other businesses that such financial institutions may carry on;*
- (2) executing juristic acts or contracts with the public, consumers or retail customers in the course of the undertaking of business of financial institutions, which have amount or values as prescribed by the Bank of Thailand whether in content, calculation methods or contract forms;*
- (3) executing guarantee contracts which shall specify the principal amount limits or shall not have unlimited guarantee by the guarantor. In the case of guarantee of debt which having a specified due date and financial institutions have agreed to extend such due date to the primary debtor but is unable to settle within six months, the financial institutions shall notify the guarantor for acknowledgement;*
- (4) requirements where juristic acts or contracts grant the sole right to financial institutions to amend the contract;*
- (5) Disclosure of information related to financial institutions.*

Sections 38 and 40 of the same Act require prominent disclosure of interest rates and fees, and grant BOT the right to provide a standard for the calculation of interest. On August 4, 2005 the Bank of Thailand issued a notification that established a uniform standard for commercial banks to publish their deposit interest rate, effective interest rates for commercial and consumer loans, together with the fees and expenses associate with credit extensions.

Section 38

A financial institution shall announce information concerning interest rates, discount rates and any service charges whether known under different names, as well as any other information related to such financial institution in a public area at the office of the financial institution in order to make the public and customers contacting or using services in such office aware of such information. Such financial institution shall report with a copy of the notices or such information to the Bank of Thailand in accordance with the rule as prescribed in the notification of the Bank of Thailand.

The financial institution shall announce information under the first paragraph in any media in accordance with the rule as prescribed in the notification of the Bank of Thailand.

Section 40

⁵ eg. imposing liability of the consumer for expenses arising from the use of credit cards by other persons than card-holder, the right of the provider to cancel or revoke the credit card from a card-holder without prior notice or justification

⁶ eg. provision of reasonable notification of contract changes or termination, right to a consumer to suspend or cancel at any time

A Financial institution shall notify and demonstrate methods as well as details of the calculation of annual rate of service charges to the public and customers applying for credits.

Annual rate of service charges under the first paragraph consists of all expenses the financial institution charges per annum from the public and customer in granting of credits including interests, discounts and service charges.

The Bank of Thailand shall have power to prescribe in the notification the methods to calculate annual rate of service charges to be complied with by financial institutions.

Compliance with these regulations is monitored during BOTs regular on-site supervision visits to Banks and NBFIs. Under the Financial Institution Business Act 2008 penalties (fines) can be imposed upon banks which do not comply with the regulations.

OCPB have issued 4 regulations relating to financial services and is planning to combine these all under one regulation:

1. Credit Card Regulation effective January 2000.
 - a. Details of contract content and allowed amendments e.g. interest rates, surcharges and fees. All changes must have 30 days advance notice.
 - b. Right of customer to cancel card and receive pro rata application fee refund.
 - c. Statements must be issued more than 10 days before payment is required.
2. Hire purchase of cars and motorbikes
 - a. The General Law Act under the Civil and Commercial Court states that two consecutive missed instalments constitutes a breach of a hire purchase contract. OCPB has been able to extend this to 3 consecutive missed instalments and the requirement for 30 days' notice prior to initiation of recovery action.
3. Hire purchase of electrical goods
4. Loans for personal use

Consumer protection in relation to insurance is covered under the following legislation:

1. Civil and Commercial Code,
2. Life Insurance Act 1992,
3. All Risk Insurance Act 1992 and;
4. Vehicular Victim Protection Act 1992

4.3 Authority responsible for ensuring competition in the financial market place

One of the best ways in which to protect the interests of consumers is to ensure they have choice in the products and services available. This can be facilitated by the establishment of mechanisms to prohibit "anti-competitive" business practices.

The principal legislation governing competition law in Thailand is the Trade Competition Act of 1999 (TCA)⁷. The TCA came into effect on 30 April 1999. The enforcement agency for TTCA is the Trade Competition Commission (TCC), chaired by the Minister of Commerce with the Permanent Secretary of the Minister of Commerce acting as Vice-Chairman and the Permanent Secretary of Finance acting as the Secretary General (see Figure 2).

The TCA specifically prohibits various practices that have been deemed anti-competitive. The prohibited practices include:

- (1) abuse of market power by a firm in a dominant position;
- (2) mergers and acquisitions that may amount to a monopoly;
- (3) agreements and collusive practices that adversely affect competition in Thailand;
- (4) exclusive distribution of imported products that impairs consumers' opportunity for direct importation; and

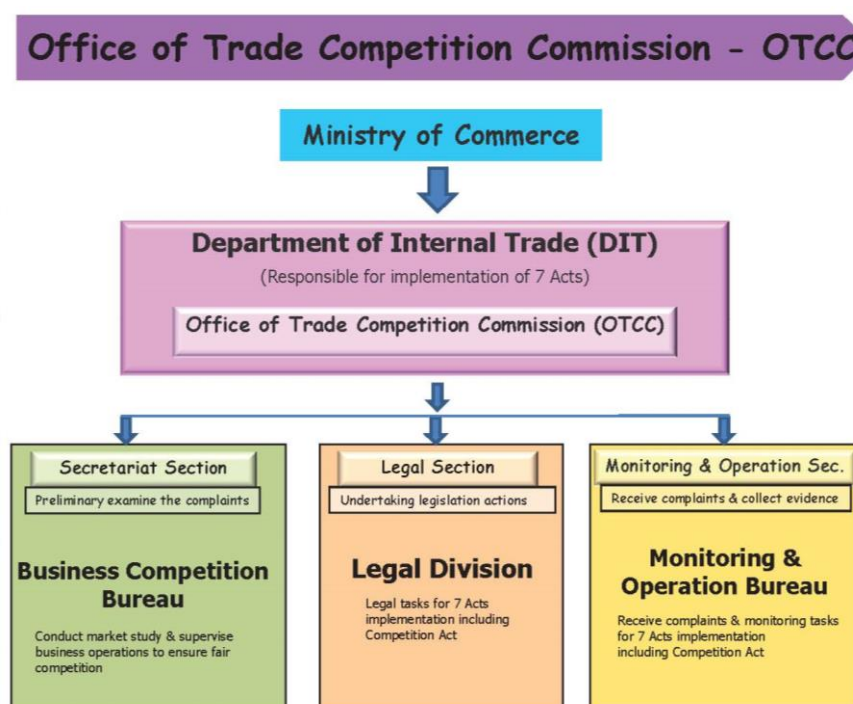
⁷ see Appendix 7

- (5) practices that would tend to exclude or restrict other firms from conducting business, that are not otherwise free and fair. Moreover, the Act provides that the relevant authority shall have the power to order a firm that has market domination or a market share of 75 per cent or more to suspend, cease, or vary the market share.

Sections 3 and 8 of the Act authorise the TCC, with the approval of the Cabinet, to determine the market share and total sales above which a firm will be considered to have a dominant position in the market. A dominant firm is generally defined as a large firm with:

- (1) more than a 33 per cent market share; and
- (2) whose annual sales total more than one billion Thai Baht (approximately US\$25.76 million). However, the standard varies depending on the industry, and may be adjusted as the TCC sees fit.

Figure 2 Structure of the Office of Trade Competition Commission



Source: ADB Institute

4.4 Consumer complaint mechanisms

4.4.1 Financial institutions

All commercial banks and BOT regulated NBFIs are required to have in place complaint facilities at each of their branches and a complaint hotline. This is also required by MOF for the SFI banks. These institutions are also required to provide facilities for customer complaints and suggestions.

4.4.2 Higher level complaint resolution

For customers of commercial banks and regulated NBFIs the BOT established the Financial Consumer Protection Centre (FCC) in January 2012. Customers of these institutions may contact the FCC (Hotline number 1213) to seek assistance in resolving grievances which they are not able to satisfactorily settled directly with the financial institution FCC has a stand-alone office in Bangkok and is represented at BOT regional offices in Chiang Mai (Northern office), Khon Kaen (North-eastern office) and Had Yai (Southern office).

While the FCC's primary responsibility is to help consumers resolve grievances in their dealings with financial institutions; it also has a responsibility to protect consumers' rights with regard to financial services and products through the strengthening of consumer

protection regulation and practices. The FCC also has a role to promote financial literacy, as well as equip them with the financial knowledge necessary to facilitate sound financial decisions

The OIC currently monitors and investigates complaints from insurance customers. Policyholders can contact OIC via the post, email, on its hotline number (1186) or through the OCPB. The hotline number is advertised on TV, radio, billboards and is required to be prominently shown on all policies and application forms.

4.4.3 Monitoring and analysis of complaints received

The FCC is tasked to serve as a one-stop service centre for handling financial complaints and enquiries of BOT-supervised financial institutions and financial service providers, as well as to provide financial education necessary to facilitate sound financial decisions. In order to ensure appropriate policy formation and market conduct supervision, the FCC also sends reports to the Financial Institutions Policy Group and Supervision Group to give feedback on consumers' complaints and enquiries. Some issues gathered from consumer complaints are used as inputs in the formulation of supervisory policy.

4.5 Prevention of over-indebtedness and usury

Responsibility for assessing debt capacity remains with individual lenders. None of the financial authorities require specific due diligence mechanisms to be undertaken by financial institutions to reduce the risk of borrowers exceeding their debt capacity. It is assumed that risk of loan losses in itself will ensure prudence on behalf the lender. However, where the conduct of credit capacity assessment is difficult, expensive and often unreliable; lenders are inclined to cover their risks through high security requirements and concern themselves as less with the ability of clients to service these debts.

The primary instrument used by the BOT to restrict household debt levels is to raise the base interest rate; which hopefully provides a disincentive for individuals and businesses to borrow money. This, however, is in conflict with Ministry of Finance's desire to stimulate growth in the economy through low interest rates which in turn results in more borrowing and more cash circulating in the economy.

Table 1 Comparison BOT regulations on credit cards and personal loans

	Credit Card	Personal Loans
1. Income	>15,000 baht/mth or 180,000 baht/yr	>10,000 baht/mth*
2. Credit line	not exceed 5 times of a customer's average monthly salary	not exceed 5 times of a customer's average monthly salary
3. Interest rates	20%	28%
4. Minimum payments	At least 10 % of outstanding debt	-

*Source: Bank of Thailand *pers comm with K-Bank*

As can be seen in Table 1, BOT restricts individual credit card limits and personal loan sizes to a maximum of five times monthly salaries. Many of the banks and credit card companies claim to use a multiplier of only 3x monthly salaries in order to be more conservative.

The National Credit Bureau (NCB) provides an important service to prudent lenders, allowing them to determine some of the pre-existing liabilities of loan applicants and their on-time repayment record. Loans with three consecutive months of overdue principal or interest are marked as non-performing loans (NPL). NCB provides a credit scoring for individual borrowers based upon a predicted "ability to repay" (A-score) and secondly "willingness to repay" (B-score). NCB is awaiting upon bot approval to start providing the B-score rating to its members. NCB is currently collaborating with Trans Union Credit Bureau in the US to improve its credit scoring process.

The NCB, however, at this stage only really provides effective credit reference information for financial institutions catering to the middle income market. Major lenders to the low income market, such as BAAC, the Village Fund, AEON and the many credit cooperatives,

savings groups and informal lenders; do not report to NCB. Furthermore, these low income households often derived their income from the informal sector and have very limited documentary evidence of their income and expenditure. Consequently, lenders to the low income market have ability neither to effectively assess the existing liabilities of potential customers nor to undertake accurate cash flow assessments.

4.6 Ethical behaviour and debt collection practices

Recently cabinet has approved the Finance Ministry's bill to tighten the rules on debt collection services. This will force debt collectors to register as businesses and; require them to provide borrowers with their names, company names and proof they are authorised by lenders to collect debts. These debt collectors will not be allowed to threaten debtors nor send letters requesting the payments.

The Bank of Thailand issues guidelines describing appropriate manners and behaviour on debt collection such as using non-violent and non-misleading method when contacting debtors, not revealing debtor's information to the third party and the allowed times to contact debtors. They would be allowed to call upon debtors only between 8am and 8pm on working days and from 8am-6pm on holidays.

4.7 Deposit protection

The Deposit Protection Agency (DPA) was established under the Deposit Protection Agency Act which became effective on 11 August 2008 following the Asian financial crisis. SFIs do not pay deposit insurance premiums yet there is an implicit government guarantee on SFI deposits. Commercial banks pay a premium to the DPA which provides an insurance of THB 1,000,000 per account per bank (until August 2015). The DPA Fund is comprised mainly of contributions by commercial banks which are calculated based on a prescribed percentage of the balance of their deposits that are protected under the DPA Act. This percentage was 0.4% of deposits until March 2012 when the contribution rate was reduced to 0.1%.

Deposit insurance schemes add an additional cost to financial intermediation which ultimately is passed on to the customer. Many argue that they are unfairly relieve central banks of their responsibility to ensure financial system stability through good prudential regulation and effective supervision of deposit taking financial institutions.

4.8 Privacy of personal information

All SFIs, banks and regulated NBFIs are required to protect personal data collected from clients and prevent leakage of this data to third party organisations. In the case of institutions reporting to the National Credit Bureau (NCB) clients are asked to sign a form providing consent for the financial institution to pass on credit history information to the NCB.

Privacy of credit information is taken seriously in Thailand and is specifically safeguarded by the Credit Information Business Act 2002 (see Appendix 6). This law governs the legal operation of Credit Information Companies such as NCB. To oversee the implementation of this act the Ministry of Finance has established a Credit Information Protection Committee (CIPC). The Committee comprises the Governor of the Bank of Thailand as a chairman, the Permanent-Secretary of Ministry of Finance as a deputy of the chairman.

All members of the Thai public are able to access their personal credit history held by NCB at a cost of THB 150 (or THB 100 from Express Bureaus). If they feel that the information is incorrect or misleading they have the right to appeal to the NCB or directly to the financial institution itself and must receive a response within 30 days. Those unable to resolve the matter directly with NCB or the financial institution have the right to appeal to the CIPC.

4.9 Microinsurance consumer protection

Many of the efforts to develop truly simple microinsurance products, as well as many of the efforts to reduce administrative costs, have an important impact on consumer protection. For example detailed language on insurance policies is intended to ensure that policyholders have all the possible information that they might need about their policy. In microinsurance a

simple policy document is advocated. Also, agents with limited skills and training are promoted as most appropriate for selling to the low income market. Much of what creates the need for extensive policy documents or highly trained agents in traditional insurance is the complexity of products. If microinsurance products are truly simple, with very limited or no exclusions, very clear coverage, a single price, group based-underwriting, an automatic premium collection method, a simple claims process, and easy access to the insurer to address questions, there is no need for long policy documents nor for extensively trained agents. In microinsurance, it is when there is too much product and process complexity that most consumer protection issues arise.

Microinsurance certainly is not immune from deceptive selling – indeed there has been a serious problem of agent fraud in Thailand. Nor is it immune from low-income clients that are weary of contacting an insurer when there is a problem, nor of faulty marketing or other issues.

Table 2 reviews the specific consumer protection provisions with a special focus on those with microinsurance implications.

Table 2 Specific consumer protection provisions outside of prudential and intermediation framework

Area	Current provisions
Marketing	Disclosure requirements and other obligations of those selling insurance; advertisement in conflict with policy document will be construed in light most favourable to client.
Policy document (general requirements)	Company must deliver the full policy document to the insured (or in the case of group insurance, a certificate of insurance and policy summary).
Approved microinsurance policies	Form, terms, premiums, and benefits for different types of microinsurance policies have been approved; approximately 10 pages, with a 1-page summary; language and coverage fairly complex.
Free look / cooling off periods	Policyholder may cancel within 30 days (in case of sale by telemarketing) or 15 days (for certain other microinsurance sales), but not all MI policies have a free look period.
Grace periods	A 60 day grace period is provided for microinsurance.
Claims requirements	Timing requirements for client to notify insurer of claim vary and are in some cases ambiguous.
Complaints	The Registrar may have any grievance relating to insurance reviewed, and may arrange for resolution/settlement.

As with financial products there is considerable scope for consumer abuse by insurance products, particularly among households with low levels of financial literacy. The International Association of Insurance Supervisors have highlighted the concerns regarding these risks: “Particularly [with] consumer protection, the risk to achieving supervisory objectives may suggest increased intensity of supervision”⁸. “Protection mechanisms need to be tailored to a customer segment with low financial literacy, and little or no experience with insurance. While keeping transactions costs low, it is important to address effective

⁸ see IAIS *Application paper on Regulation and Supervision supporting Inclusive Insurance Markets* Section 1.8.10

disclosure, simplicity of products, fair and accessible resolution of disputes and recourse options and efficient claims mechanisms”⁹.

Customers purchasing financial products are generally empowered with a better understanding of their own financial environment than that of the lender. In this regard they have a certain strategic advantage over the lending institution which places its money at risk. With insurance, on the other hand, it is common for the insurance company, with its vast actuarial database, to be in a much better position to understand the real level of risks relating to the item covered by the insurance policy than the customer who is buying the policy. Insurance companies, therefore, able to overstate risks to potential customers or, to put it bluntly, use scaremongering tactics in order to sell policies.

Currently the Office of the Insurance Commission (OIC) does not monitor insurance loss ratios. While we don’t have Thailand specific data on “loss ratios” of commercial insurance products these are often as low as 40% in microinsurance. This means for every 100 baht paid in premiums, the insured group can expect on average to receive 40 baht back in successful claims. This low loss ratio does not imply high profits as operating costs for microinsurance are very substantial. From a return on investment, customer point of view, however, this return is very low. It is not surprising, therefore, that most low income households choose to use savings and credit products as a means of mitigating against risk.

A notable exception is the use of informal systems of funeral insurance which are very popular and widely used. These are managed at the village level and, therefore, do not have to incorporate administrative costs, meaning that they can operate with a loss ratio of 100%. Households also often find insurance claim procedures difficult.

5 Practices used by Different Financial Service Providers that Impact upon Consumer Protection

This section focuses on the consumer protection practices of the formal financial sector (commercial banks, SFIs and regulated NBFIs). While the SFIs come under the authority of the Ministry of Finance, in practice it is the Bank of Thailand that provides the major influence upon SFIs on regulatory matters including consumer protection.

With the exception of BAAC, all banks and many NBFIs utilise the NCB’s credit referencing service as part of their credit assessment procedure. Similarly, collateral assessment and contract formats are determined largely by regulations and instructions imposed by the Bank of Thailand.

5.1 Commercial Banks

Of all the financial institutions, the commercial banks have the most sophisticated and best resourced consumer protection processes and facilities. Due to the substantial competition that exists between these banks for a relatively highly financially literate customer base, reputational risk is very important. These banks therefore, not only provide easy access to customer complaint facilities, but go to considerable effort to personalise their customer experience in order to build a sense of trust. In most cases, the banks provide detailed fact sheets to customers on the products they are interested in. Staff provide time for Q&A sessions with the customer to ensure they fully understand the details and the obligations of the products for which they are signing up.

Typically, new employees are provided with an orientation on the consumer protection policies of the Bank and a copy of the Consumer Protection Act. Bank policies are also posted up on the internet for employees to refer to. Every year, employees are given annual refresher courses on consumer protection.

⁹ ibid 1.17

All banks have a Customer Complaint Resolution Process and Call Centre. Customers are able to call the free hotline number, where “recommendations” or “complaints” are received. They may relate to Bank operations, regulations or staff manners. Once complaints are received, the Department supervising the call centre will, (usually within 24 hours), send the complaint to the relevant internal department to expedite resolution. Most banks have policies which require complaints to be resolved or elevated to a high level within one month. Customer complaints and suggestions were also systematically analysed in order to improve bank processes overall.

All commercial banks have Know Your Customer (KYC) and Customer Due Diligence (CDD) requirements and processes which are designed to determine, as best as possible, the ability of the customer to comfortably service the loans for which they are applying. This involves an attempt to determine borrowers’ occupations, salary, and household or business cash flow. This process, however, is problematic for customers employed in the informal sector where such information is not well documented.

In the case of TRCB, because of its position as a “retail” bank, its customers are usually small businesses requiring smaller loan sizes as compared to other commercial banks. These may be family run SMEs and their owners do not have the same level of education as borrowers of the bigger banks. Therefore, TRCB spends a lot of time providing financial education to their clients compared to the larger commercial banks. The relationship managers in TRCB have an important role to play where they play a business advisory role for many of their customers. This can put them in an awkward position if the customer falls into trouble and defaults on their loan repayments as they may then try to blame the relationship manager for providing poor advice.

Where there are major disasters such as the 2011 floods, the BOT will usually announce regulations that require all banks to waive their interest payments for three months. This takes the pressure off individual banks to make these decisions.

Debt collection is either managed “in-house” or outsourced to professional debt collection agencies. In the case of the latter, it is more common for bad practices in debt collection to occur as these agencies are anxious to recover debt as quickly and cheaply as possible. However, even the staff of debt collection departments within banks have KPIs relating to the cost effectiveness of their debt collections which affect their bonuses or even job security. Consequently, it is tempting for these officers to resort to bullying or underhanded debt collection practices.

Thai regulations state that banks can only supply personal credit lines if the customer has an income over 15,000 baht/month. This automatically excludes most low income households from access to bank and regulated NBFIs credit products.

5.2 Specialised Financial Institutions

The main consumer protection efforts provided by the Ministry of Finance at present are: requiring SFIs to maintain complaint resolution procedures, imposition of interest rate caps on lending institutions (15% on normal loans, 28% on microfinance loans under THB 200,000 and 20% for credit card debt), prohibition of bundling of products and debt collection guidelines.

The Ministry of Finance provides a national call centre (hotline 1359) through which customers with complaints that are not able to be dealt with by individual SFIs are able to be directed through to FIPD. It appears that the availability of this facility is not well understood by the general public as relatively few calls are received.

5.2.1 GSB

GSB takes consumer protection issues quite seriously. In 2009 it won an award from the Foundation for Consumer Protection on the basis of the transparency (simplicity and readability) of its loan contracts.

GSB has a national call centre (free call hotline 1115), complaint facilities at each branch and publicises a central mailing address for customers having complaints or suggestions. All complaints are reviewed, summarised and forwarded to a customer complaint management committee. Yet these complaints are relatively few. In the month prior to our interview GSB had received 37, nine and three complaints regarding loans, savings and general service respectively.

GSB lottery savings accounts officially known as Premium Savings Certificates (PSCs), however, do raise some concern with regard to consumer protection. A PSC is a hybrid of a straight savings account and a simple lottery. This savings product takes deposits in units (one unit is 50 baht), and the account holder is given a set interest plus a chance to win cash prizes (one's chance increases with the amount of money deposited). A draw is done every 16th day of each month, and the first prize can be as high as 10 million baht (approximately 333,000 USD) for some types of lottery savings account. The fixed interest rate currently ranges from 2% to 2.86% per year for a three-year maturity depending on how much is deposited, while the lottery returns have been calculated by the Bangkok Post to average well above 10% of the outstanding amount¹⁰.

Despite indications of overly generous lottery returns, these lottery savings accounts are in principle a consumer protection concern. Like all lotteries these products appeal to the gambling instinct and discourage rational evaluation of cost and benefit of such accounts or comparisons with other competing products.

Even the apparently overly generous lottery returns raise concerns about anti-competitive behaviour and suggest GSB is offering loss-making products in order to further dominate the domestic savings market. This can be added to the list of factors (such as exclusion from the Deposit Insurance Agency premiums and less stringent capital adequacy requirements) which contribute to the unlevel playing field between commercial banks and SFIs in the market for domestic savings.

GSB is currently targeting to increase its deposit base by up to THB 500 billion from its current level of THB 1.7 trillion. This is being driven by the government's need to raise capital to finance its planned THB 2 trillion in government megaprojects which will raise most of their funds domestically. However, the long-term cost of this policy maybe greater than the immediate financial costs to the government, if it undermines healthy competition in the Thai financial sector.

5.2.2 BAAC

BAAC has been the major implementing arm of the RTG policy for reducing indebtedness to moneylenders. By providing loans secured by group guarantee BAAC has provided a facility to purchase debt from informal moneylenders. As this is, by necessity, an informal process it is difficult to know whether this has resulted in transfer of all money lender debt to BAAC's lower interest facility, or whether in fact this has simply allowed these borrowers to re-borrow from moneylenders and increase their level of indebtedness. Unfortunately there is no before and after studies on the level of borrowing from moneylenders. The Finscope 2013 study calculates that 7.4% of those currently borrowing money use moneylenders as part of their source of finance.

Like GSB, BAAC also uses lottery-based incentives to attract deposits. BAAC's Om Sap Thawichoke Savings Deposits induce people to save by offering incentives such as income tax exemptions on the amount deposited and the chance for account holders to win prizes such as automobiles, motorcycles, gold, televisions, etc. To be eligible for entry in a prize draw, of which there are three chances per year, customers must have a balance of at least 2,000 Baht over the preceding three months, and for each 2,000 Baht above this initial amount, customers get an additional draw card, increasing their chances of winning the

¹⁰ Bangkok Post 5 April 2013

prize. There is also Om Sap Thawisin which offers savers the chance to enter into a prize draw and win cash prizes.

5.2.3 SME Bank

SME bank follows the regulations, the accounting standard and general consumer protection guidance imposed by the Bank of Thailand. The bank has to try to maintain a healthy loan portfolio while giving loans to risky small and medium business enterprises. Hence, the bank views consumer protection as an important means of helping customers manage their risk.

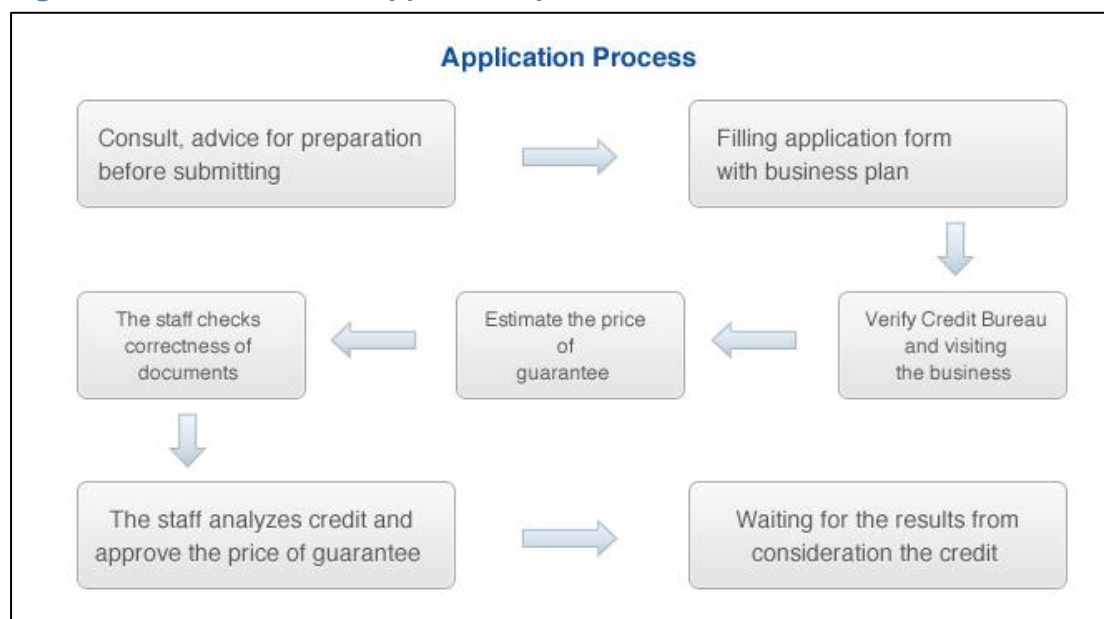
SME bank implements pre-loan assessment in accordance with the requirement of the Bank of Thailand. The bank also provides training on loan application assessment and credit risk analysis to their employees. In addition, the SME Bank also provides training to their clients in matters of financial education and provide other information resources in support of their business such as cash flow estimation calculators and other tools for financial analysis.

In an attempt to reduce over-indebtedness and NPLs the bank has engaged a consulting company to develop a new credit risk rating system which improves the bank's ability to estimate the actual ability of debtors to repay the debt more accurately. SME bank provides their customers with documentation that describes its various types of contracts, identifies supporting documents required to execute the contract, types of property that can be pledged as collateral and effective interest rate and any additional fees. Contracts and product description are provided in plain language.

Despite the bank's attempts at over-indebtedness protection, appropriate product design and delivery, and responsible pricing, the bank has suffered from high non-performing loans. In 2013, the bank's NPLs stood at 30% (or as much as 40% if the more stringent standards required by BOT for the commercial banks are used¹¹) of outstanding loan portfolio. An authority from SME bank claimed that the non-performing loans occurred due to inappropriate government policy driven loan approvals rather than poor credit assessment techniques. For example, the bank was required to provide credit to flood-affected operators and victims of political strife bypassing its normal due diligence procedures. These loans are under the public service account (PSA). However, other observers assert that the SME bank's NPL problem is also due to the bank's weak credit approval procedure and lack of transparency. Figure 3 provides an outline of the steps involved in SME bank's loan application procedure.

¹¹ Bank of Thailand website and Bangkok Post "State bank woes lead to revision" 26 February 2013.

Figure 3 SME bank's loan application process



Source: SME bank

In 2003 the SME Bank initiated the "White Bank" campaign in an attempt to improve transparency and governance. Part of this campaign was to establish a mailing facility (PO Box 1313), through which customers could file complaints and suggestions. This initiative was part of a broader FIRST policy designed to improve the quality of service the bank provided to its customers.

Table 3 SME Bank's FIRST policy

FIRST Clients are our first priority.

F=Focus: Focus on strategic SMEs, in accordance with the government policy, and provision of services which are responsive to the different needs of different target groups.

I=Incubation: Business development services, both pre- and post-financing, in the forms of counselling, training and access to knowledge base, to help newly-established and existing enterprises enhance their capabilities, and develop their businesses and markets.

R=Resourcefulness: A constantly learning organization with caring, service-oriented, skilled and knowledgeable personnel, working in conjunction with a network of other service providers to deliver to each client an integrated financial and business development service.

S=Speed: Prompt and efficient service through continuous improvement of work processes, network of service outlets close to clients, and appropriate use of information technology.

T=Transparency: A "white bank" with transparent procedures, verifiable terms and conditions, and a high standard of good corporate governance.

5.2.4 Islamic Bank

The Islamic Bank (IBank) was established in June 2003, under the Islamic Bank of Thailand Act 2002. The Bank's mandate was to provide financial services consistent with the principles of Shariah and thereby meet the financial needs of sections of the Muslim community who are not comfortable with traditional banking practices. Like all SFIs, Islamic bank has to serve government policy directives as well as attempting to run a commercial operation.

The bank follows the principles of Islamic banking ie. sharing of profit and loss and the prohibition of interest rate and fees. Despite this, borrowers from the Islamic bank interviewed in the slums of Klong Toei in Bangkok always cited the cost of their credit in terms of interest rates.

As a measure to manage NPLs and to prevent over-indebtedness, the Islamic bank has appointed a risk officer in each department to oversee risk management, as well as to

ensure compliance with the bank's risk management plan. The bank is trying to improve its credit assessment process with a newly purchased computer software program in an attempt to ensure borrowers remain within their debt servicing capacity. The total loan size of the bank is relatively small amounting to 1.35% to the total outstanding loans of the commercial banking sector

Islamic bank is also plagued with high NPLs and low capital adequacy. According to Islamic bank's financial statement 2012, its amount of NPLs is 22.59 percent of total loans. However, the bank admitted in February 2013 that it suffers from non-performing loans that amount to 39 billion baht¹², or about 30 per cent of its outstanding loans and that 90% of NPLs are represented by just about 100 accounts of corporate borrowers. According to IBank's new president Thanin Angsuwarangsi (appointed in 2013) the bad debt at IBank was largely caused by "grossly negligent lending by former executives" and that the highest-value default from a single borrower is 2 billion baht (1.6% of the entire loan portfolio)¹³. In addition the new president also said that past credit analysis procedures were problematic because credit assessment procedures focused on collateral value rather than cash flow; and that collateral was consistently overvalued by the bank. He added that the loan monitoring process was inefficient.

It is clear that both the SME bank and IBank have suffered financially on account of weak regulatory controls and supervisory oversight. The purpose of such regulation and supervision is to avoid risk such as poor loan portfolio diversification. As with the SME bank IBank is being investigated for corrupt practices. However losses may be as high as THB 80 billion, a figure which would well justify the modest cost of improved supervision of these banks.

The bank's non-performing loans problem caused a fear of runs on bank deposits and it was reported that more than five billion baht in cash had been withdrawn by the bank's clients over 15 days in February 2013¹⁴.

The Islamic bank has its own ethics and code of conduct which stipulates that employees shall not disclose the bank or client's information. The bank has main four channels for their customers to submit complaints, (i) the IBank call centre, (ii) mail to the bank's head office, (iii) email to the bank's specific email address for complaints, and (iv) letter through the bank's website.

5.3 Non-Bank Financial Institutions

As with Banks, larger NBFIs have greater incentive to avoid consumer complaints because they have greater reputational risk at stake should mistreatment of a client become publically known. This, perhaps more than any imposed regulation, ensures these institutions tend to have better consumer protection mechanisms in place. On the other hand, smaller NBFIs are less identifiable by name to the public and operate across a relatively broad geographic area and are, therefore, less susceptible to market rejection as a result of mistreatment of individual clients.

5.3.1 AEON

AEON Thana Sinsap (Thailand) Public Company Limited was incorporated by AEON Credit Service Co., Ltd in Japan. AEON specialises in credit cards, hire purchase and personal loans. In 2011 the company had THB 43,610 million worth of assets. Total outstanding loans including credit cards amounted to THB 38,705 million. This is relatively small compared to the commercial banking sector, however, AEON has a significant market share of credit

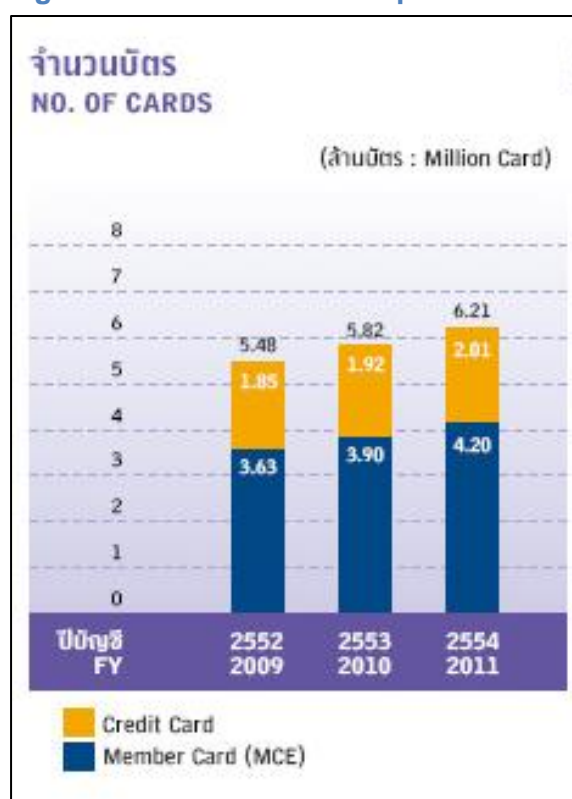
¹² using the more stringent criteria governing commercial banks under Bank of Thailand regulations

¹³ Investvine February 13, 2013 <http://investvine.com/thai-islamic-bank-hit-by-bad-debts/>

¹⁴ Bangkok Post 20 February 2013.

cards, personal loans, business and hire purchase products (see Figure 4). As of February 20, 2012, the AEON Company's total number credit cards was 6.21 million cards, over 40% of all credit cards issued in Thailand.

Figure 4 AEON Thana Sinsap's total credit cards and loans



Source: AEON Company

AEON provides three main services; credit card, personal loan and hire purchase. Credit card holders can obtain cash advances from ATMs. Credit card interest rates are set at the maximum allowed 20% per annum while personal loans under THB 200,000 usually attract interest usage close to the maximum allowed 28% per annum.

AEON is a very astute loan provider and has learnt from its market research the high importance customers place upon speed of access to financial services. It offers 2 types of loan services; personal loans and special purpose loans. For personal loans, a customer can have a 12 month loan within 30 minutes at an AEON branches or 2-3 working days for an application sent by mail (see Figure 5). The application process and required documents are stated in a clear and easy language.

Figure 5 AEON's personal loan application process



Source: AEON Company

AEON also has developed close alliances with major retailers to ensure that it is able to capture clients immediately as they browse for consumer goods. This ensures that they are able to take advantage of impulse purchases. As mentioned above, it appears that in some cases consumer finance companies like AEON and the retailers with which they collaborate, are charging higher prices for items purchased on credit as a means of raising additional revenues above the capped interest rate caps imposed by the Ministry of Finance and Bank of Thailand. It is unclear whether, or how, the higher profit margin made on these items is shared with the finance company.

As a company registered in the Stock Exchange of Thailand, aeon is required to provide financial disclosure to the public. AEON's maintains a healthy loan portfolio with a bad debt and doubtful loan rate of 3.6% in 2012.

AEON has a Corporate Quality Secretariat (CQS) Office for the purpose of overseeing Company's information security. It was awarded the ISO/IEC 27001:2005 certification for its Information Security Management System (ISMS) by Bureau Veritas Certification (Thailand) Ltd. The company guidelines state, "As customers' satisfaction is the first priority focus, the Company has provided variety of products to satisfy customers' need and committed to promote secure management of personal information and raised awareness of the need to protect personal information and comply fully with relevant laws.

AEON has Customer Service Department responsible for customer relationship management . It provides five channels for its customers to send the company complaints; (i) emailing, (ii) calling, (iii) faxing, (iv) mailing and (v) sending the complaints through the company's Facebook page.

Figure 6 AEON's Complaint Handling Procedure

Complaint Handling Procedure

Step 1 : You may lodge a complaint verbally or in writing using the above channel.

Step 2 : Your complaint will be acknowledged within one business day upon receipt.

Step 3 : Complaints will normally require five (5) to 14 business days to be resolved from the date of receipt. However if a complaint requires complex investigations or extensive research, you will be notified and the timeframe will be extended. You will be kept informed of the status of your complaint from time to time.

Step 4 : If you are not satisfied with the resolution offered, you may choose to contact the following parties to review your case.

1. Financial mediation Bureau (FMB) - An independent body set up to help settle disputes between customers and financial services providers
<http://www.fmb.org.my/>
2. BNMLINK- A complaint resolution arm of Bank Negara Malaysia (BNM)
<http://www.bnm.gov.my/bnmlink>

Source: AEON Company

5.3.2 CBFIs

The Village Fund is the largest network of semi-formal CBFIs. The Village Fund Office in Bangkok has set up a minimal set of regulations to ensure “good practices” among Village Fund groups. These include minimum numbers of committee members; maximum terms for Village Fund heads; maximum amounts of credit that can be provided to individual members; and, accounting and audit systems. These aim to increase transparency and coverage of the system.

Because the numbers of National Village Fund supervision staff are very limited, the Village Fund employs local officers of Community Development Department (CDD) to be “mentors” of Village Fund groups around the country. One officer monitors about 500 groups which is quite a heavy burden, especially given that these CDD local officers also have their own regular functions to carry out. Thus, like informal CBFIs, in practice it's the competition in the local/rural financial markets that actually “regulate” the efficiency and effectiveness of semi-formal CBFIs like the village fund. This said, the initial grants and on-going subsidies provided by the government ensure that village funds have a strong financial competitive advantage over informal CBFIs.

The ability of the village funds to offer credit at lower rates of interest than other CBFIs, ensures that households will continue to utilise the village funds even if the quality of service provided is poor. Given their low interest rates (of 6-12% per year), it is not necessary for Village Funds to offer other fringe benefits such as welfare schemes to attract clients. Other CBFIs like Sajja groups or saving groups tend to charge a higher rate of interest (up to about 2% per month or 24% pa.). They, however, offer a big package of welfare benefits to members, including sometimes buying debt from loan sharks. High interest rates benefit those who save in contrast to those who borrow. This is often justified by CBFIs as discouraging unnecessary consumption, however, it disadvantages those who genuinely need credit. In practice, however, there are few complaints against this 24% interest rate as it is much lower than the rates charged by informal lenders and includes welfare benefits.

CBFIs do not necessarily target the poor and have no criteria such as ceiling of income or assets to exclude the rich. However, because the loans they are able to offer are generally quite small they are less likely to attract the rich as borrowers. On the other hand, CBFIs need richer, or at least middle income households, to save with them so that they have sufficient capital for lending. In turn, these CBFIs provide attractive rates of return for individuals who wish to save with them. The Finscope 2013 identified that the average monthly income of savers in Village Funds is THB 10,215, while that of borrowers is THB 7,700. This is seen also in other community based savings groups where **higher income individuals tend to save while lower income individuals borrow**.

Services offered by CBFIs range from basic saving and short-term loans to individual customers; to welfare schemes and loans to community enterprises. Individual members need to save "Sajja-money" monthly at a fixed amount, around 50 or 100 baht, depending on their ability to save. The dividend yields of well-performing groups are generally around 6-7 % of the Sajja money that each client has saved.

Each CBFIs member has a saving book which initially costs about THB 30. In general, Sajja money cannot be withdrawn unless clients want to leave the group. If membership is terminated, debt will be deducted and the rest of Sajja money will be returned. However, in more progressive groups, a part of Sajja money may be withdrawn with a special permission if the member has an emergency. Emergency loans are becoming increasingly popular and widespread. More advanced CBFIs provide loans to community enterprises such as small rice mills, or they may provide agricultural marketing services to their clients.

In the past welfare provision was a secondary function of CBFIs, but more recently welfare has become a core service offered by CBFIs. This acts as an informal microinsurance product and is highly valued by members drawing much savings away from simple commercial bank savings accounts. Members who save continuously have the right to receive welfare benefits, such as a subsidy on transportation fee to a hospital, a subsidy on bed fees when hospitalized, and a lump-sum money to children or relatives when passing away. Due to their individual-based welfare schemes, CBFIs can increase their member from one per household to every member of each household. The attractive dividends and welfare program ensure few people leave the groups. Even if they temporarily migrate away from the community, they can (and usually do) maintain membership status by sending Sajja money to the group. Most CBFIs will also share a part of their profit to support community's social activities and some community infrastructure. This role in community building by CBFIs (excluding the Village Fund) has built social capital and strengthened the perceived importance of CBFIs throughout Thailand.

CBFIs are generally limited by scarcity of capital. Although locally based CBFIs are operating by volunteers and, therefore, many groups will only operate one day in a month and may not always be able to provide services when needed. For ease of management small village funds may only accept loan repayments once in a year whereas many members would prefer to be able to provide small regular monthly repayments. Large single repayments often result in borrowers having to cross finance their loans (borrow from another source to make loan repayment). Recently, however, medium and large CBFIs have started paying a small amount of "salary" or fringe benefits to their staff which has allowed them to increase accessibility the services throughout the year.

CBFIs encourage savings among the poor because low transaction costs make it worthwhile to save even for a small amount. In reality, however, CBFIs focus more on credit services.

While generally providing more open access than formal financial institutions CBFIs also have mechanisms to exclude unwanted members. CBFIs attempt to balance the goal of maximizing size of fund (by reaching more clients) with minimizing the risk of defaults. As a result, people who are considered to impose risk to the groups are generally excluded. Although not a criteria for Village Funds, a common means of testing CBFIs membership eligibility is to require individuals to demonstrate an ability to save prior to approving loans.

Those who start delaying saving Sajja money is likely to have a financial problem and need further monitoring or advices. If not excluded directly, individuals considered poor credit risks will fail to find anyone to be their guarantors, even people from their own family.

In most of the cases of over-indebtedness individuals tend to borrow from multiple sources often repaying one debt by borrowing money from another source. One way to prevent over-indebtedness by CBFIs borrowers is to merge many small CBFIs into one. As CBFIs do not have anything equivalent to a credit reference bureau it is time consuming searching information about debt status of new loan applicant.

Operational transparency is commonly a problem for CBFIs as most do not have a good accounting or management systems. Most CBFIs use “monthly meeting” as a way to declare their financial status and some simple figures such as total Sajja money may be announced on a white board. However the most these figures are meaningless and members tend to rely on their instincts as to whether they are able to trust CBFIs committees. Members care how much dividend they get but can only hope that no fraud has occurred and their dividend calculation is correct. In most cases it appears that problems occurring in CBFIs are a result of mismanagement rather than fraud (Patamawadee 2011). Sajja groups run by monks pay attention to honesty by applying morality of goodness. They design quite a systematic accounting system, and use the similar system and regulations in every Sajja group around the country. Another interesting innovation of Sajja groups is the “cross-auditing system” under which different groups audit each other.

For Village Funds, there exists weakness in terms of leadership and people’s sense of ownership. In an area where a CBFIs exists before an establishment of Village Fund, leaders of CBFIs may also be leaders of Village Funds. In some areas, existing moneylenders turn to be leaders of Village Fund. Others are retired government officers, retired bank officers, etc. Nevertheless, given the fact that a number of village funds are huge, the quality of auditing is limited.

Members can submit complaints either privately directly to committee members, or during group meetings. Complaints through written documents are rare.

A CBFIs will normally organise a general meeting where its members and the committee meet once a year. In between, sometimes CBFIs issues are raised in a monthly meeting of the village. Thus, CBFIs have numerous channels through which members can complain.

The major consumer protection concern with respect to CBFIs relate to risk of loss of member savings as these organisations do not participate in any deposit guarantee scheme. Yet collapse of CBFIs result in loss of member savings is surprisingly rare.

6 Consumer vulnerabilities in Thailand

Of all complaints received by the Consumer Protection Foundation, 50% relate to financial service providers. The Foundation receives approximately 10,000 such complaints each year mostly related to debt repayment problems particularly from credit card holders. Critical vulnerabilities are found in the following areas.

Exclusion from credit: The qualitative study encountered many individuals who felt they had been unfairly excluded from access to loans from the Village Fund. It was suggested that these funds had been captured by the village elite, that loans were being rolled over and, therefore, that funds were not becoming available for new borrowers.

Timeliness of disbursement: Practicality dictates that BAAC sometimes needs to treat rural village loans in a batch. Consequently, those wishing to take loans are sometimes required to take them at the same time as others. While BAAC attempts to coordinate loan disbursement with the beginning of the agricultural cycle, this time is not ideal for all households. For those households heavily dependent upon BAAC loans to meet consumption needs and to repay other debt, the main concern was the delay between the

repayment of their last loan and the disbursement of the next loan. This is the period in which they forego consumption and often pay very high interest rates from moneylenders.

Loan Repayment Schedule: The frequency and weighting of repayments are **not always well matched to cash flow**. For poorer borrowers their cash flow is difficult to predict at the time of the loan contract. Flexibility of repayment schedule and incentives for early repayment are needed to improve the situation. When faced with inflexible formal loans, poorer households have to resort to expensive but more flexible informal lenders. Consequently, the inflexibility of many formal financial institution loan products adds to their effective cost to low income borrowers. **Finscope** found that the two top reasons for **not** borrowing are fear of debt (61%) and worry about the ability to repay (47%). Even the Village Fund that is much closer to member/ clients faces this problem. It is reported anecdotally that the high pressure for 100% repayment of the Government contributed funds (the THB 1 million tranches) is an access issue for poorer people. With a smaller asset base and less experience in borrowing, they have a high fear of failure and loan committees are less willing to approve loans to them.

Need for quick loan approval with less documentation: All households in all regions stress the importance of quick loan approval and simple documentation. The motivated poor understand very well the value of their time and such households simply cannot afford to be away from work for prolonged periods. Quick approval is of course especially important for emergency loans, or loans that allow individuals to take quick advantage of sporadic and unexpected business opportunities. For households with low levels of formal education, extensive documentation requirements may form a barrier to access even when there is no urgency for loan approval and disbursement. Slow application processes and a high level of required documentation are particularly characteristic of SFIs' loan application processes. For those working in the informal sector without regular payslips or financial records, documentation requirements can form an absolute barrier to loan access. Some government and commercial banks are attempting to overcome this problem by allowing potential loan customers to demonstrate income streams and cash flow through savings account records.

Lack of access to formal credit among undocumented migrants: Without Thai citizenship, people cannot borrow from formal financial institutions. Thus, up to five million refugees/illegal immigrants are excluded from formal credit. In some cases this may include 2nd and 3rd generation Burmese immigrants. Some are, however, still able to open deposit accounts with domicile records. Some rely on friends to open a savings account for them, and access this account via an ATM card.

Lack of reward for credit worthy clients: Non-collateralised lending is often called "relationship based" lending as loan security depends upon the quality of the relationship between borrower and lender. Good relationship based lenders, therefore, gradually increase their risk exposure as trust in the borrower develops over time. This takes the form of larger loan sizes and greater flexibility provided to longer term clients who have proved themselves credit worthy. This approach has not been strongly incorporated into BAAC's credit assessment practices in which loan size is tailored to the supposed loan purpose, and the same rules apply to first-time borrowers as they do those successfully repaying their 10th loan.

Debt collection: The most unethical debt collection practices seem to be restricted to informal moneylenders and among the smaller, less reputable consumer finance companies. Respondents from Bangkok slums cited that moneylenders commonly used public humiliation, and failing that physical violence, in order to recover loans. They alleged that the police do not respond to complaints stemming from such happenings and that perhaps they are paid by moneylenders to turn a blind eye. A concern was also raised with respect to the practices of debt collection agencies hired by commercial banks and NBFIs. These agencies were said to harass borrowers in their homes or by telephone at all hours of the

day and night. Some were said to have contacted the borrower's parents demanding that they settle their children's debts.

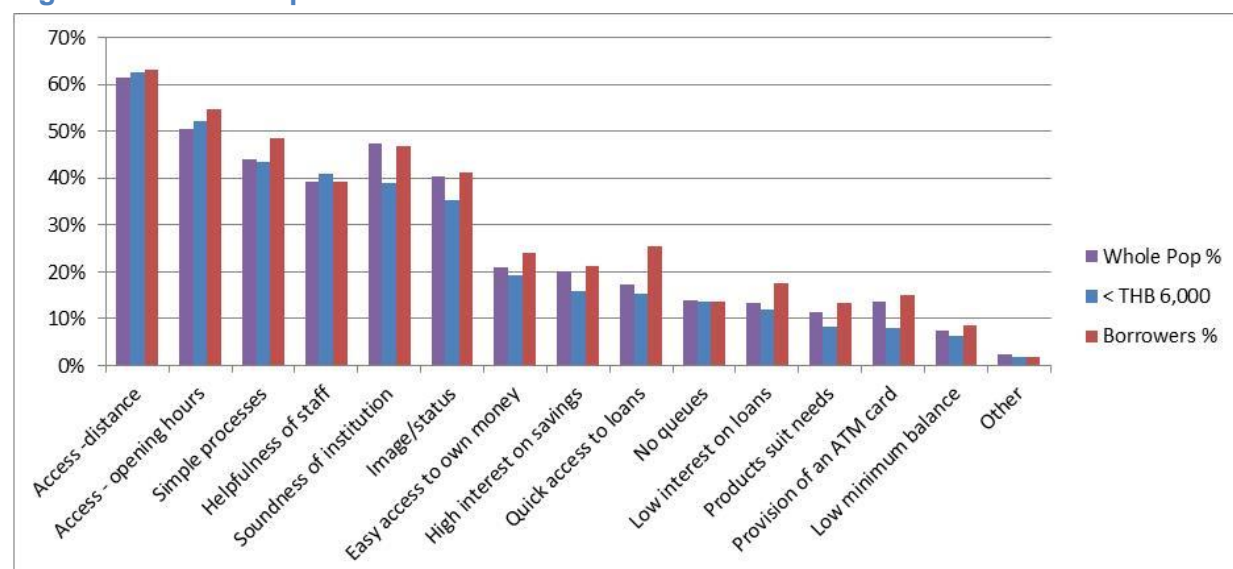
6.1 Appropriateness product design and delivery

Appropriateness of product design and delivery is not usually considered as important consumer protection concern. In the case of microfinance, however, the limited financial and political flexibility of low income households means that design and delivery mechanism attributes can be critical to the ability of these households to utilise financial products. This is exacerbated by the tenancy of microfinance institutions to develop low-cost "cookie cutter" products assuming the needs of low-income households to be more or less the same.

BAAC has, to its credit, recognised the inability of many of its clients to provide collateral for loans (e.g. land titles) and provides loans to low income households using group guarantees instead of physical security. Yet BAAC is still legally obliged to require identification documents for all its loan clients and this is a major obstacle for access by the many millions of Burmese, Laotian and Cambodian illegal migrants some of which are second or third generation Thai residents.

Figure 7 identifies the relative importance of different product attributes among the whole population and low income households earning less than THB 6000 per month. It is interesting to note that convenience of access to financial services ranks as the two most important product attributes followed by ease of use. These attributes, and product characteristics relating to financial institution security and stability, are rated as more important than interest rates. This suggests a high priority to improve accessibility of financial services. With Thailand's excellent telecommunications infrastructure an important opportunity exists to connect villages, including CBFIs, with electronic payment systems.

Figure 7 Relative Importance of Product Attributes



Finscope Thailand 2013

Focus group discussion participants frequently complained of the difficulties in obtaining bank loans stating the need for property titles (Chanoot), identity cards, house registers and proof of income. For most people even if these documents are available the loan application and approval process is too long for their needs. In contrast finance companies such as AEON and Tesco card (GE group) simply require a copy of a bank savings account passbook that shows regular deposits, and ID card and some proof of residence. Small loans and credit cards from finance companies can be approved within days. Furthermore, loans can be conveniently repaid through the Counter Service facility at 7-Eleven stores. AEON credit card holders can also withdraw cash from Counter Service up to their current credit limit.

Currently, if credit card holders lose their credit card they have only five minutes to inform the credit card company before they become personally liable for fraudulent use of the card. This is quite impractical as many cardholders may not be aware of the exact time in which their credit card is stolen. It also relieves credit card issuers of the burden of ensuring high quality security mechanisms on credit cards issued.

6.2 Overselling of products

With multiple financial institutions offering credit cards, often without the willingness or ability¹⁵ to conduct background credit checking, it is becoming increasingly common for consumers to have multiple credit cards. Khun Pisit GSB's Senior Executive Vice President Marketing Group believes it is the responsibility of financial institutions to determine borrowing capacity as most households are inclined to borrow as much as they are allowed and not realistic about their ability to repay.

Qualitative study respondents provided very few complaints about inadequate loan size provided by formal financial institutions (a common complaint in other countries), which actually suggests that these institutions may not be sufficiently conservative in their loan capacity assessment practices. Some BAAC clients indicated that they were pressured to take new loans on the threat that, if they didn't, they may lose future access to loans. Key Performance Indicators (KPIs) based upon the number and amount of loans approved and disbursed in the formal sector often encourage loan officers to push loan applicants beyond their debt capacity.

FGD participants also indicated that in some cases they were pressured to accept life insurance products offered by loan officers in order to obtain BAAC loans. This practice of product bundling is not allowed by BOT and, in principle, also not approved by MOF. However, these practices are not closely supervised by authorities in the field.

As a policy arm of the government BAAC is often required to promote specific agricultural investments. It does this by offering loans to farmers who are willing to change their farming practices in accordance with government policy. However, complaints often arise if these ventures fail and farmers remain liable to repay the loans.

6.3 Transparency and product disclosure

Currently only BOT regulated financial institutions are formally required to conform to a standardised calculation of interest rates and publish these together with other standard fees. According to the Thai Retail Credit Bank (TRCB), this policy is not being implemented effectively in all banks. TCRB's Mass Communication Department (MCD) receive many customer queries regarding its published "effective" interest rate, which is higher than other bank's published "flat" rates.

Even if consumers have access to comparable interest rates it is difficult to customers to calculate the financial impact of fixed fees on the full cost of credit.

OIC consider lack of transparency to be the most important consumer protection concern in microinsurance. They say that 80% of policies that are terminated are voided due to nondisclosure of pre-existing conditions. It is not clear whether this nondisclosure is deliberate or whether policyholders were not adequately informed of exclusions.

6.4 Responsible pricing

Responsible pricing among formal and semiformal financial institutions is generally enforced by the interest rate caps imposed by the BOT and MOF. There is less attention paid to fixed bank fees which can contribute a substantial amount to total borrowing costs. For example, it is reported by the FCP that financial institutions commonly charge THB 500 as a fee for late

¹⁵ Not all NBFIs (including AEON Thana Sinsap one of the largest) report to the National Credit Bureau

payment, even on small loans and even if payment is only one day late. Furthermore, it is difficult to authorities to monitor non-standard fees that the financial institution may impose.

Currently it appears that finance companies are avoiding the interest rate caps set by BOT through conclusion with retail stores. This is done by increasing prices for goods purchased through finance companies. Often the finance company entices buyers by advertising 0% interest over a 12 month loan repayment. However, the price of goods may be as much 30 or 40% higher than the cash price resulting in effective interest rates of 30-40%.

There are no effective controls over the rates charged by the informal sector. In particular moneylenders are known to charge from 3% per month to 3% per day (36% to 1000% per annum).

6.5 Ethical staff behaviour and debt collection practices

Most unethical debt collection practices seem to be restricted to informal moneylenders in the smaller, less reputable, consumer finance companies. Respondents from Bangkok slums cited that moneylenders commonly used public humiliation, and failing that physical violence, in order to recover loans. They alleged that the police did not respond to complaints regarding in these happenings and that perhaps they were paid by the moneylenders to turn a blind eye. In regional areas it was alleged that informal debt collectors known as “the black helmets” not only used physical violence to achieve loan repayment but also sometimes demanded daily sexual favours from women in exchange for loan repayment extension.

Concern was also raised with respect to the practices of debt collection by commercial banks and NBFIs to recover outstanding debts. In many cases this unethical behaviour may relate to debt collection agencies hired by the bank or NBFIs. These debt collectors are alleged by the Foundation for Consumer Protection to commonly harass borrowers in their homes or by telephone at all hours of the day and night. Sometimes these debt collectors were said to have contacted the borrower’s parents, relatives or employers; demanding that they help in debt recovery or to settle the debts themselves.

Many banks nowadays require borrowers to establish direct debit loan repayment amounts from the borrowers savings account. This can sometimes result in these savings accounts becoming totally depleted leaving nothing to cover essential daily expenses.

6.6 Privacy of client information

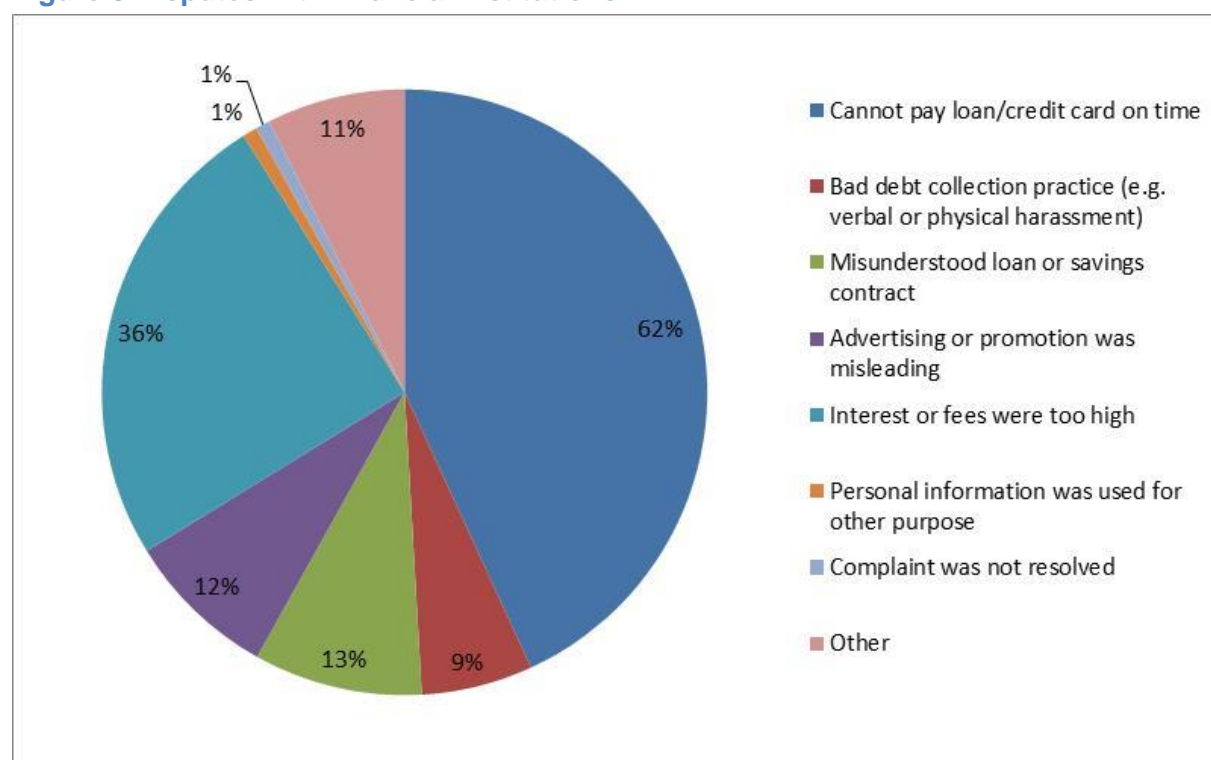
Disclosure of private information has not been noted as a major concern among financial service users. The fact, however, as noted above, that banks and NBFIs (or their debt collection agents) are contacting relatives and employers as a means of achieving debt repayment, suggests that data provided to financial institutions on next of kin and employment may be being used for purposes not intended (such as debt collection).

6.7 Complaint resolution mechanisms

Finscope 2013 identified 1.7% of the population (representing 893,107 adults) reporting having a dispute with their financial institution. If we look at the 44% of the population with outstanding loans, 3% of individuals within this group report having had a dispute with their financial institution.

Most of these disputes (62%) involved problems with individual debt repayment. As shown in Figure 8; in 9% of cases customers complained about the debt collection practices used. In 13% of cases customers claimed to have misunderstood their contract with the financial institution and 12% felt that advertising for the product was misleading. In only 1 % of cases complaints were not resolved.

Figure 8 Disputes with financial institutions

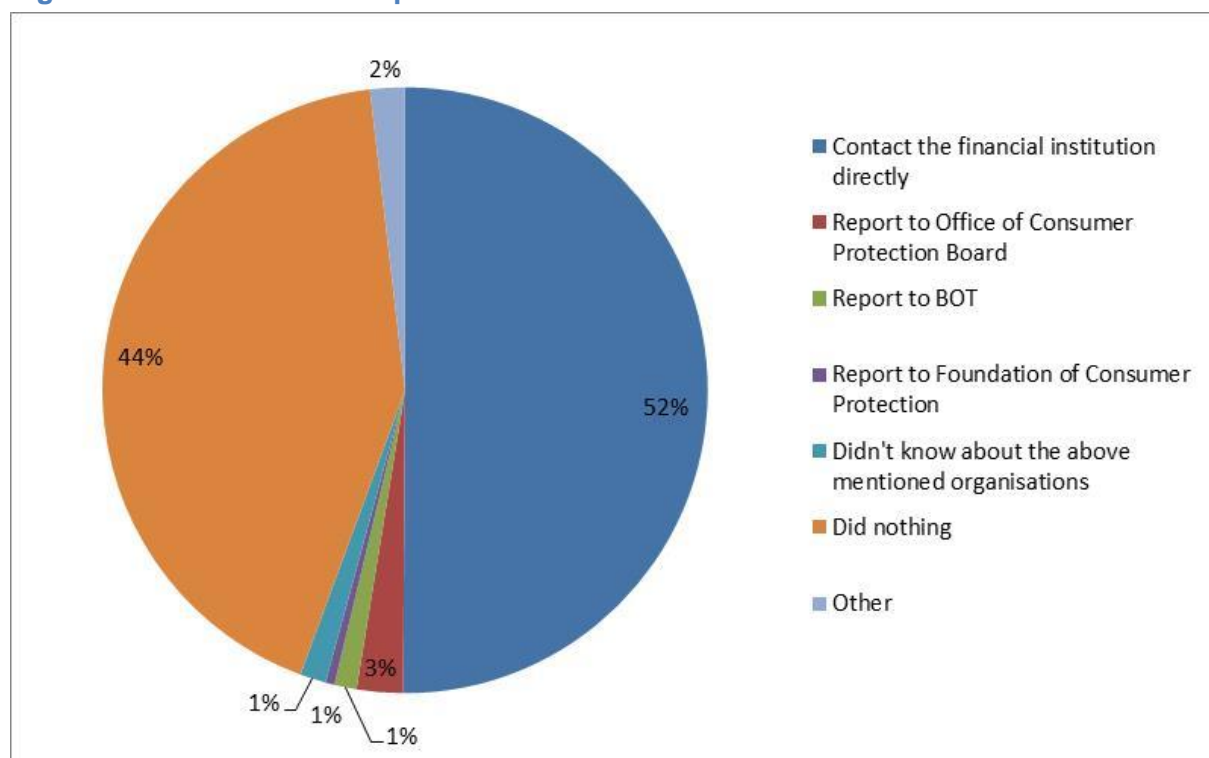


Finscope Thailand 2013

As can be seen in Figure 9, when faced with a problem with their financial service most people take action directly with the financial institution concerned. Very few take their concerns to higher authorities.

On the other hand, of concern is the fact that almost half (44%) of those who are unhappy with their financial product or service do not take action to resolve this. This may be due to difficulties faced in physically lodging their complaint, a perception that their complaint will not be listened to, or simply poor financial literacy that prevents them from addressing their concerns with their financial institution.

Figure 9 Action taken in disputes with financial institutions



Finscope Thailand 2013

7 Over-indebtedness

Household debt can be defined in several ways, based on what types of debt are included. Common debt types include home mortgages, home equity loans, auto loans, student loans, and credit cards. Household debt can also be measured across an economy, to measure how indebted households are relative to various measures of income (e.g., post-tax disposable income) or relative to the size of the economy (GDP). The burden of debt can also be measured in terms of the amount of principal and interest payment it generates relative to the income of the borrower.

7.1 Household indebtedness

BOT reports that household debt in Thailand in the first quarter of 2013 rose to 77.7% of gross domestic product (GDP), an increase from 61.4 per cent of GDP in 2009 and 55 percent of GDP at the end of 2007¹⁶. A similar trend is occurring in Malaysia and Singapore where household debt to GDP in 2012 reached 80 percent and 77 percent respectively.

Late payment remained high in the final quarter of 2012. Three-month-overdue debt increased by 28 per cent, while non-performing consumer loans rose by 20.5 per cent.¹⁷

In 2012 total personal income grew by 7.3 per cent, while consumer borrowing rose by 21.6 per cent. Average household debt was 0.82 times of personal income last year compared with 0.74 times in 2011. Late payment remained high in the final quarter of 2012. Three-month-overdue debt increased by 28 per cent, while non-performing consumer loans rose by 20.5 per cent¹⁸.

¹⁶ *The Nation*, May 27, 2013

¹⁷ *The Nation*, Feb 27, 2013 <http://www.nationmultimedia.com/business/GDP-forecast-tipped-to-rise-30200795.html>

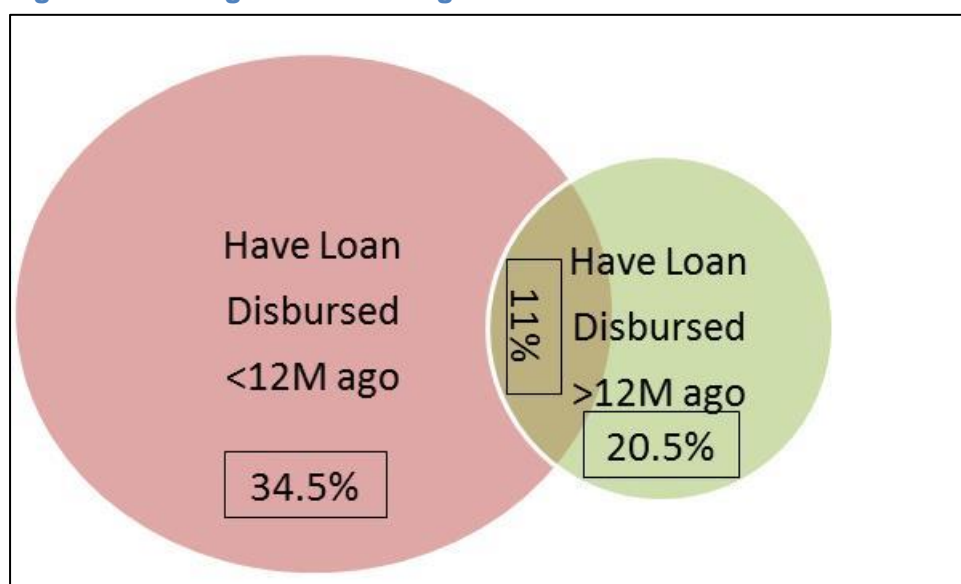
¹⁸ *The Nation*, May 27, 2013

According to the BOT, total household debt nationally in Q1 of 2013 is THB 8.81 trillion (\$284 billion) giving an average debt per household of THB 439,490¹⁹ (based upon a total of 20.06 million households). If we take the NSO 2011 Socio-Economic Survey (SES) figure of 56% of households being indebted²⁰ this suggests an average debt of THB 799,072 per indebted household.

The NSO 2011 Socio-Economic Survey and the 2013 Finscope study return more conservative average household debt figure of THB 241,760 and 266,498 respectively. These lower figures are likely to be due to underreporting on account of the sensitivity surrounding indebtedness. Finscope identifies 44% of households reporting outstanding debt and estimates an average outstanding debt of THB 606,263 for these indebted households.

Figure 10 shows that of the 44% of households reporting outstanding debt, the majority of this debt (34.5% of individuals) has been disbursed in the last 12 months. This may reflect the increasing level of indebtedness and/or that the majority of households take on recurrent short-term debts from multiple sources or from a single source which is routinely rolled over (such as BAAC agricultural loans). Twenty point five percent (20.5%) of individuals have long-term loans (loan term greater than 12 months) and 11% have both long-term loans and loans disbursed within the last 12 months. Some of these long-term loans may in fact be back-to-back short-term loans (e.g. BAAC working capital loans) that have come to be regarded as one continuous loan.

Figure 10 Timing of outstanding debt disbursement



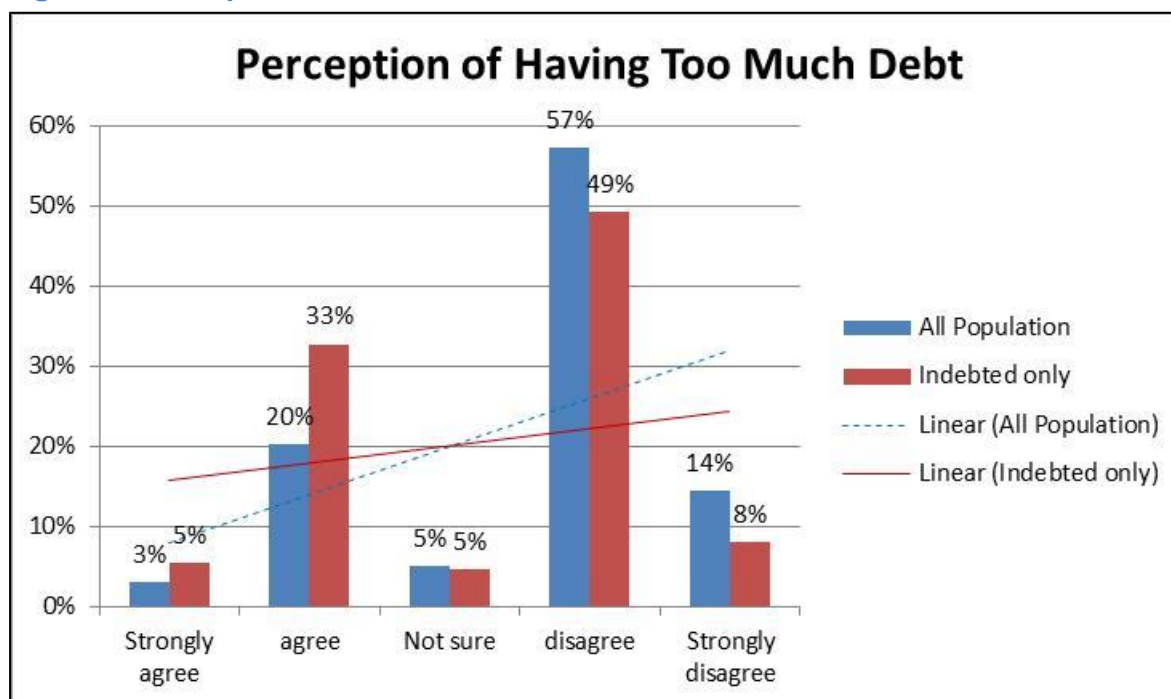
Finscope Thailand 2013

So are Thai households over-indebted? Participants in the Finscope survey were asked whether they felt they were over-indebted. Figure 11 provides our analysis of these responses. Of households currently with outstanding debt (44%), 38% of these believed that they were over-indebted. Of the total population 23%, more than one in every five households consider themselves over-indebted. This represents a significant proportion of the population suffering serious debt stress.

¹⁹ *The Nation*, August 27, 2013

²⁰ NSO SES 2011

Figure 11 Perception of over-indebtedness

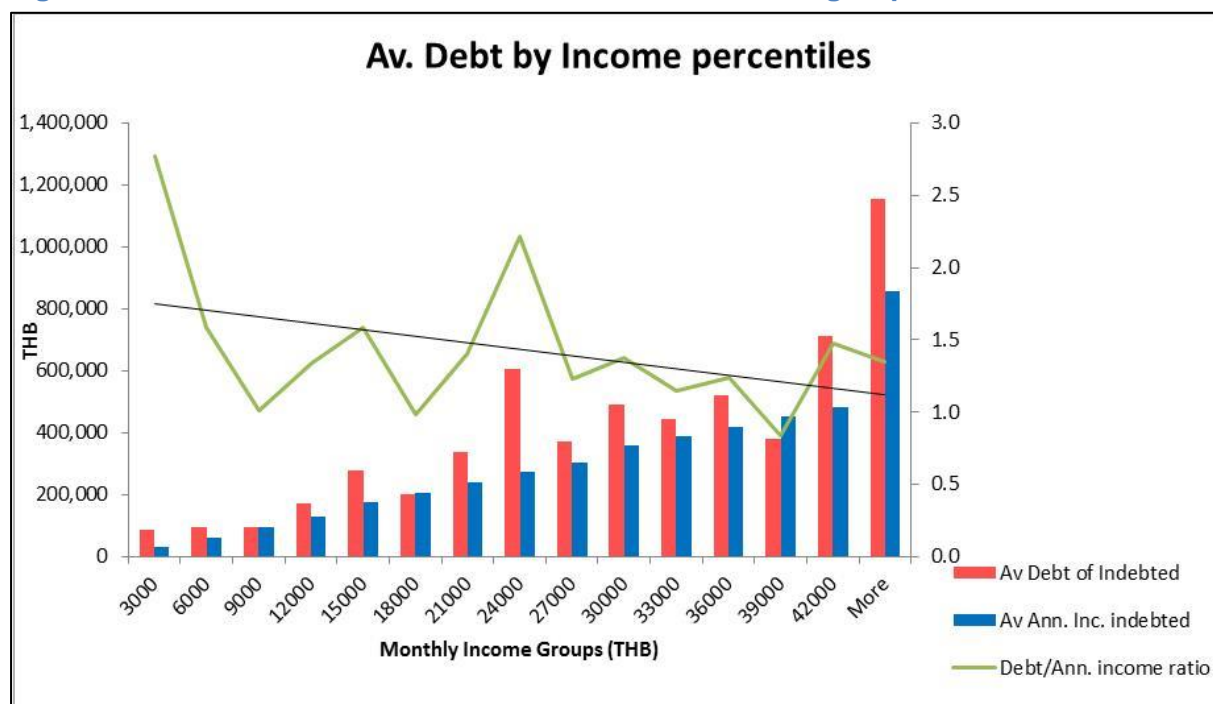


Finscope Thailand 2013

Debt moratoriums and loan restructuring also tends to result in increasing indebtedness. In the case of the 2012 debt moratorium on performing loans of not more than THB 500,000; those choosing to defer principal repayments are not able to borrow additional money from that particular SFI, however, in many cases this provides them with the opportunity to take up debt elsewhere. The practice of cross financing of debt is also very common. Finscope reports that 12% of all borrowings are taken out in order to repay other debts. As this clearly is not an approved loan purpose, the figure of 12% is likely to be a serious underestimate.

So who in Thailand are likely to be indebted? As we might expect Figure 12 shows us that it is the low income households that have the greatest debt to income burdens. Amongst the indebted those with monthly incomes below THB 3,000 have debt burdens of nearly 3 times their annual income. As this group are unlikely to have much of their debt in productive assets, it is probably safe to assume that it is mostly debt for consumption purposes. High income households on the other hand have larger outstanding debts but average debt is about equal to average annual income. We can also safely assume that much of this debt is tied up in productive assets which further contribute to these higher incomes.

Figure 12 Debt to annual income ratio for different income groups

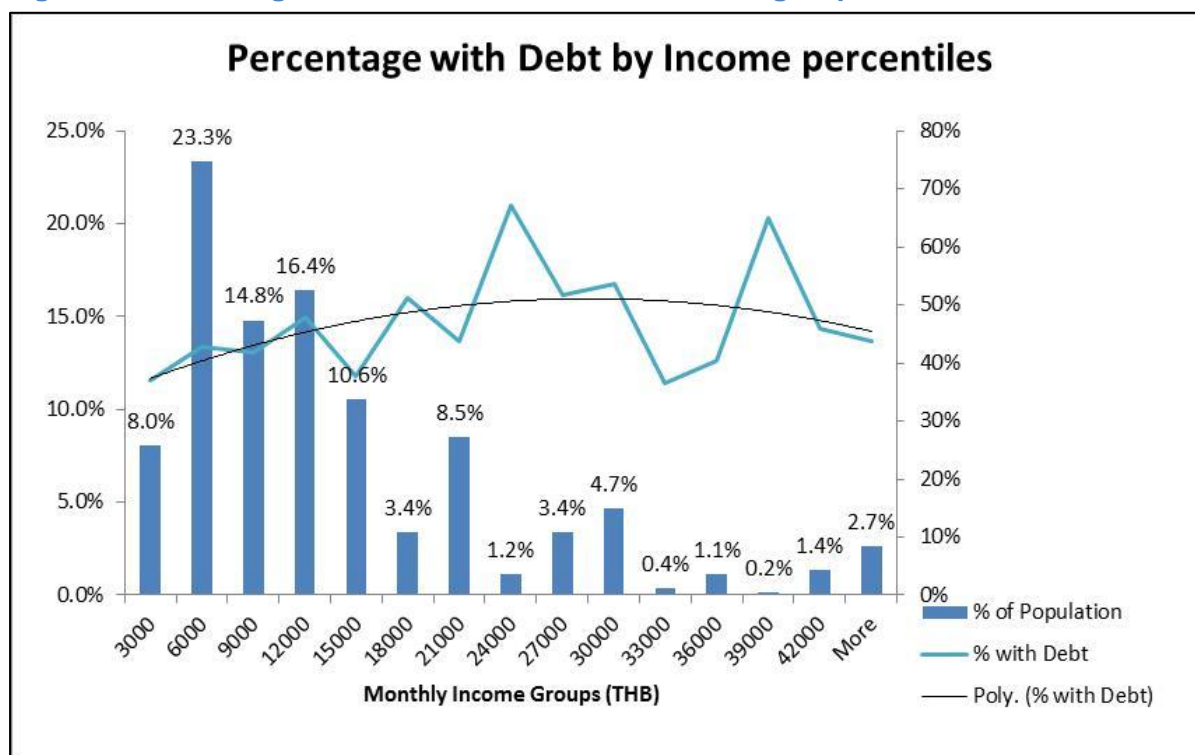


Finscope Thailand 2013

From this we can identify that it is low income households that are suffering the greatest burden from debt. Individuals with incomes under THB 6,000 should be prioritised if the RTG wishes to take action to reduce debt stress.

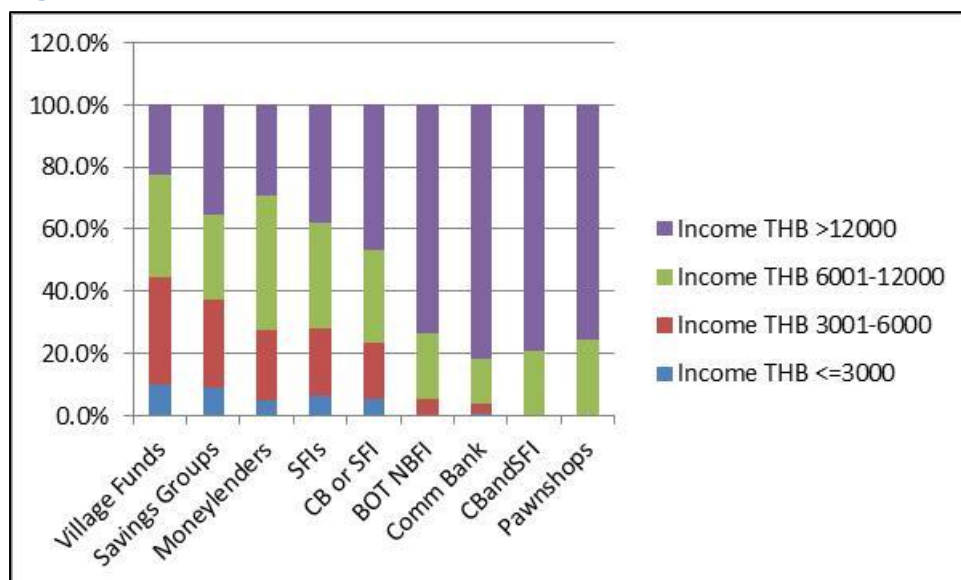
Another way to help identify a specific target group for an indebtedness support programme is to identify whether specific population segments are more highly indebted than others. However, Figure 13 shows us that there is not a marked variation across income bands in the percentage of houses currently indebted. There is a slight increase in the level of indebtedness as wealth increases and this is more pronounced amongst middle-income individuals.

Figure 13 Percentage indebted within different income groups



It is of interest to understand the income profile of clients of different financial institutions. As we can see in Figure 14, it is the Village Funds, savings groups and moneylenders and SFIs that serve poorer households. Richer households tend to utilise pawnshops, commercial banks and NBFIs. Those having simultaneous loans with both commercial banks and SFIs are the richest among these groupings. It is also interesting to note that those using pawnshops tend to come from the wealthiest households.

Figure 14 Income Bands of Borrowers from Different Sources



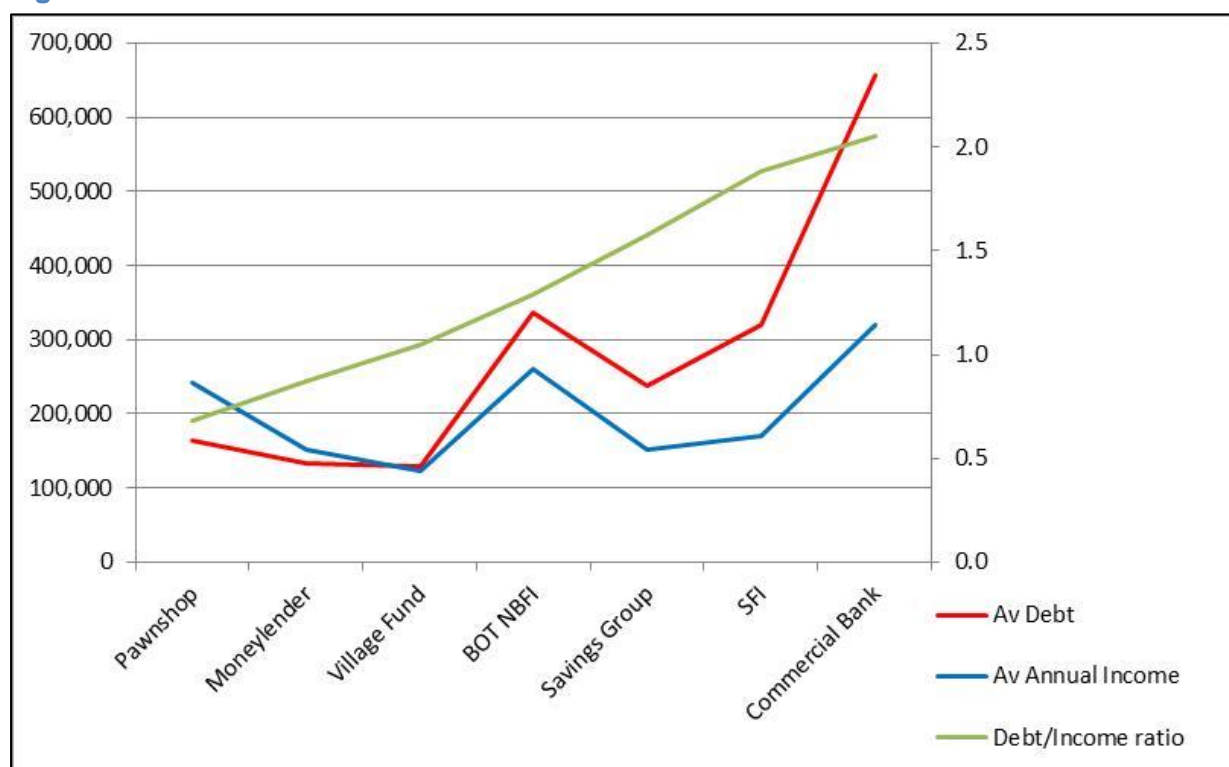
Finscope Thailand 2013

Consequently, we can see that the provision of support to Village Funds and savings groups; in the form of capacity building, and improved access to management and communication resources (such as the provision of e-money facilities) will disproportionately benefit low income households. In other countries in which specialised private or Non-Government Organisation (NGO) owned microfinance institutions (MFIs) have been allowed to develop,

these institutions have also be highly successful in selectively targeting low income households.

Figure 15 indicates the relative debt burdens of borrowers using different financial institutions²¹. As we might expect, clients of commercial banks and SFIs, who are generally wealthier, are more highly leveraged than those of money-lenders and village funds. Those using pawnshops, although relatively wealthy, do not have high levels of debt. We can expect that a substantial proportion of this commercial bank debt relates to real estate investments which are amortised over long periods. This type of debt does not impose as much repayment stress as short-term consumption borrowing. Unfortunately the Finscope study did not distinguish between productive (income generating) debt and consumption debt. This distinction should be incorporated into future Finscope studies. Interestingly, those borrowing from savings groups, while not particularly wealthy, have relatively high debt to income ratios. The reason for this is not clear and may require further research.

Figure 15: Level of debt and annual income of borrowers from different institutions

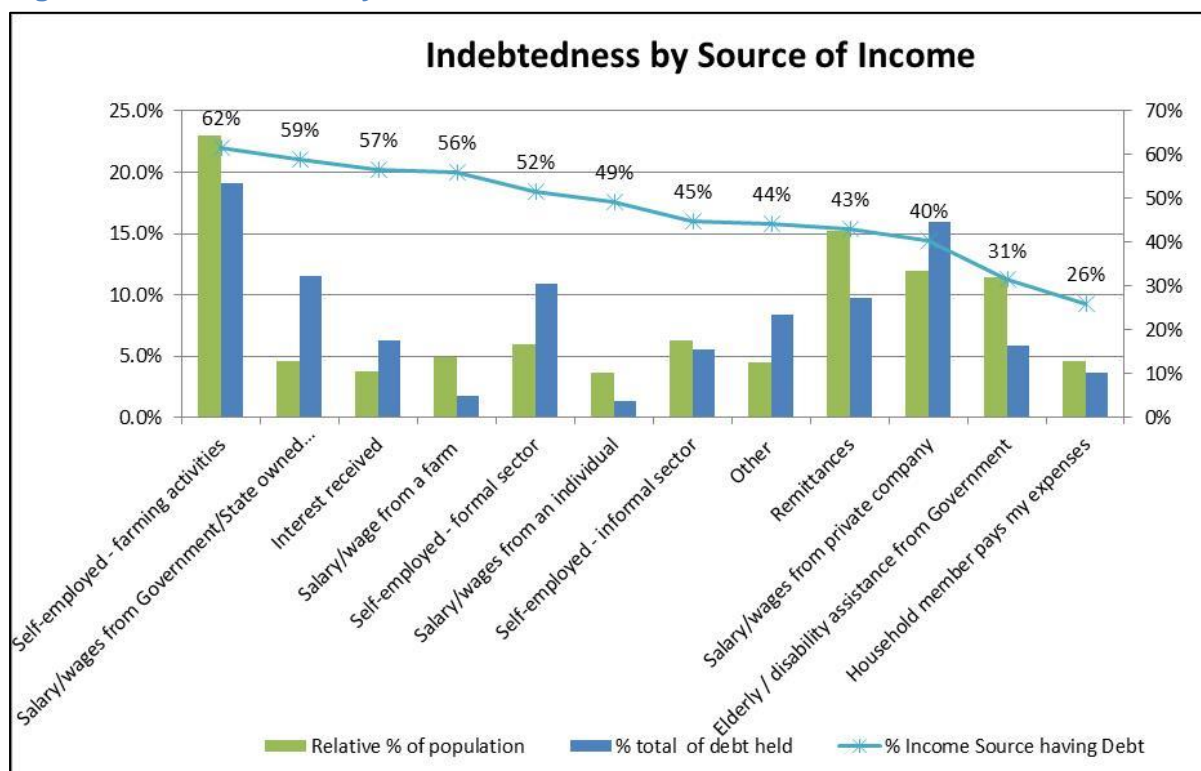


Finscope Thailand 2013

Figure 16 identifies levels of indebtedness by source of income. Many individuals in Thailand have multiple sources of income. Figure 16 groups individuals that derive at least part of their income from a stated income source and, therefore, individuals with more than one source of income are represented under both types of income source.

²¹ These figures represent debt from all sources and have been grouped on the basis of having at least one loan from the source mentioned. Future Finscope studies should attempt to disaggregate debt by source and disaggregate expenditure on debt servicing from general expenditure.

Figure 16 Indebtedness by source of income

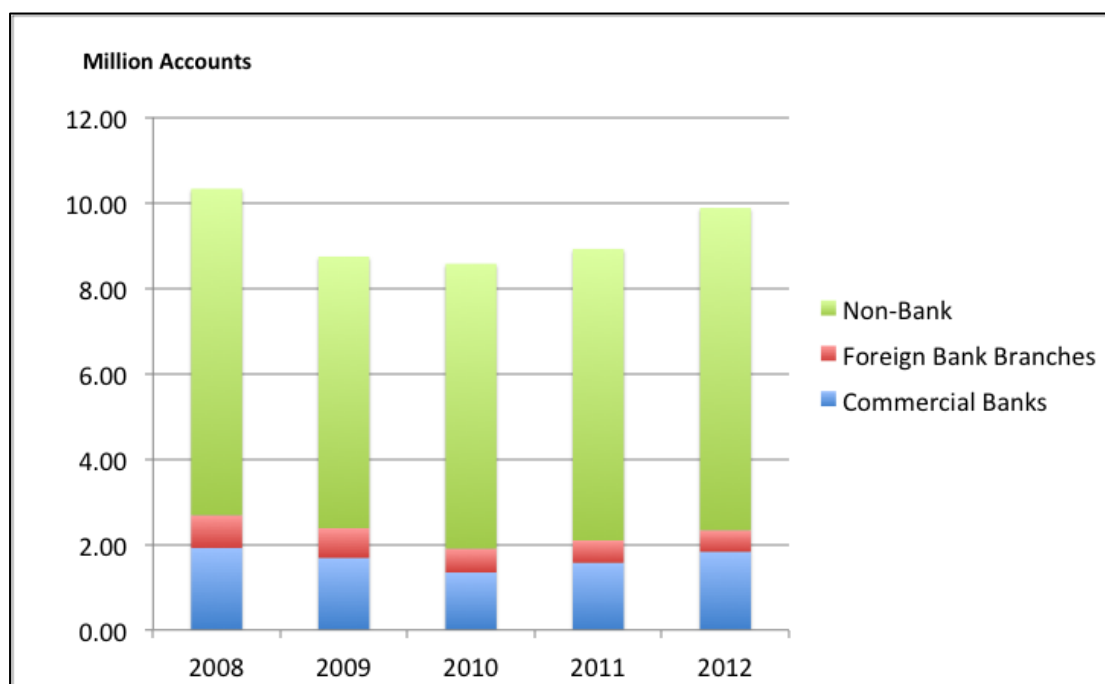


Finscope Thailand 2013

This figure shows us that farmers (62%) are the most indebted group in Thailand followed closely by government employees (59%). Farmers have ready access to credit through BAAC but tend to take smaller loans compared to government employees who are able to easily provide salary evidence and stability of employment to allow them to borrow larger amounts from commercial banks and SFIs. While these government employees represent about 4% of the population they hold about 12% of total individual debt. We can see that the informally employed such as farmworkers and those receiving wages from an individual (e.g. domestic workers), and those relying on remittances; are commonly indebted but are only able to borrow small amounts through mostly informal sources.

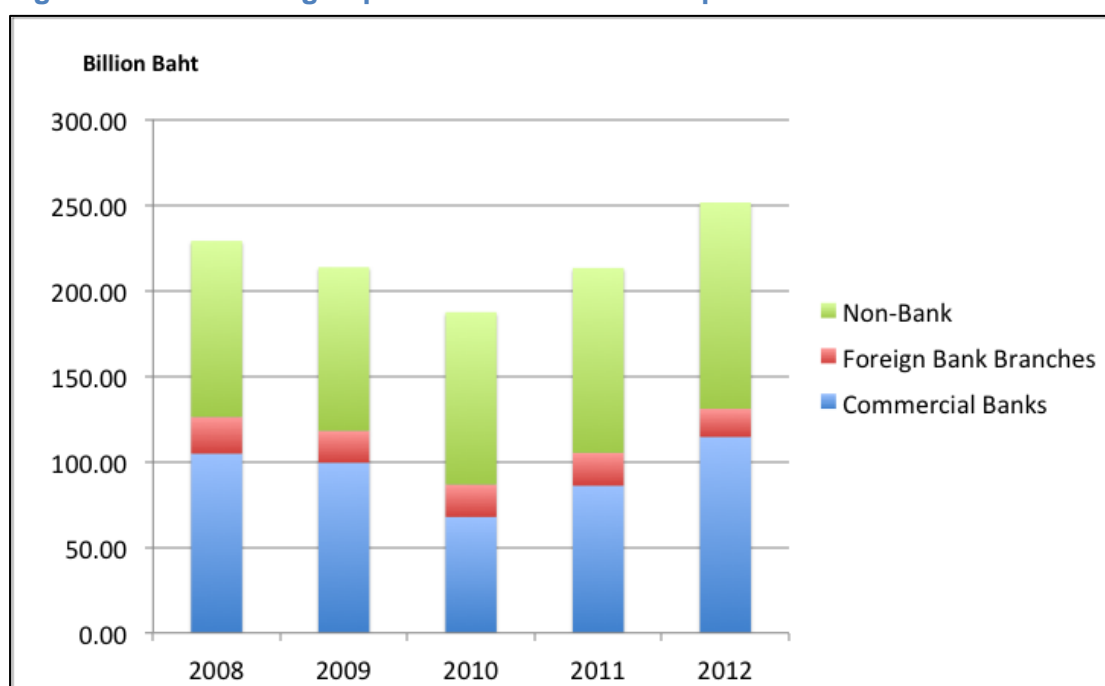
Figure 17 and Figure 18 show the number and size of personal loan accounts under the supervision of the Bank of Thailand. While the amounts provided by commercial banks and NBFIs are similar, NBFIs offer 3.5 times more personal loans with the average loan size being THB 55,828 and THB 15,983 respectively. This shows that NBFIs are important players in the provision of smaller personal credit needs.

Figure 17 Number of accounts of personal loan under supervision of the Bank of Thailand



Source: The Bank of Thailand

Figure 18 Outstanding of personal loans under supervision of the Bank of Thailand



Source: The Bank of Thailand

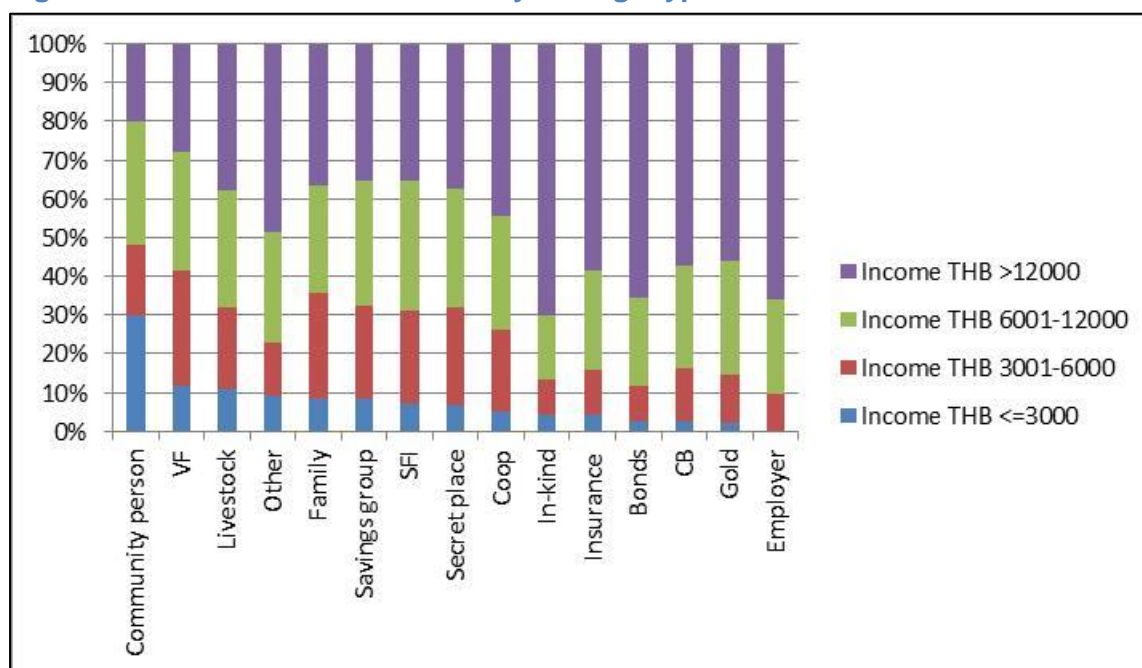
7.2 Household savings

One cannot discuss household debt without also looking at household savings which effectively offset at least some of this debt. However, levels of savings in Thailand are not very high by global standards. In contrast to debt at 77.7% of GDP, in 2011, household

savings were 5.3 per cent of GDP, and 45 per cent of households, or 9.09 million, were not capable accumulating any significant savings²². From 1991-96, the pre-1997 financial crisis period, household savings to income averaged 14.4% compared with 9.4% from 2007-11²³. Finscope 2013 identifies average cash savings per adult to be only THB 3,800.

Figure 19 identifies the levels of wealth of savers according to the type of savings held. Typically poorer households save with a trusted individuals, the Village Fund, livestock and with family members while wealthier households save with employers, in gold, commercial banks and bonds.

Figure 19 Income Bands of Savers by savings type



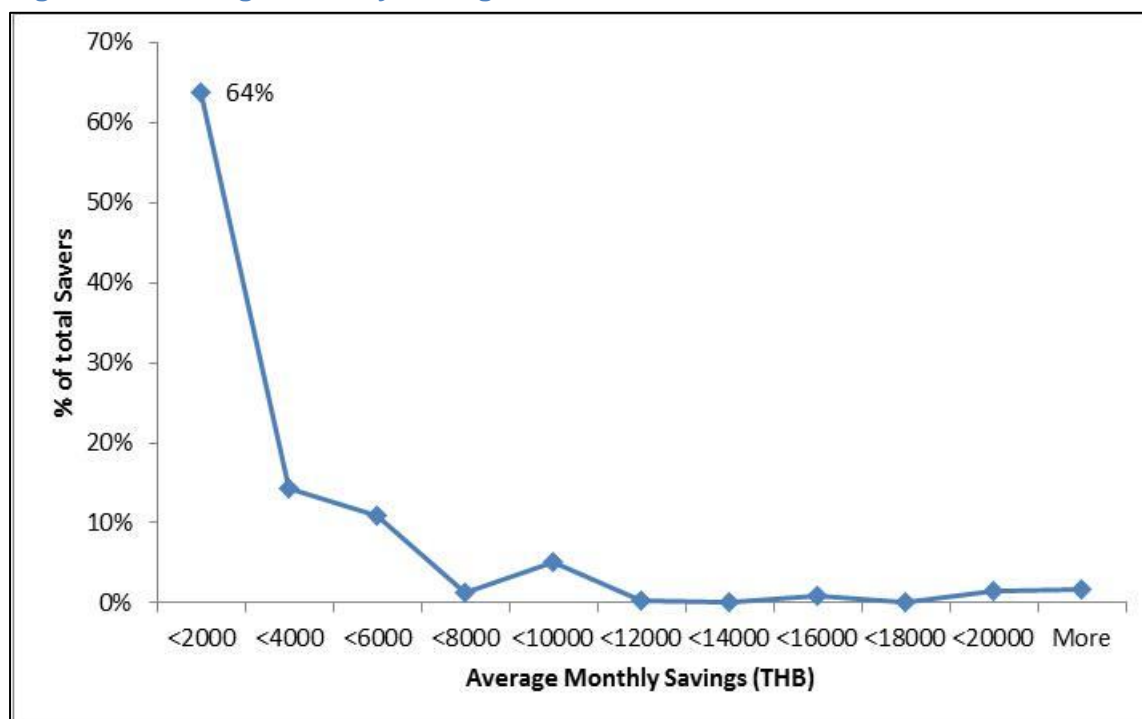
Finscope Thailand 2013

As shown in Figure 20, on the whole average monthly savings are low. 64% of individuals save less than THB 2,000 per month. Very few have more than THB 8000 savings per month.

²² BOT website 2013

²³ Bangkok Post 6 July 2013 quoting Kasikorn Research Centre (K-Research). Managing director Charl Kengchon

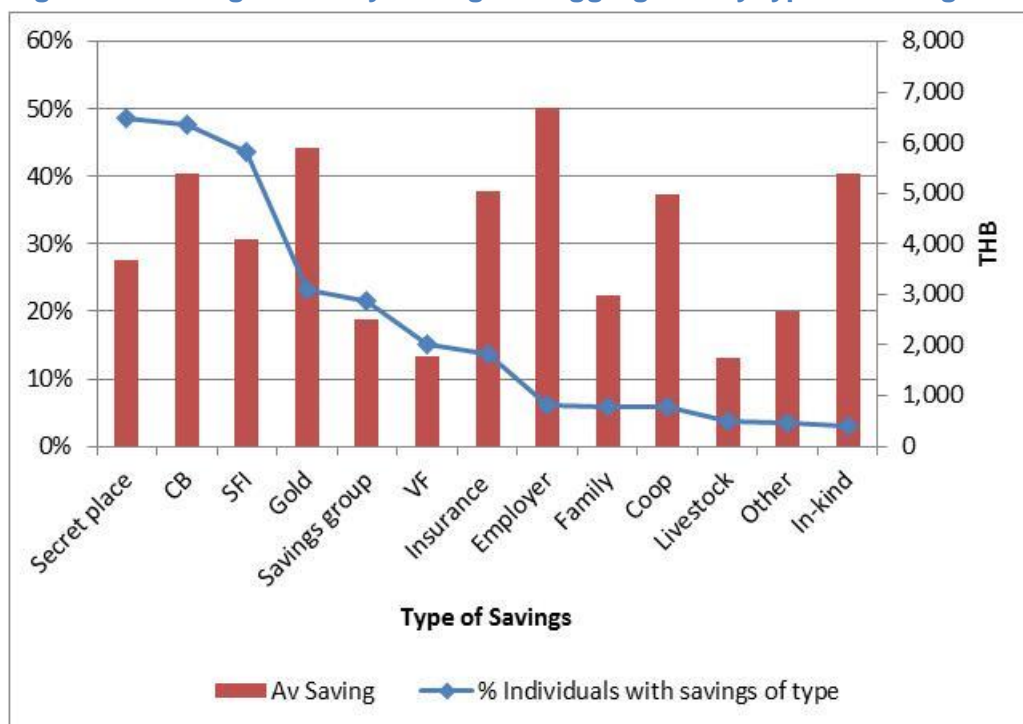
Figure 20: Average monthly savings



Finscope Thailand 2013

Figure 21 allows us to see the average monthly savings of individuals who use different types of savings mechanisms and the relative popularity of these savings tools. Most common is hiding savings in a secret place followed by commercial banks and SFIs. Least common is the use of in-kind savings, livestock, cooperatives, family and employers. Those saving with employers, in gold, with commercial banks and in-kind tend to have larger average savings (greater than THB 5000).

Figure 21 Average monthly savings disaggregated by type of savings



Finscope Thailand 2013

8 Recommendations for an Improved Consumer Protection Strategy

8.1 Strengthen ability to respond to customer feedback

Currently the various authorities responsible for consumer protection in Thailand take a problem oriented approach to consumer protection through the provision of facilities through which consumers are able to make complaints, and monitoring of these complaints. This is a relatively effective and economical strategy for identifying most consumer protection concerns, however, it requires a simpler, more accessible and more visible mechanism for reporting consumer concerns. Within the institutions responsible for monitoring consumer feedback it requires a more effective process of validating, analysing and prioritising complaints than currently exists. Furthermore it requires the ability to provide a swift and consistent authoritative response to consumer abuse.

This reactive approach to addressing consumer protection concerns, however, is likely to result in focus upon issues that consumers find more immediate and easy to report, such as interest rates and loan repayment crises. This approach is less likely to identify deeper structural problems such as lack of choice of financial institutions, inappropriately designed financial products, overselling of financial products, client privacy, undue risk of loss of savings deposits, and of course weaknesses in the very system by which consumers are able to report their problems.

The current model also falls down on account of the wide variety of responsible authorities. Even in the unlikely case that consumers are aware of the channels available to seek redress to their unresolved disputes with their financial institutions; is difficult for customers to know who to approach between OCPB, FCC, FIPD, Ministry of Agriculture and Cooperatives, Ministry of Interior (MOI), the Prime Minister's Office or the FCP.

Nevertheless, this "problem responsive" approach is a valuable tool which can greatly assist the government's efforts to improve consumer protection. It would, however, be much more effective if managed through a single agency. At this stage the best resourced government agency for this role appears to be the Financial Consumer Protection Centre (FCC) overseen by the Bank of Thailand.

We recommend that the FCC take full responsibility for soliciting and receiving consumer grievances from all Thai citizens regardless of the financial institution or informal service provider involved. In addition to a national free call telephone hotline grievances should be received by mail, email and in person. FCC representation should exist in all BOT regional offices. All formal financial institutions and the larger credit cooperatives should also be required to submit annual reports to the FCC detailing and analysing customer grievances received directly to their customer complaint centres. The FCC should hold the national authority to mediate in disputes between consumers and their financial service provider. In the case where these disputes cannot be resolved they should be referred to the relevant authority overseeing the service provider in question; or if appropriate, referred to the judicial system.

The FCC should also systematically analyse these complaints and provide monthly reports and recommendations to the relevant authorities regarding institutions which fall within their purview. This would allow these authorities to develop consumer protection regulations on a "needs basis" and impose these upon the financial service providers under their supervision.

The FCC should undertake a **nationwide advertising campaign to publicise its role as the universal centre for managing consumer complaints** that cannot be adequately resolved directly with financial institutions. To ensure the FCC has a broad governance structure we recommend its board contain delegates from all the government authorities which oversee financial service providers of some kind and, importantly, include the director of the Foundation for Consumer Protection to ensure representation from civil society.

8.2 Ensure improved consumer protection practices by financial institutions

Two options exist for improving the consumer protection practices of financial institutions. **The first option** is to establish firm regulatory requirements for each type of financial institution and to enforce these with punitive authority. This can be very effective but requires considerable expenditure in the development of regulatory instructions and more importantly supervision and enforcement. We recommend this approach for financial institutions (including SFIs) that are currently subjected to supervision by BOT. This would require a relatively small adaptation of their existing on and off-site supervision procedures. Consumer protection regulations and guidelines are already in place for financial institutions under BOT supervision. These cover most of the consumer protection concerns relating to these institutions and will require little change. However, this regulation will require adaptation with respect to SFIs, particularly BAAC due to its major involvement in lending to low income households which often have different consumer protection vulnerabilities.

The second option is to adopt a self-regulatory approach in which financial institutions or their representative bodies agree to adopt “**codes of conduct**” with regard to their consumer protection practices. This works especially well where different types of financial service providers have effective apex bodies that were able to enforce standards of behaviour amongst their members and have the ability to expel members who fail to meet their standards. We recommend this for Microinsurance providers and smaller less formal financial institutions such as Village Funds and credit cooperatives which should be assisted by the FCC²⁴ to develop appropriate “codes of conduct” for consumer protection, where possible, through their representative bodies. Compliance with these “codes of conduct” should be monitored by the FCC through analysis of customer complaints provided directly to FCC and via organisations such as the Foundation for Consumer Protection. Sanctions and penalties should be imposed upon institutions that continue to violate these agreed codes of conduct.

Recommendations for improving consumer protection practices by financial institutions

We recommend that the FCC (in consultation with the Fiscal Policy Office) is provided with full responsibility for the following:

Financial institutions currently supervised by BOT

- (i) the development of financial consumer protection policy and regulation for formal financial institutions (SFIs, banks and financial institutions regulated by BOT),
- (ii) monitoring of compliance through incorporation of consumer protection supervision in BOT’s routine on-site and off-site supervision procedures, and
- (iii) be provided with the authority for enforcement through sanctions and penalties.

Financial institutions and microinsurance providers not currently supervised by BOT

- (iv) the development of “codes of conduct” to which microinsurance providers and less formal financial institutions would be required to commit,
- (v) monitoring of compliance through analysis of complaints received directly by the national consumer protection complaint centre within the FCC and other sources such as the OCPB and FCP

²⁴ In consultation with microfinance and microinsurance practitioners and interested stakeholders such as government agencies eg. OCPB and consumer representatives eg. FCP

- (vi) **be provided with the authority for enforcement through sanctions and penalties.**

8.3 Appropriate product design and delivery

The need for appropriately designed financial products and mechanisms for their delivery to consumers is a more subtle but still very important consumer protection concern. It reflects a denial of effective financial services rather than provision of services that are harmful to consumers.

Generally speaking, finance institutions that are wholly reliant upon their customer base for financial survival undertake greater efforts to ensure that their products closely match customer demand. These institutions continually monitor consumer needs and attempt to develop innovative products that support these needs. A good example of this is the NBFIs that have developed credit card and personal loan products that are convenient and quick to access and are, as much as possible, tailored to individual repayment abilities.

Specialised Financial Institutions also try to make their products relevant; however, it is to the Ministry of Finance that they are primarily accountable rather than their own customers. Consequently, SFIs are under more pressure to meet MOF's requirements and less pressure to respond to the real needs of their own clients.

In addition to having strong motivation to develop financial products that respond directly to client needs, it is important that financial institutions have access to effective tools for undertaking market research and responsive product development. These tools have been long developed by institutions serving middle-class customer markets but only more recently have market research tools been developed that are appropriate to low income and rural households. This innovation has been largely led by MicroSave²⁵, the Small Enterprise Education and Promotion Network (SEEP)²⁶ and the AIMS project of USAID. The tools developed by these organisations utilise Participatory Rural Appraisal (PRA) techniques to gather much of their understanding of low income and rural household financial needs and combine this with a structured process for developing, piloting and rolling-out new or modified products within financial institutions. It is critical that this process is led by the institutions themselves in order that lessons learned are fully institutionalised and that the market led product development process is fully embedded within the institution.

SFIs and other financial institutions interested in developing market responsive products for low income households in Thailand would benefit greatly from the establishment of financial and technical resources able to provide capacity building to these institutions in market research for new microfinance and microinsurance products. The establishment of these resources might be considered as part of a second phase financial inclusion project.

Recommendations for appropriate product delivery:

- 1. Inclusion of market research based new microfinance and microinsurance product development as part of a 2nd phase ADB technical assistance. This should aim to establish an ongoing institution in Thailand capable of building the capacity of financial institutions offering financial and insurance services to low income households to develop appropriately designed products based upon systematic market research.**
- 2. Establishment of a fund which would partly cover the cost of market research and new product development training and the research and development of new products.**

²⁵ www.microsave.net

²⁶ www.seepnetwork.org

8.4 Over-indebtedness

Over indebtedness of Thai households is a major concern for many government authorities, most notably the Governor of the Bank of Thailand. However, there is little data or analysis available to allow a detailed understanding of the seriousness of this problem. At present the marker for household indebtedness is percentage of GDP (currently the level of household debt is a little under 80% of the annual GDP). Yet this gives us no guidance as to whether this is a sustainable and manageable level of debt, how this debt is spread among the population, which geographical regions are most affected, the mix between consumer debt and productive debt-based investments and trends in indebtedness over time.

As described in Section 7 “Over-indebtedness”, Finscope and NSO’s Socio-Economic Survey provide important opportunities for analysis of household indebtedness in Thailand but considerable opportunity exists to improve these tools for the collection of information on indebtedness and over indebtedness. Our initial analysis suggests that immediate attention is required to assist households borrowing to repay other debts, low income households with high levels of consumption debt, strengthening of Village Funds and savings groups who are the major providers of debt to these low income households, specific research into highly indebted group such as farmers, government employees and the informally employed. Greater attention should be paid to strategies to promote greater self-reliance through savings and other forms of asset accumulation.

Financial sector authorities such as the Ministry of Finance and the Bank of Thailand should consider imposing restrictions on financial institutions whose Key Performance Indicators (KPIs) incentivise loan officers to push larger sized loans upon loan applicants as these contribute to the problem of over-indebtedness. A better approach maybe to weight KPI’s towards loan portfolio performance criteria rather than loan disbursements as this would encourage more responsible lending by these loan officers.

Recommendations for Addressing Over-indebtedness:

- 1. The primary responsibility for undertaking regular analysis and dissemination of Finscope and NSO SES data should be assigned to a specific institution(s) or joint committee including at least NSO, FIPD and the Bank of Thailand.**
- 2. Finscope, and or the NSO SES survey should be adapted to better collect information on indebtedness and debt stress. Technical assistance should be provided to this institution or committee for the development of procedures for the statistical analysis and presentation of indebtedness data.**
- 3. Regulatory guidelines for BOT supervised financial institutions and SFIs, and “Codes of Conduct” for other financial institutions, should incorporate client underwriting procedures as outlined in the Smart Campaign’s “Avoidance of Over-indebtedness: Guidelines for Financial and Non-financial Evaluation”.²⁷**
- 4. The Ministry of Finance and the Bank of Thailand impose restrictions on financial institutions whose KPIs incentivise loan officers to disperse more and larger-sized loans.**
- 5. Part of the program on financial education should provide a multimedia social awareness campaign on the dangers of over-indebtedness. This campaign should highlight the negative consequences of over-indebtedness and the social benefits of moderation and self-sufficiency.**

8.5 Transparency and improved product disclosure

The key areas for improvement in transparency and product disclosure relate to the need for simple and comparable pricing of products and simple to understand contracts. The counter side of improved financial transparency and product disclosure is improved capacity of individuals to understand these contracts and to effectively manage the financial obligations

²⁷ See (<http://smartcampaign.org/tools-a-resources/514>).

associated with such contracts. This capacity can be improved through the implementation of financial education strategies. Such strategies have been provided in a separate report in this series on financial literacy.

Recommendations for improving transparency and product disclosure:

1. All financial institutions in Thailand should be required to advertise interest rates as annualised percentage rates (APR) or effective interest rates (EIR) to facilitate cost comparisons between service providers.
2. For both financial and insurance providers the total minimum total cost of the product over its life (inclusive of all interest and mandatory charges) should be prominently displayed as well as any additional penalty costs for which the client may become liable.
3. Additional charges should only be added where they cannot be practically included in the core interest or insurance premium cost. In the case of Islamic banking the estimated profit share to be retained by the bank should be clearly communicated and this should be also shown as an equivalent effective interest rate to allow Islamic finance clients to compare this cost with the non-Islamic competition.
4. Financial and insurance providers should be required to simplify the language of their contracts and to provide all critical information regarding the features and costs of the product as well as the financial institution's and the customer's obligations and rights in a single "easy to read" page. They should also be required to utilise standard contracts that have been approved by the relevant consumer protection authorities in terms of content and presentation (document structure, font size, bolding of text). Information that is specific to individual products can then be attached as a short Annex.

8.6 Responsible pricing

Lack of detailed risk assessment data in the low income household market results in the need for commercial financial institutions to increase interest rates in order to cover risks they are otherwise unable to avoid. The RTG's response has been to impose interest rate caps and through the direct provision of low interest loans by its SFIs. An alternate approach would be to invest in more effective market information such as promoting universal reporting to the National Credit Bureau (NCB) by all formal and semiformal financial institutions. This would greatly improve the ability of the commercial finance sector to engage in the low income household market.

In an attempt to relieve interest-rate burdens RTG has attempted to reduce informal sector borrowing through debt purchasing by its SFIs. However, it is quite probable that this will only increase the SFI debt of these households without reducing their use of the informal sector. A more effective approach to reducing informal sector interest rates would be through the **development of policies and incentives to increase formal and semiformal financial institution competition in this market**; together with reliable market information from the NCB.

Recommendations for ensuring responsible pricing:

1. Finance and technical support should be provided to BAAC to improve its banking software in order that it has the capacity to report to the NCB. Once this is in place BAAC should be required to undertake standard reporting to NCB.
2. International and local finance institutions specialising in microfinance should be provided regulatory windows to operate in Thailand (see Section 8.7 Recommendation 1).

8.7 Provision of better consumer choice through increased competition among financial service providers

Greater competition would not only result in lower interest rates being offered to the low income household market but improve choice and quality of financial and insurance products available to this market. This could be achieved, in part, by providing a regulatory window for Microfinance Institutions (MFIs) to operate in the low income household market. In China and Cambodia microfinance licences (including deposit-taking licences) have been issued in which a number of regulatory concessions have been offered (eg. lowered minimum capital requirements and possibly simplified supervision requirements) in exchange for the acceptance of operating limitations (eg. restrictions on loan and savings deposit size, increased capital adequacy requirements, requirement to provide a substantial portion of their activity in rural areas and more conservative risk management) which largely confines these institutions to the low income market²⁸.

Another strategy to improve competition among the low income household market is to remove the current interest rate distortions created by the state owned SFIs. These subsidised interest rates currently ensure that privately owned financial institutions cannot compete for the low income household market. This does not necessarily require these low income households to be disadvantaged. In Australia, the United States and Europe governments continue to provide interest-rate subsidies to disadvantaged sectors of the economy or sectors they wish to promote by offering demand-side subsidies rather than supply-side subsidies. These demand-side subsidies usually involve the provision by the government of a fixed portion of the total interest payments made by target households thus allowing a wide range of public and private licensed financial institutions to compete with each other on product quality and total price²⁹. Supply-side subsidies, on the other hand, involve direct subsidisation of a few financial institutions (eg. SFIs) who then have no need to compete with rival financial institutions and have limited incentive to improve the quality and relevance of their products.

Recommendations for improving competition and consumer choice:

- 1. As a means of increasing competition International and local finance institutions specialising in microfinance should be provided regulatory windows to operate in Thailand as both credit-only and deposit taking microfinance institutions. Regulatory concessions should be offered to such institutions in exchange for operational restrictions upon the scope of their activities which will ensure they maintain focus upon a low-income customer base.**
- 2. The Ministry of Finance should consider phasing out its subsidies to BAAC and replace these with demand-side interest subsidies for low income and disadvantaged individuals. These subsidies should allow these target individuals to access subsidised loans from a range of approved financial institutions both private and public.**

8.8 Appropriate debt collection practices

Problems relating to debt collection practices in Thailand fall into two categories; illegal activities and unethical practices.

²⁸ Under ADB technical assistance projects, Microfinance Services Pty Ltd designed the regulatory framework for the licensing of the first privately owned financial institutions in China and for Microfinance Deposit-Taking Institutions in Cambodia.

²⁹ That is to say the government subsidy is not enough to cover cost of service provision but financial institutions are able to compete on price by lowering the additional interest margin and fees that they apply.

Illegal activities are more likely to be encountered in the informal sector with moneylenders and unregulated financial institutions threatening or inflicting physical or psychological harm upon borrowers. This is a matter for the police force which must ensure this criminal activity is taken seriously and clamp down on corrupt practices by which police officers are bribed in order to turn a blind eye.

Most reputable financial institutions take care to protect their public image and, therefore, do not engage directly in unethical loan recovery practices. However, it is possible for these institutions to sell their debt or hire third-party debt collection agencies that do not conform to their own standards for debt collection behaviour. Financial institutions wishing to sell non-performing loans to a third party should therefore be obliged to ensure that the consumer protection policies of these institutions (particularly with respect to debt collection) at least equal their own standards. They should also ensure that external debt collection agencies hired to recover non-performing loans follow the same consumer protection guidelines as required by their own staff.

The recent approval of MOF's bill to require registration of debt collectors (as described in Section 4.6 above) is probably insufficient to ensure high standards of debt collection conduct.

Recommendations for improving debt collection practices:

- 1. FCC's guidelines with respect to debt collection practices should be incorporated into the "code of conduct" commitments undertaken by finance institutions that are not regulated and supervised by BOT.**
- 2. All agencies engaged in the practice of debt collection of loans that were originally issued by a regulated financial institution should be required to obtain a license from, and be regulated by, the BOT FCC. These agencies should be then required to operate within the FCC's guidelines with respect to debt collection practices. All regulated financial institutions should be required to utilise only debt collection agencies licensed by the FCC.**

8.9 Deposit Protection

Currently public deposits are protected in commercial banks and SFIs. Commercial banks are required to subscribe to deposit insurance³⁰ while public deposits with SFIs are effectively guaranteed by the State. The commercial banks, however, are competently regulated and supervised by the Bank of Thailand and pose very little risk to public deposits.

Savings held in savings and credit cooperatives, CBFIs and possibly even Village Funds, on the other hand, have no such protection nor are the institutions entrusted with these deposits subjected to any significant prudential regulation or supervision. It is argued that because these are member-based organisations, depositors are able to assess the risks to which their savings are being exposed and that, therefore, these institutions can safely self-regulate. Closer examination reveals that depositors in these institutions have very little understanding or control over how these funds are managed, are unaware of the lack of internal controls and fraud prevention mechanisms, or the lack of risk assessment procedures and risk mitigation strategies within the lending operations of these institutions. Nevertheless, in recent times surprisingly few member-based deposit taking financial institutions have encountered problems resulting in loss of member's savings.

If the government wishes to ensure a high level of protection over these deposits it could either institute mandatory deposit protection insurance or require these member-based deposit taking financial institutions to act as agents for banks or other licensed deposit taking institutions. In this way these institutions could collect member savings on behalf of the licensed institution and borrow back at wholesale rates funds for on lending to their

³⁰ The DPA insurance covers up to THB 1 million per account per bank

members. This would ensure that member-depositors funds would be secured by the licensed deposit-taking institution. This, however, would be a major undertaking and is probably not justified in the absence of significant losses of savings within the informal sector.

Recommendations for improving deposit protection:

- 1. We recommend capacity building for CBFi committees (including Village Funds) on internal controls and credit risk management. We also support the provision of financial education for members of CBFIs on processes for ensuring good governance and accountability of CBFIs committees.**

8.10 Microinsurance consumer protection regulation

The consumer protection needs of microinsurance clients is discussed in the report on Microinsurance Regulation which is part of the Financial Inclusion Diagnostic series of reports. With respect to microinsurance regulation reform we offer the following recommendations with respect to regulations governing marketing and insurance policy documents.

Recommendations for improving consumer protection for microinsurance clients:

- 1. Marketing. Requirements (applying to insurance companies, brokers, and agents) when offering an insurance policy for sale include disclosing information about the policy and the policyholder's right to cancel the contract within the appropriate cooling-off period and not persuading the insured to cancel other insurance policies to purchase the new one.³¹**
 - a) Insurers should be able to market in innovative ways. Thus the OIC should not restrict the marketing as long as it is honest.
 - b) The cooling off period will be an operational challenge for insurers to manage and will add operations costs.
 - c) Text or pictures of an advertisement are deemed a part of the insurance policy, and if they conflict with the policy document, it shall be construed as is most favourable to the insured/beneficiary (LA §30/1; NLA §30/1).
 - d) Insurers should market true to their policies. The simple policy document should be final word on language. Brochures and marketing materials are unlikely to be fully comprehensive so simplicity in conveying the marketing message should be viewed with that realization. Thus, just because it is not included in the marketing, it should not be considered a legal lapse. However, wilful distortions should not be allowed.
- 2. Policy documents**
 - a) When a Company issues a policy, it must deliver the policy containing the correct contents to the insured, and attach documents summarizing the coverage and exceptions. For group insurance, the Company must deliver the policy and these documents to the policyholder and must issue each covered person a certificate of insurance together with the documents summarizing the conditions, coverage, and exceptions.³²
 - b) The cost of delivering individualized policy documents to each policyholder (or individual in a group) may prove too high in the case of microinsurance. Where possible other methods should be allowed such as scratch off documents, mobile receipts, or generic receipts for group members; all with unique numbers that can be linked to full policies through call centres or the insurer's webpage. As clients are

³¹ Life Notification dated 30 December B.E. 2551 (2008). Rules on methods for issuing and offering of insurance policy for sale and the performing of duty of life insurance agent and life insurance broker and bank; Non-life Notification dated 18 May B.E. 2551 (2008). Rules on methods for issuing and offering of insurance policy for sale and the performing of duty of Non-life insurance agent and Non-life insurance broker and bank.

³² *ibid*

purchasing these policies without full policy documentation these policies should be preapproved by OIC. Such innovation is important to help reduce the costs of microinsurance.

- c) If a Company issues a policy which differs from the approved text, the insured may hold it liable under the insurance policy as issued or as approved, or the insured may terminate the policy and require the Company to return all premiums paid (LA §29; NLA §29).
- d) What is important is the simplicity and accuracy of the policy document. It is important that the OIC recognizes the need for very simple policy language to accompany simple microinsurance policies.
- e) Risk based approaches should set general characteristics of a legal policy and should not require OIC approval for the policy or marketing language.

3. Supervision

- a) Low-income populations are often not financially, or generally, literate. They are extremely vulnerable to deceptive selling and fraud and not aware of the insurance concept. Supervisors therefore, need to pay extra attention to consumer protection issues that may arise at different stages of the process such as advertising, collection and issue of disclosures, advice, sale, enrolment, servicing and claims.

9 Conclusion

Implementation of consumer protection can prove to be a double-edged sword. While the imposition and enforcement of regulations upon financial and insurance service providers may protect clients who are utilising the services, they may also exclude or reduce benefits to some other people. For example, capping interest rates at low level provides a disincentive the savings resulting in a shortage of capital for lending and reduces the incentive for private sector participation in these markets.

The cost of compliance with onerous consumer protection regulatory requirements can also discourage financial and insurance institutions from entering markets in which consumers are deemed to need greater levels of consumer protection and, therefore, involve greater compliance costs.

Good financial education programs can lead to an improved capacity of individuals to manage their finances and to understand the financial obligations associated with loan contracts. These educational programs can also help break down barriers to participation in new technologies such as electronic payment systems used in money transfers, electronic purchases and bill payments and mobile telephone banking.

One of the most cost-effective approaches to consumer protection is to ensure consumers are themselves able to choose freely between a variety of competing financial institutions and insurance providers. This reduces the volume of complaints as the service providers have greater incentive to resolve disputes in order to avoid loss of the customer. It also ensures service providers more keenly try to tailor their products to the needs of the market in order to gain or retain market share. Competition for market share also has the effect of minimising the cost of products and importantly drives innovations that reduce operational costs and increase product appeal (such as electronic payment systems). Finally it has the potential to reduce abusive debt collection practices as customers are in a position to avoid potentially unethical lenders from the out start. Areas that increased competition will not necessarily improve problems of over indebtedness, transparency and product disclosure and deposit protection. These issues must continue to be addressed by concerned authorities.

APPENDIX 1. LIST OF PERSONS MET

Name	Job Title	Company	Business Address	Business Phone	Mobile Phone	E-mail
Alfred Hannig	CEO	Alliance for Financial Inclusion	399 Interchange Building, Unit 1-3, 24 th Floor Sukhumvit Road, North Klongtoey, Wattana	02-401-9370 ext 101	081-804-2163	Alfred.Hannig@afi-global.org
Nancy Widjaja	Manager of Strategic Planning & External Partnership	Alliance for Financial Inclusion	399 Interchange Building, Unit 1-3, 24 th Floor Sukhumvit Road, North Klongtoey, Wattana	02-401-9370		nancy.widjaja@afi-global.org
Raadhika Sihin	Financial Inclusion Specialist	Alliance for Financial Inclusion	399 Interchange Building, Unit 1-3, 24 th Floor Sukhumvit Road, North Klongtoey, Wattana	02-401-9370 ext 111	089-916-7300	Raadhika.Sihin@afi-global.org
Robin Newnham	AFI Coordinator for the G20 GPFI	Alliance for Financial Inclusion	399 Interchange Building, Unit 1-3, 24 th Floor Sukhumvit Road, North Klongtoey, Wattana	02-401-9370		Robin.Newnham@afi-global.org
SungAh Lee	Director of Global Partnerships	Alliance for Financial Inclusion	399 Interchange Building, Unit 1-3, 24 th Floor Sukhumvit Road, North Klongtoey, Wattana	02-401-9370		SungAh.Lee@afi-global.org
Morakot Pitharat	Assistant Manager Consumer Protection	BAAC	469 Nakhonsawan Road, Chitralada Palace Sub-district, Dusit, Bangkok 10300	02-281-7373 /02-280-0180 ext 2603	081-708-2551 /089-569-2377	morakot.mcbaac@gmail.com
Sorawut Panit	Head Consumer Protection	BAAC	469 Nakhonsawan Road, Chitralada Palace Sub-district, Dusit, Bangkok 10300	02-280-0180 ext 2854-5	081-974-7505	
Apirom Sukprasert	Executive Vice President	BAAC	469 Nakhonsawan Road, Chitralada Palace Sub-district, Dusit, Bangkok 10300	02-401-9370		
Jamnong Siriwongyotha	Manager Consumer Protection	BAAC	469 Nakhonsawan Road, Chitralada Palace Sub-district, Dusit, Bangkok 10300	02-280-0180		
Luck Watchananawat	Managing Director	BAAC	469 Nakhonsawan Road, Chitralada Palace Sub-district, Dusit, Bangkok 10300	02-282-1753		
Nipath Kuasakul	Senior Vice President	BAAC	469 Nakhonsawan Road, Chitralada Palace Sub-district, Dusit, Bangkok 10300	02-280-0180 ext.2992		
Chamnong	Team Leader,	BAAC	469 Nakhonsawan Road, Chitralada Palace	02-280-0180	085-	

Siriwongyotha	International Cooperation. Office		Sub-district, Dusit, Bangkok 10300	ext 2582	141-511	
Surasak Sompadung	Assistant Director, Office of Customer Products Marketing Development	BAAC	469 Nakhonsawan Road, Chitralada Palace Sub-district, Dusit, Bangkok 10300	02-280-0180 ext 2329, 2511	081-85-3314	
Chitkasem Pornprapunt	Division Executive Financial Institutions Strategy Division	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200			
Ong-Ard Sukumalawan	Northern Region	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	05-393-1081		
Adul Kamchoo	Northern Region	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	04-333-3000 ext 3520	081-380-8658	
Pornyupa Saengsrarin	Senior Analyst, Financial Institutions Strategy Team	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200			
Pitchaya Saritnead	Team Executive, Financial Institutions Strategy Team	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200			
Amara Sriphayak	Assistant Governor	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	02-283-6901		
Chanatip Jariyawiroj	Director of Financial Consumer Protection Centre	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	02-283-6160		
Duangmanee Vongpradhip	Assistant Governor of the Monetary Policy Group	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	02-283-6001		duangmav@bot.or.th
Krirk Vanikkul	Deputy Governor of Financial Institutions Stability	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	02-283-5008		
Nawaporn Maharagkaga	Senior Director, Financial Institution Policy Group	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	02-283-5818		
Noppadol Buranathanung	Economist	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	02-283-5614		
Pichit	Senior Director	Bank of Thailand	273 Samsen Road, Samphraya,	02-283-5620		

Patrawimolpon		(BOT)	Phranakorn, Bangkok 10200			
Pimpa Thawarayut	Assistant Governor of Financial Institutions Policy Group	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	02-283-5005		
Pongpen Ruengvirayudh	Deputy Governor (Monetary Stability)	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	02-283-5004		
Sibporn Thavornchan	Assistant Governor Information Technology Group	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200			
Tadlar Phaolaungthong	Team Executive, Supervision Group	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	02-283-5004		
Thammarak Moenjak	Principal Strategist, Office of Corporate Strategy	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	02-356-7762		thammarm@bot.or.th
Titanun Mallikamas	Director, Economic Research Department	Bank of Thailand (BOT)	273 Samsen Road, Samphraya, Phranakorn, Bangkok 10200	02-356-7759		
Panthip Petchmak	Director	Community Organization Development Institute	912 Nawamin Road, , Bangkok 10240	02-378-8338		
Warotai Kosolpisitkul	Director	Department for Financial Inclusion Policy and Development (FIPD)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400	02-2739020	081-831-5216	roong@mof.go.th
Angkana Prayonsin	Director	Department for Financial Inclusion Policy and Development (FIPD)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10401	02-2739020		
Janipa	Head Consumer Protection	Department for Financial Inclusion Policy and Development (FIPD)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10401	02-2739020	081-831-5217	
Waragon	Director IT	Department for Financial Inclusion Policy and Development (FIPD)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400	02-2739020		
Payom	Director Microfinance	Department for	Fiscal Policy Office (FPO), Ministry of	02-2739020		

Thongsuriyapong	Policy	Financial Inclusion Policy and Development (FIPD)	Finance, Rama 6 Rd. Phayathai, Bangkok, 10400			
Onnicha Sawangfa	Senior Economist	Department for Financial Inclusion Policy and Development (FIPD)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400	(66) 2273-9020 ext 3821		osawangfa@yahoo.com
Panithan Suksamran	Senior Economist	Department for Financial Inclusion Policy and Development (FIPD)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400	02-169-7127-36 ext 113		
Pannapa Poolmark		Department for Financial Inclusion Policy and Development (FIPD)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400	087-115-4974		
Surasak Pichipajongkit	Economist	Department for Financial Inclusion Policy and Development (FIPD)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400	02-2739020		
Taweesakdi Manakul	Senior Advisor	Department for Financial Inclusion Policy and Development (FIPD)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400	02-2739020	081-920-8420	
Jira Arunotajit	Vice Chairman	Federation of Cooperatives	12 Pichai Road, Dusit, Bangkok	29445290		
Witoon Naewpanich		Federation of Cooperatives	12 Pichai Road, Dusit, Bangkok	29445290		
Banthornchome Kaewsard	Deputy Director-General	Fiscal Policy Office (FPO)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400			
Somchai Sujjapongse	Director General	Fiscal Policy Office (FPO)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400			
Attapol Attaworadej	Executive Director of the Legal Affairs Bureau	Fiscal Policy Office (FPO)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400	22739020 ext. 3237	081-822-9913	attapol@fpo.go.th
Chadin		Fiscal Policy Office	Fiscal Policy Office (FPO), Ministry of	085-352-9984		

Rochananonda		(FPO)	Finance, Rama 6 Rd. Phayathai, Bangkok, 10400			
Lalita Budda		Fiscal Policy Office (FPO)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400	086-875-1788		
Pongpattara Rodaree		Fiscal Policy Office (FPO)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400	02-273-9020 ext 3673		
Pongrapeeporn Abhakorn		Fiscal Policy Office (FPO)	Fiscal Policy Office (FPO), Ministry of Finance, Rama 6 Rd. Phayathai, Bangkok, 10400		085-123-4466	
Saree Ongsomwang	President	Foundation for Consumers	4/2 Soi Wattanayotin Phayathai Bangkok	+66 (2) 48373437		saree@consumerthai.org
Thanad Jeerachaisarn	Executive Director	General Insurance Association (GIA)	223 Soi Ruamrudee . Wireless Road, Lumpini, Patumwan,	02-256-6032-8 ext 712		thanad@thaigia.com
Weerasak Wacharakosit	Executive Vice President of Marketing	Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-299-8022	089-812-1333	
Supot Arevart	Executive Vice President, Community Banking	Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-299-8742		
Kittipong Boonying	Manager Community Credit Dept	Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-299-8738	66 878778 429	kboonying@yahoo.com
Boonson Jenchaimahakul	Manager IT Dept	Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-299-8000		
Pisit Serewiwattana	Senior Executive Vice President (Marketing Group)	Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-299-8000	082-833-4848	
Kornpranom Wongmongkol	Senior Executive Vice President (Credit and Operation Support Group)	Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-299-8000		
Anupap	Senior Expert	Government Savings	470, Phaholyothin Rd., Sam Sen Nai, Phaya	02-299-8000		

Jandyubin		Bank (GSB)	Thai, Bangkok 10400			
Kanyarat Boonprom		Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-299-8000		
Rasarin Sojiphan		Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-29-8059		
Sangvarn Kittiveeranukul		Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-299-8000	083-471-1714	
Ubolwan Changkaindee		Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-299-8026	081-906-8132	
Wichai Choowisatsuk		Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-614-9505	086-604-8567	
Wilanee Saetae		Government Savings Bank (GSB)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	02-299-8000	08-717-2733	
Klangjai Juisiri	Deputy Vice President	Islamic Bank of Thailand	66 Hugo House Building, 20-23 Floor, Sukhumvit Road, Klongtoey-nue, Wattana, Bangkok 10110	02-650-6999		
Sasiprin Chandratat	Director	Islamic Bank of Thailand	66 Hugo House Building, 20-23 Floor, Sukhumvit Road, Klongtoey-nue, Wattana, Bangkok 10110	02-650-6999		
Gorgiat Wong-aree	Executive Vice President	Islamic Bank of Thailand	66 Hugo House Building, 20-23 Floor, Sukhumvit Road, Klongtoey-nue, Wattana, Bangkok 10110	02-650-6999		
Dheerasak Suwannayos	Managing Director and President	Islamic Bank of Thailand	66 Hugo House Building, 20-23 Floor, Sukhumvit Road, Klongtoey-nue, Wattana, Bangkok 10110	02-650-6999		
Manoch Dangkomen	Senior Director of Administration (International Business Department)	Islamic Bank of Thailand	66 Hugo House Building, 20-23 Floor, Sukhumvit Road, Klongtoey-nue, Wattana, Bangkok 10110	02-650-6999		
Kunchit Singsuwan	Senior Executive Vice President	Islamic Bank of Thailand	66 Hugo House Building, 20-23 Floor, Sukhumvit Road, Klongtoey-nue, Wattana, Bangkok 10110	02-650-6999	081-720-3272	
Bodin Adulphakdee		Islamic Bank of Thailand	66 Hugo House Building, 20-23 Floor, Sukhumvit Road, Klongtoey-nue, Wattana,	02-736-3961-62	089-891-	

			Bangkok 10110		5454	
Sathit Lipmpongpan	Chairman (ex PS Min Fin)	Krung Thai Bank	35 Sukhumvit Road, Klong Toey Nua Subdistrict, Wattana District, Bangkok 10110	0-2255-2222		
Scott Gaul		Microfinance Information Exchange	1901 Pennsylvania Avenue NW, #307 Washington, DC 20006	+1 (202) 659-9094		
Surapol Opasatian	CEO	National Credit Bureau	10th Floor, Central World Tower, 999/9 Rama 1 Road, Pathumwan, Bangkok 10330	02-612-5899	081-868-3400	
Viboondhat Sudhantanakit	Director General	National Statistical Office (NSO)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	66) 02142-1234		
Pattama Amorn-sirisomboon	Expert Statistician	National Statistical Office (NSO)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	66) 02142-1234		spophouc@nso.go.th
Panee Patanapradit	Statistician	National Statistical Office (NSO)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	66) 02142-1234		
Hataichanok Puckcharern		National Statistical Office (NSO)	470, Phaholyothin Rd., Sam Sen Nai, Phaya Thai, Bangkok 10400	66) 02142-1234		hatainok@nso.go.th
Natee Khlitong	CEO - Secretary General	National Village and Urban Community Fund Office	24th F., Jasmine International Tower, 200 Moo 4, Chaengwattana Rd., Pakgred Nonthaburi 11120	02-100-4201	081-827-9945	natee@villagefund.or.th
Jirachai Moonthongloei	Secretary	Office of the Consumer Protection Board	5th fl., Political and Administrative Building, Government Office Center, Cheang Wattana Rd.	(66) 2141 3437		consumer@ocpb.go.th
Thawatchai Yongkittikul	Secretary General	Thai Bankers' Association	Lake Ratjada Office Complex (Bldg. 2), 4th Fl., 195/5 Rajadapisek Rd., Klong Toey	02-264-0883-87		atmpool@tba.or.th
Matthew Lobner	Chairman	Association of International Banks	19th floor of the Sathorn Thani Building 2, 92/55 North Sathorn Road, Bangkok 10500	0 2236 6070		aibthai@aib.or.th
Anan Chatrupra-cheewin	General Manager	Federation of Saving and Credit Cooperatives	199 Mou 2, Nakhon-In Road, Bang Sethong, Bang-kruay, Nonthaburi 11130			
Ratchada Anantavasilpa	Financial Sector Specialist	The World Bank Thailand	The World Bank Office, 30th Floor, Siam Tower, 989 Rama 1 Road, Pathumwan, Bangkok 10330	66 (0) 2686 8300		ratchada@worldbank.org

APPENDIX 2.

CONSUMER PROTECTION ACT

Consumer Protection Act, B.E. 2522 (1979)

**BHUMIBOL ADULYADEJ, REX., Given on the 30th day of April B.E 2522;
Being the 34th Year of the Present Reign.**

**His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that: Whereas
it is expedient to have a law on consumer production;**

**Be it: therefore, enacted by the King, by and with the advice and consent of the
National**

Legislation Assembly acting as the national Assembly as follows:

Section 1 This Act is called the “Consumer Protection Act, B.E. 2522”.

Section 2.* This Act shall come into force as from the day following the date of publication in the Government Gazette.

Section 3. In this Act: “Purchase” includes hire, hire-purchase or acquire by whatever means for monetary consideration or other value; “Sale” includes let, sell by hire-purchase or procure by whatever means, for which monetary consideration or other value is demanded, and also includes offer or invitation to do as afore said;

“Goods” means articles produced or possessed for sale;

“Service” Means an undertaking to accomplish a work, grant of any right or permission to use or conferring benefit in any property or business, for which monetary consideration or other value is demanded, excluding hire of services under the labour laws;

“Produce” means manufacture, mix, prepare, assemble, invent or denature, and includes transform, modify, select or divide for repackaging;

“Consumer”** mean a person who buy or obtains services from a business man or a person who has been offered or invited by a businessman to purchase goods or obtain services and includes a person who duly uses good or a person who duly obtains services from a businessman even he/she is not a person who pays the remuneration

“Business man” means a seller, manufacturer or importer of goods sale, or purchaser of goods for re-sale, person who renders services, and includes a person who operates the advertising business:

“Statement” includes an act expressed in the form of letters, pictures, cinematographic film, light, sound, sign, or any act enabling the public to understand its meaning;

“advertisement” includes any act which, by whatever means, causes the statement to be seen or known by an ordinary person for trading purposes;

“advertising media” means a thing as advertising media, such as newspaper, printed matter, radio, television, post and telegram, telephone or sign board;

“label” means a picture, design, paper or any other thing causing the statement relating to good to appear on the goods, or the goods, or container or package of goods, or inserted in or put together with the goods or container or package of goods, and includes a document or hand-book on usage, or tag attached to or displayed on the goods or container or package of such goods;

“contract” * means an agreement between a consumer and a business man for purchasing and selling goods or providing and obtaining services.

“Board” means the Consumer Protection Board;

“member” means a member of the Consumer Protection Board;

“competent official” means a person appointed by the Minister for the execution of this Act;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 4 The consumer has the following right of protection:

(1) the right to receive correct and sufficient information and description as to the quality of goods or services;

(2) the right to enjoy freedom in the choice of goods or service

(3) the right to expect safety in the use of goods or services; “(3 bis) the right to receive a fair contract”

(4) the right to have the injury considered and compensated in accordance with the laws on such matters or with the provision of this Act.

Section 5 In the performance of duties under this Act, competent official shall have the following powers; (1) to count, weigh, measure, inspect and collect or take free of charges, goods in reasonable

quantities as samples for testing, subject to the rules prescribed by the Board;

(2) to search, seize or attach goods, container or package of goods, label or other document which do not conform with this Act for the purpose of instituting legal proceeding in the case where there is

a reason to suspect an offence under this Act has been committed;

(3) to enter any premises or vehicle in order to inspect the manufacture of goods, sale of goods or services, as well as to examine books of account, related document and equipment of a businessman in the case where there is a reason to suspect that an offence under this Act has been committed;

(4) to issue a summons to any person to give statement or submit necessary document and evidences for supplementing the consideration of the competent official.

In the performance of duties under paragraph one, the competent official shall be provided with reasonable by the person concerned.

Section 6. In the performance of duties under section 5 (3), which is not urgent, the competent official shall, by a written notice, give the owner or occupier of the premises or vehicle a reasonable time in advance and acts must be done in the presence of the owner or occupier of premises or vehicle or, if he not present, the presence of at least two other persons whom the competent official has asked to act as witnesses. The search under section 5 (2) shall be carried out by the competent official only during sunrise and sunset

Section 7 In the performance of duties under this Act, the competent official must produce his identity card at the request of person concerned. The identity card of competent official shall be in the form prescribed in the Ministerial Regulation.

Section 8 The Prime Minister shall have charge and control of the execution of this Act and shall have the power to appoint competent officials and issue Ministerial Regulation for the execution of this Act.

Such Ministerial Regulation shall come into force upon their publication in the Government Gazette

Chapter 1

Consumer Protection Board

Section 9. There shall Board called the "Consumer Protection Board" consisting of the Prime Minister as Chairman, Secretary-General to the Prime Minister, Permanent Secretary of the Office of the Prime Minister, Permanent Secretary of the ministry of Agriculture and Cooperative, Permanent Secretary of the Ministry of Commerce permanent Secretary of the Ministry of Interior, Permanent Secretary of the Ministry of Industry, Permanent Secretary of the Ministry of Transport and Communication s, Secretary-General of the Food and Drug Board and not more than eight qualified members appointed by the council of Ministers as members and the Secretary-General of the consumer Protection Board shall be a member and secretary.

Section 10. The Board shall have the following powers and duties;

(1) to consider the complaints from the consumers who suffer hardship or injury resulting from the acts of the business man;

(2) to proceed with the goods which may be harmful to the consumer under section 36;

(3) to issue or publicize information concerning goods or services which may cause damage to or be prejudicial to the right of the consumers and for this purpose, the names of such goods or service or

the name of the business man may be specifically

(4) to give recommendation and advice to the ad hoc committees, and consider and determine appeals against order of the ad hoc committees;

(5) to lay down rules concerning the performance of duties the ad hoc committees and sub-committees

(6) to scrutinize and expedite the execution of powers and duties of the competent officials, government offices or other state agencies in accordance with the laws as well as to expedite the legal proceeding by the competent officials for the offences regarding the infringement of the consumer's right;

(7) to institute legal proceedings regarding the infringement of the consumer's right as Board thinks fit or when there is a request under section 39;

(8) to recognize an association under section 40;

(9) to submit opinion to the Council of Ministers concerning the policy and measure for the protection of the consumer, and consider and give opinion in any matter regarding the consumer protection as entrusted by the Council of Ministers of Minister

(10) to do any other act as prescribed by laws to be the function of the Board. In the performance of duties under this section, the Board may entrust the Office of the Consumer Protection Board to carry out or prepare proposals to be submitted to the Board for consideration.

Section 11. A member appointed by the Council of ministers shall hold office for a term of three year

An outgoing member may be re-appointed

Section 12. Apart from vacating office at expiration of the term under section 11, a member appointed by the Council of Ministers vacates office upon;

(1) death;

(2) resignation;

(3) being removed by the Council of Minister; (4) being a bankrupt;

(5) being an incompetent or quasi-incompetent person;

(6) being imprisoned by final judgment to a term of imprisonment, except for offence committed through negligence or petty offence.

In the case where a member vacates office before the expiration of his term, the Council of Ministers may appoint another person to replace him, and the appointee shall hold office the remaining term of the member he replaces.

Section 13. At a meeting of the Board, if the Chairman dose not attend or is not present at the meeting, the members present shall select one among themselves to preside over the meeting.

At every meeting of the Board, the presence of not less than one-half of the total number of members is required to constitute a quorum. The decision of the meeting shall be by majority of votes. Each member shall have one vote. In case of an equality of, the person presiding over the meeting shall have an additional vote as the casting vote.

Section 14. There shall be ad hoc committees as follows: The Committee on Advertisement; The Committee on labels. The Committee on Contract

An ad hoc committee shall consist of not less than seven but not more than thirteen members qualified in the relevant fields appointed by the Board.

A member of an ad hoc committee shall hold office for a term of two year and section 11 paragraph two and section 12 shall apply mutatis mutandis.

An ad hoc committee has the power and duty as prescribed in this Act and as entrusted by the Board.

Section 15. The Board and the ad hoc committees may appoint a sub-committee to consider or carry out matter as entrusted by Board or the ad hoc committees.

Section 16. In the meeting of an ad hoc committee and of a sub-committee. Section 13 shall apply mutatis mutandis.

Section 17. The Board and the ad hoc committees have the power to order any person to submit documents or particulars in connection with the subject-matter of complaints or other matters in connection with the protection of the consumer's right for consideration. For this purpose, the person concerned may be summoned to give an explanation.

Section 18. in the performance of duties under Act, the Board or the ad hoc committees shall provide reasonable opportunity for the person accused or suspected of having committed an act infringing the consumer's rights to submit representation and express opinion except in the case of necessity or urgency.

In the stipulation or issue of order on any matter under this Act, the Board or the ad hoc committees shall give due regard to the damage which may be caused to both the consumer and the business man; and in the case where it is deemed reasonable, the Board or the ad hoc committees may stipulate provisional conditions or procedure for the enforcement thereof.

Section 19 There shall be established the Office of the Consumer Protection Board attached to the Office of the Prime Minister.

There shall be the Secretary-General of the Consumer Protection Board having powers and duties to exercise general supervision and being responsible for the performance of official duties of the Office of the consumer Protection Board, and there may be the Deputy Secretary-General and Assistant Secretary-General to assist in the administration of the affairs of the office.

Section 20. The Office of the Consumer Protection Board shall have the following powers and duties:

- (1) to receive complaints from the consumer who suffer hardship or injury resulting from the acts of the business man for further submission to the Board;
- (2) to follow up and scrutinize actions of the business man who may do anything infringing the consumer's right, and arrange for testing or verifying any goods or services as it think proper for the protection of the consumer's right;
- (3) to encourage or conduct the study and research on the problem concerning the consumer protection with other academic institutions and other agencies;
- (4) to promote and encourage the Providing of education the consumers at all levels on safety and harm from the goods or service;
- (5) to propagate technical information and provide educational information to consumer in order to instil the consumption habit promote health, is economical and maximizes the utilization of natural resources;
- (6) to co-operate with the government offices or state, agencies which have the power and duty to control, promote or prescribe the standard of goods or services;
- (7) to do any other acts as entrusted by the Board or the ad hoc committees.

Chapter II

Consumer Protection

Section 21. In the case where any law has specifically provided for any matter, such matter shall be subject to the provisions of such law, and the provision of this Act shall apply only in so far as it is not a repetition or contrary to such provision, unless;

(1) In the case of necessity for the benefits of the consumers as a whole, if it appears that the competent official under such law has still not proceeded or has not completed the proceeding thereof in accordance with the law concerned and has not issued orders pertaining to consumer protection in accordance with such law within ninety days as from the date of the receipt of the written notice from the ad hoc committees or the Board, the ad hoc committees or the Board shall submit to the Prime Minister the matter for issuing orders in accordance with the provisions of this Chapter;

(2) In the case under (1), if it is necessary and urgent which cannot delay, the ad hoc committees or the Board shall submit to the Prime Minister the matter for considering and issuing orders in accordance with the provisions of this Chapter without notifying in written thereof or waiting until the period of ninety days in accordance with the conditions in (1) is elapsed. In the case where such law does not contain any provisions empowering the competent official to issue orders for the consumer protection as provided on this Chapter, the ad hoc committees shall have the power to issue orders in accordance with the provisions of this Chapter, except in the case where such law has provided for a competent official, the Board may delegate the power to the competent official under such law to exercise it on behalf of the ad hoc committees. The delegation of power to the competent official under the law on such matter under paragraph two shall be published in the Government Gazette.

Part 1

Consumer Protection against Advertising

Section 22. An advertisement may not contain a statement which is unfair to consumers or which may cause adverse effect to the society as a whole; that is, notwithstanding such statement concerns with the origin, condition, quality or description of goods or services as well as the delivery, procurement or use of goods or services.

The following statements shall be regarded as those which are unfair to consumers or may cause adverse effect to the society as a whole:

- (1) Statement which is false or exaggerated;
- (2) Statement which will cause misunderstanding in the essential elements concerning goods or services, notwithstanding it is based on or refers to any technical report, statistics or anything which is false or exaggerated;
- (3) Statement which is directly or indirectly encouraging the commission of an unlawful or immoral act, or which adversely affects the national culture;
- (4) Statement which will cause disunity or adversely affects the unity among the public;
- (5) Other statements as prescribed in the Ministerial Regulation.

A statement used in the advertisement which an ordinary person knows that it is not possible to be true is not prohibited for use in the advertisement under (1).

Section 23. An advertisement shall not be effected by a method which may be harmful to health, or cause physical or mental harm or annoyance to consumers; that is, as prescribed in the Ministerial Regulation.

Section 24. In the case where the Committee on Advertisement is of the opinion that any goods may be harmful to consumers and the Committee on Labels had declared such goods to be label-controlled goods, the Committee on Advertisement shall have the power to issue the following orders;

- (1) Prescribing that the advertisement must be made together with the advice on or warning about the usage or harmful effect in accordance with the conditions prescribed by the Committee on Advertisement; provided that the Committee on Advertisement may prescribe different conditions for the same advertisement made by different advertising media;

(2) Restricting the use of advertising media for such goods; prohibiting the advertisement of such goods.

(3) The provision of (2) and (3) shall also apply to the advertisement which the Committee on Advertisement is of the opinion that the use or utility of such goods is contrary to the social, moral or cultural policy of the nation.

Section 25. In the case where the Committee on Advertisement is of the opinion that, with respect to any goods or service, it is necessary for the consumers to know the facts concerning the status and other details regarding the business man, the Committee on Advertisement shall have the power to prescribe that the advertisement of such goods or service shall also disclose such facts as prescribed by the Committee on Advertisement.

Section 26. In the case where the Committee on Advertisement is of the opinion that the consumers should be informed that a statement which is used in any advertising media is for advertising purpose, the Committee on Advertisement has the power to prescribe that the advertisement through such advertising media must be accompanied by the explanation to that effect so that the public may be informed that such statement is for advertisement. For this purpose, the Committee on Advertisement may prescribe any condition for the compliance therewith.

Section 27. In the case where the Committee on Advertisement is of the opinion that any advertisement violates section 22, section 23, section 24 (1) or section 25, the Committee on Advertisement shall have the power to issue one or several of the following orders:

(1) to rectify the statement of method of advertisement;

(2) to prohibit the use of certain statements as appeared in the advertisement; (3) to prohibit the advertisement or the use of such method for advertisement;

(4) to correct by advertisement the possible misunderstanding of the consumers in accordance with the rules and procedure prescribed by the Committee on Advertisement.

In issuing an order under (4), the Committee on Advertisement shall prescribe the rules and procedure by having regard to the interest of the consumers and to the bona fide act of the advertiser.

Section 28. In the case where the Committee on Advertisement had a reasonable cause to suspect that any statement used in an advertisement is false or exaggerated under section 22 paragraph two (1) the Committee on Advertisement shall have the power to issue an order requiring the advertiser to substantiate the claim.

In the case where the advertiser refers to any technical report, research result, statistics, certification from any other institution or person or asserts any fact in the advertisement, if the advertiser cannot substantiate the statement used in the advertisement as so referred, the Committee on Advertisement shall have the power to issue an order under section 27 and it shall be taken that the advertiser knows or ought to know that such statement is false.

Section 29. Any businessman who is doubtful whether his advertisement will violate or does not conform with this Act may apply to the Committee on Advertisement for consideration and opinion on such matter before advertising. In this case, the committee on advertisement shall give opinion and notify the applicant within thirty days from the date the Committee on Advertisement receives the application; or it shall be deemed that the Committee on Advertisement has given its approval thereto,

The application for opinions and the fees for giving opinions shall be in accordance with the rules prescribed by the Committee on Advertisement. The fees received shall be remitted to the Treasury

as the state revenue.

The giving of opinion by the Committee on Advertisement under paragraph one shall not be deemed to curtail the power of the Committee on Advertisement to review the matter when there is a reasonable cause.

Any act done pursuant to the opinion of the Committee on Advertisement under paragraph one shall not be deemed a criminal offence.

Part 2

Consumer Protection against Labelling

Section 30. Goods which are manufactured for sale by the factories under the law on factories and goods which are ordered or imported into the Kingdom for sale shall be a label-controlled goods.

The provisions of paragraph one shall not apply to the goods prescribed by the Committee on Labels by publishing in the Government Gazette.

In the case where it appears that goods which may be harmful to health or cause physical or mental harm because of the use or the nature of such goods or the goods regularly used by the public and the requirement of labels for such goods will be beneficial to the consumers so that they may be aware of the material facts concerning such goods not being a label-controlled goods under paragraph one, the Committee on Labels shall have the power to declare such goods to be a label-controlled goods by publishing in the Government Gazette

Section 31. The label of a label-controlled goods shall be of the following descriptions:

(1) it shall contain truthful statements and have no other statements which may include misunderstanding as to the material facts concerning such goods;

(2) it shall contain the following statements;

- the name or trade mark of the manufacturer or the importer for sale, as the case may be;
- the place of manufacturing or the place of operating import business, as the case may be;
- the statements which indicate what the goods are; in the case of imported goods, the name of the manufacturing country shall be specified;

(3) it shall contain necessary statements such as price, quantity, usage, recommendation, caution and an expiry date in the case of goods which can be expired or in other cases to protect the consumer rights; provided that, such protection shall be made in accordance with the rules and conditions prescribed by the Committee on Labels by publishing in the Government Gazette.

The businessman who is the manufacturer or importer for sale of a label-controlled goods, as the case may be, shall prepare the label of such goods before the sale and such label shall contain statements in paragraph one. For this purpose, the statements in (2) and (3) of paragraph one shall be made in accordance with the rules and procedure prescribed by the Committee on Labels by publishing in the government Gazette.

Section 32. The businessman shall not be compelled to disclose confidential matters of production as a result of the prescription of a statement of a label under section 30 unless such statement is necessary to the health, hygiene and safety of the consumers

Section 33. When the Committee on Labels is of the opinion that any label does not conform with section 31, the Committee has the power to order the business man to cease using such label or rectify such label.

Section 34. Any businessman who is doubtful whether his label will violate or does not conform with section 31 may apply to the Committee on Labels for consideration and opinion on such label. In such case, section 29 shall apply mutatis mutandis.

Section 35. For the purpose of supervision and inspection of the operation of business concerning

the label controlled goods, the Minister has the power to publish in the Government Gazette a notification requiring the businessman producing such goods to have and keep accounts, documents and evidences for the inspection of the competent official.

The method of keeping accounts, documents and evidences under paragraph one shall be prescribed in the Ministerial Regulation.

Part 2 bis

Consumer Protection on Contract

Section 35 bis. In any business in connection with the sale of any goods or the provision of services if contract of sale or such contract of service required by law or the custom to be made in writing, the committee on Contract shall have the power to provide such business to be a controlled business with respect to contract.

A contract between a businessman and the consumers in the controlled business with respect to contract shall be of the following descriptions:

(1) stipulating the necessary contract terms which if not stipulated in the contract the consumers would be unreasonable disadvantageous;

(2) does not stipulating the unfair contract terms to the consumers.

Provided that, subject to the rules, conditions and details prescribed by the Committee on Contract, and to the benefit of the consumers as a whole, the Committee on Contract may permit a businessman to prepare a contract in accordance with the form prescribed by the Committee on Contract.

The prescription under paragraph one and two shall be in accordance with the rules and procedure prescribed by the Royal Decree.

Section 35 ter. When the Committee on Contract prescribes that any contract term for a contract of a controlled business with respect to contract must stipulate or does not stipulate any contract terms with a condition under section 35 bis, if that contract does not stipulate such contract terms or stipulate such contract terms but does not comply with its condition, that contract shall be deemed to stipulate such contract terms or stipulate such contract terms under the condition, as the case may be.

Section 35 quarter. When the Committee on Contract prescribes that any contract of a controlled business with respect to contract shall not stipulate any contract terms under section 35 bis, if that contract stipulate such contract terms, it shall be deemed that such contract terms does not exist.

Section 35 quinqué. The Committee on Contract shall have the power to prescribe any one of the business in connection with the sale of goods or the provision of services to be a controlled business with respect to receipt of payment.

The receipt of payment of a controlled business with respect to evidence on receipt of payment shall be of the following descriptions:

(1) Having particulars and necessary statements which if such particulars or statements are not sued, the consumers would be unreasonable disadvantageous.

(2) Not having the unfair statements to the consumers.

Provided that, it shall be in accordance with the rules, conditions and particulars prescribed by the Committee on Contract.

The prescription under paragraph one and two shall be in accordance with the rules and procedure prescribed by the Royal Decree.

Section 35 sex. When the Committee on contract prescribes that receipt of payment of the controlled business with respect to evidence on receipt of payment shall contain any statement or any statement with conditions or shall not contain any statement under section 35 quinqué, the provisions of section 35 ter and section 35 quarter shall apply to such evidence of receipt of payment mutatis

Section 35 septem. In the case where a person operating a business in connection with the sale of goods or the provision of services makes a promise for a guarantee contract to the consumer, such contract shall be made in writing, signed by such person or his agent and delivered to the consumer together with the goods or services.

If the contract under paragraph one is made in foreign language, the Thai translation shall be attached thereto.

Section 35 octo. The businessman shall have a duty to deliver the contract having contract terms or contract terms with the correct form in accordance with section 35 bis or deliver the evidence of receipt of payment having correct particulars and statements in accordance with section 35 quinqué to the consumer within the normal course of that type of business or within the period of time prescribed by the committee on contract by publishing in the Government Gazette regarding which period of time becomes due first.

Section 35 novem. Any businessman who doubt whether his contract form of form of evidence on receipt of payment will violate or fail to comply with this Ac, such businessman may require the committee on Contract to give a prior opinion on such form. In this case, the provisions of sections of section 29 shall apply mutatis mutandis.

Part 3

Other Types of Consumer Protection

Section 36. When there is a reasonable cause to suspect that any goods may be harmful to the consumers, the Board may order the businessman to have such goods tested or verified. If the businessman does not proceed to test or verify the goods or delays in so doing without justification, the Board may arrange for the verification at the expenses of the businessman. If the result of the test or verification appears to be that the goods may be harmful to consumers and the harm which may be caused by the goods cannot be prevented by means of the requirement of the label under section 30 or under any other law, the Board shall have the power to prohibit the sale of such goods and, if it thinks fit, may order the businessman to modify the goods in accordance with the conditions prescribed by the Board. In the case where the goods cannot be modified or it is doubtful as to whether the businessman would keep the goods for sale, the Board shall have the power to order the businessman to destroy the goods or arrange for the destruction thereof at the expenses of the businessman.

In case of necessity and urgency, if the Board has reason to believe that any goods may be harmful to the consumers, the Board shall have the power to prohibit the sale of such goods for the time being until the test or verification under paragraph one or paragraph two has been carried out. The prohibition of sale of goods under paragraph two and paragraph three shall be published in the Government Gazette.

Section 37. (Repealed) Section 38. (Repealed)

Section 39. In the case where the Board thinks fit to institute legal proceedings in the infringement of

the consumer's rights or upon receipt of complaints from the consumers whose rights were infringed and the Board is of the opinion that the institution of such legal proceedings will be beneficial to the consumers as a whole, the Board has the power to appoint a public prosecutor with the approval of the Director-General of the Department of Public Prosecutions, or an officer of the Consumer Protection Board whose qualification is not below the Bachelor of Laws degree the consumer protection official having the duty to institute civil and criminal proceedings in the court against the persons infringing the consumer's rights, and when the Board has notified the Ministry of Justice in order to inform the court of the matters, the consumer protection official shall then have the power to institute legal proceeding as entrusted by the Board.

In the legal proceedings in the court, the consumer protection official shall also have the power to claim property or damages for the complainant and, for this purpose, all the costs will be exempted.

Section 40. Any association which has as its object the protection of consumers or opposition against unfair trade competition and whose regulations with respect to the board, members and methods of operation of the association are in accordance with the conditions prescribed in the Ministerial Regulation, may file the application to the Board for its recognition so that the association has the right and power to institute legal proceedings under section 41.

The filing of the application under paragraph one shall be in accordance with the rules and procedure prescribed in the Ministerial Regulation. The recognition of the association under paragraph one shall be published in the Government Gazette.

Section 41. In the legal proceedings for infringement of the consumer's rights, the association which

has been recognized by the Board under section 40 has the right to institute civil and criminal proceedings or bring any legal proceedings for the protection of the consumers and shall have the power to sue for the recovery of damages on behalf of its member if it has obtained the power of attorney to claim damages from its member.

In the legal proceeding under paragraph one, the association shall not withdraw the action without the approval of the court unless the court is of the opinion that such withdrawal will not adversely affect the protection of consumers as a whole in the civil withdrawal of the case or passing of judgment in the case where the parties agree or compromise may be made only with the written consent of the empowering member presented to the court.

Section 42. Apart from complying with the provision of the Civil and Commercial Code and of the other laws, the association recognized by the Board under section 40 shall comply with the rules prescribed by the Board.

When it appears that any association recognized by the Board under section 40 fails to comply with the rules prescribed by the Board or when the circumstances arise to make it appear that such association mala fide proceeds to institute legal proceedings in the court, the Board shall have the power to revoke the recognition of that association.

The revocation of recognition of any association under this section shall be published in the Government Gazette.

In the case where the association the recognition of which is revoked under this Act has instituted any legal proceeding in the court and the case is still in sub judice, the Court shall order the disposition of such case.

Chapter III Appeal

Section 43. In the case where a person is not satisfied with the order issued by an ad hoc committee under section 27 or section 28 paragraph two, he shall have the right to appeal to the Board.

Section 44. The appeal under section 43 shall be filed with the Board within ten days from the date the appellant is aware of the order of the ad hoc committee, unless the ad hoc committee has issued a temporary order to the contrary before the appeal is decided.

The decision of the Board shall be final.

Chapter IV Penalties

Section 45. Any person who obstructs or fails to render facilities or submit representation or deliver documents or evidences to the competent official who is performing the duties under section 5 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding ten thousand Baht or to both.

Section 46. Any person who fails to comply with an order of the Board or the ad hoc committee under section 17 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding ten thousand Baht or to both.

Section 47. Any person who, with an intention to cause misunderstanding as to the origin, condition, quality, quantity or other essential matters concerning goods or services, whether they belong to him or other persons, advertises or uses a label containing a statement which is false or know or should be known to cause the misunderstanding, shall be liable to imprisonment for a term not exceeding six months or fine not exceeding fifty thousand Baht, or to both.

If the offender under paragraph one commits the same offence, the offender shall be liable to imprisonment for a term not exceeding one year or fine not exceeding one hundred thousand Baht or to both.

Section 48. Any person who advertises by using a statement under section 22(3) or (4) or statement prescribed in the Ministerial Regulation issued under section 22(6) or violates or fails to comply with section 23, section 24, section 25 or section 26, shall be liable to imprisonment not exceeding three months or fine not exceeding thirty thousand Baht, or to both.

Section 49. Any person who fails to comply with the order of the Committee on Advertisement issued under section 27 or section 28 paragraph two shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand Baht or to both.

Section 50. If an act under section 47, section 48 or section 49 is done by the owner of an advertising media or the advertising businessman, the offender shall be liable to one-half of the penalty provided for that offence.

Section 51. If the offence under section 47, section 48, section 49 or section 50 is a continual offence, the offender shall be liable to a fine not exceeding ten thousand Baht a day or not exceeding double the advertising expenses throughout period of the violation or non-compliance.

Section 52. Any person who sells the label-controlled goods under section 20 without having labels displayed thereon or having labels incorrectly displayed thereon or sells goods bearing labels which the Committee on Labels has prohibited the use thereof under section 33 and knows or ought to have known that the non- display of label or the display of such label is against the law, shall be liable to imprisonment not exceeding six months or fine not exceeding one hundred thousand Baht, or to both.

Section 53. Any business operator who fails to comply with the order of the Committee on Labels issued under section 33 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifth thousand Baht or to both.

Section 54. Any person who agrees in return for remuneration to produce labels which do not conform to the law or to attach labels which do not conform to the law to any goods and knows or ought to have known that such labels do not conform to the law shall be liable to a fine not exceeding twenty thousand Baht.

Section 55. Any businessman who fails to comply with the Ministerial Regulation issued under section 35 shall be liable to a fine not exceeding ten thousand Baht,

Section 56. Any businessman who sells which the Board has prohibited to sell under section 36 because they may be harmful to consumers shall be liable to imprisonment for a term not exceeding six months or to fine not exceeding fifty thousand Baht or to both.

If the businessman is the manufacturer or importer for sale, he shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand Baht or to both.

Section 57. Any businessman who fails to deliver the contract having contract terms or contract terms

with the correct form in accordance with section 35 bis or fail to deliver the receipt of payment containing correct particulars and statements in accordance with section 35 quinque to the consumer within the period of time in accordance with section 35 octo shall be liable to imprisonment for a term not exceeding one year or fine not exceeding one hundred thousand Baht, or to both.

Any businessman who delivers the receipt of payment containing the amount which is more than the amount actually paid by the consumer and having already received such payment shall be liable to imprisonment for a term not exceeding one month or to a fine of five hundred to ten thousand Baht or

to both unless he can prove that he had exercised reasonable care in the operation of such business.

Section 57 bis. Any businessman who violates or fails to comply with section 35 septem shall be liable to imprisonment for a term not exceeding one year or fine not exceeding one hundred thousand Baht, or to both.

Section 58. When a person commits an offence under this Act within the place of business of a businessman and the act was done in the interest of the businessman, it shall be presumed that the businessman is a joint offender unless he can prove that he cannot anticipate that such person will commit the offence although he has exercised reasonable care.

Section 59. In the case where the offender who is liable to punishment under this Act is a juristic person, the director or the person responsible for the operation of such juristic person shall be liable to the punishment imposed by law for such offence, unless he can prove that he had no part in the commission of the offence by the juristic person.

Section 60. Any person who, with dishonest, intent, employs, hires, asks as favour, instigates or causes an association recognized by the Board under section 40 to institute civil or criminal proceedings against any businessman in the court in order to cause injury to the businessman, shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding fifty thousand Baht or to both.

Section 61. Any person who, having or acquiring knowledge of any fact though performing the duties under this Act, discloses any fact concerning the affairs of the businessman which normally would be kept confidential by the businessman , shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding one year or to a fine not exceeding

one hundred thousand Baht or to both, unless the disclosure is made in the course of performing official duties or for the benefit of investigation or trial.

Any person who, having or acquiring knowledge of any fact from the person under paragraph one though performing the official duties or investigation or trial, discloses such fact in the manner likely to cause injury to any person, shall be liable to the same penalty.

Section 62. The Board shall have the power to settle all the offences under this Act and for this purpose, shall have the power to delegate the power to settle the case to an ad hoc committee, sub-committee, inquiry official or competent official under such rules or conditions as it thinks fit.

Subject to the provision of paragraph one, if an inquiry official discovers in holding an inquiry, that any person who has committed an offence under this Act and agreed to have the case settled, the inquiry official shall submit the case to the Board or to the person entrusted by the Board to exercise the power to settle the case under paragraph one within seven days from the date such person agrees to have the case settled.

When the offender has paid the fine so fixed, the case shall be deemed to have been settled.

Countersigned by: S.Hotrakitya
Deputy Prime Minister

APPENDIX 3. CASE STUDIES - SME BANK ISLAMIC BANK AND AEON

SME Bank

The SME bank was established in December 2002 under the Small and Medium Enterprise Development Bank of Thailand Act. The Bank's public mandate was "to conduct business with the aim of developing, promoting and assisting small and medium enterprises to start-up expand or improve their businesses by providing loans, guarantees, venture capital, counselling and other necessary services as prescribed by the Act". Start-ups and non-performing SMEs expose a high level of risk, thus it is difficult for them to get loans from commercial banks. Thai government can use SME bank to financially support those start-ups and non-performing SMEs to help them overcome their financial constraints. SME bank, as well as other specialized financial institutions, was served as a vehicle for the government to conduct its industrial policy.

According to SME Bank's annual report 2011, the Ministry of Finance owned 98 percent of the bank's shares. The other government organization owned 0.7 percent and the private sector owned the rest 1.3 percent of the bank's shares. The total amount of loans was 98,196.7 million Baht. The total loan size of the bank is small accounted for 1.21 percent compared to the total amount of loans from commercial banking sector of 8,732,797 million Baht (there were 16 commercial banks in Thailand in 2011). SMEs are very important for Thai economy. SME contribution to GDP is about 36 percent.

SME bank is under the supervision of the Ministry of Finance. The bank claimed that it follows the regulations, the accounting standard, general consumer protection guidance imposed by the Bank of Thailand. The bank has to maintain its financial strength while giving loans to risky small and medium business enterprises. Hence, the bank's policy for financial consumer protection, which helps their customers in managing their risk and would in turn support financial strength of the bank itself, is very essential to limit the risk exposure of the bank. This study will describe the bank's policies on customer protection in five aspects, which are appropriate product design and delivery and responsible pricing, prevention of over-indebtedness, transparency, privacy of client data, and mechanisms for complaint resolution.

3.1. Appropriate product design and delivery and responsible pricing

SME bank provides a wide range of loan services, credit for import, credit for export, credit for Thai kitchen to world kitchen, credit for innovation, credit of government policy, credit for commercial businesses and general credit. Each type of credit has its own credit limit, grace period, and pattern of installation. Customers can choose accordingly to meet their demand. The interest rate charged on each type of loans is stated clearly. It is still unclear whether the product design is flexible enough to meet the customer's need and capacity or not.

The product pricing has to be appropriate for the banking competition and the bank's cost; otherwise, the bank will fail and cannot continue providing services. Hence, pricing of loan product is also important for the customer protection. SME bank has imposed trainings and tests to educate their staffs to be aware of the riskiness of their own banking business. This report cannot clarify whether the price of loan product is appropriate for banking competition and bank's cost or not.

3.2. Prevention of over-indebtedness

SME bank implemented loan analysis system in accordance with the requirement of the Bank of Thailand. The bank also organized trainings and tests about loans and credit risk analysis to their employees. From 4.1.3.1, each loan service has its own credit limit. The credit limit can be adjusted to the customer's need and capacity. The bank is aware of over-indebtedness problem, which could possibly bring about the bank's over-lending and NPLs

problem. Some of the loans services mentioned in 4.1.3.2 require pledging collateral; for example, credit for Thai kitchen to world kitchen and general credit.

SME Bank credit procedure includes credit bureau checking, assessment of collaterals and making contracts under the determined rules and regulations imposed by the Bank of Thailand (See Figure SME bank's loan application process.). SME bank's branches and district offices can make the loan approval processes under the bank's internal control and audit system.

In addition, SME banks also provide their customer's financial education and supports for their business. SME bank provide their customer an easy financial estimation program to help their customers doing their accounts and performing financial analysis on their debt capacity.

The bank has imposed many policies to prevent over-indebtedness problem. In addition, the bank has employed a consulting company to develop the credit risk rating system. The bank claimed that the new system performs better than the old one and the bank keeps improving the model so that it can reflect the actual ability of debtors to repay the debt more accuracy.

3.3. Transparency

SME bank provides their customers the legal act manual, which describes types of contracts, documents needed for making a contract, types of property can be pledged as collateral and fees. It is quite clear for use of the language to describe their product. This study cannot verify whether the bank has informed the customers clearly about the responsibilities or not.

In February 2012, a newspaper reported that SME bank manipulated its accounts to understate its NPLs level.

There is no clear evidence for SME bank to be free of corruption. However, there is no clear evidence for a presence of corruption in the bank either. Despite the bank's code of conduct for consumer protection, over-indebtedness protection and appropriate product design and delivery, and responsible pricing, the bank suffered from high non-performing loans problems. At the end of 2012, the bank's NPLs stood at 30% of outstanding loan portfolio. An authority claimed that the non-performing loans problem occurred because it has to serve the government policy; for example, the bank has to grant credits to flood-affected operators and victims of political strife. These loan items are under the public service account (PSA). However, another authority stated that NPLs problem might arise because of the bank's weak credit approval procedure and lack of transparency.

The ministry of finance is now considering about merging SME bank with Government Saving Bank. However, the merger is still uncertain.

Examples of the news.

"The Small and Medium Enterprise Development Bank of Thailand (SME Bank) has manipulated its accounts to understate the level of bad loans in its credit portfolio, says a Finance Ministry official"

Bangkok Post, February 24, 2012

"Mr Soros tendered his resignation to the board on July 25, citing health reasons. But directors declined to accept the resignation, saying Mr Soros was already under investigation concerning questionable lending practices during his tenure as well as his decision to procure a 300-million-baht new core banking system to field public deposits despite the fact that the bank by law cannot accept retail deposits."

Bangkok Post, August 13, 2012.

"Mr Kittiratt said he initially agreed with the proposed merging of the SME Bank with the GSB. However, the bank's financial problems must be solved urgently, especially those

related to NPLs and loans approval done in a non-transparent manner, before taking into account whether the institution should be closed down.”

Bangkok Post, February 4, 2013

“Kittiratt Na Ranong said SME Bank had several unsolved problems besides the high NPL rate, including an alleged lack of transparency in its lending practices.”

The Nation, February 5, 2013.

"The NPL problem at both state banks was due to their poor loan management. To tackle this problem we need to be cautious, because if we cut our losses by selling bad debt, the prices will be far lower than the actual values, which could lead to legal battles with debtors in the future," said Mr Somchai Sujjapongse, director-general of the Fiscal Policy Office (FPO).

Bangkok Post, February 6, 2013.

“Since this lending was made to serve the government's public service policies, the Finance Ministry is obliged to set a budget to help banks cut their bad debts,” said Mr Pichai Chunhavachira, who is widely known as the mastermind behind the business rehabilitation of PTT and TMB Bank.

Bangkok Post, February 7, 2013.

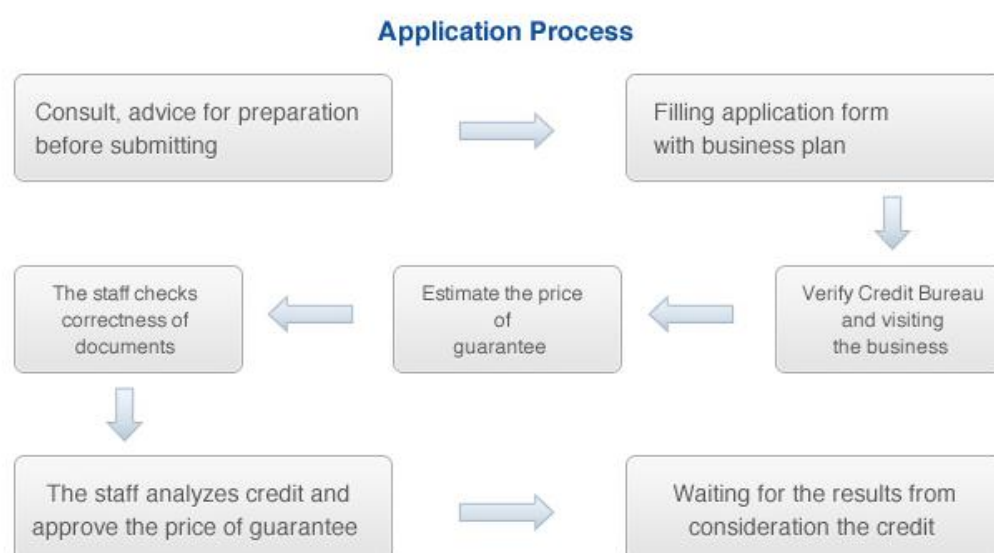
3.4. Privacy of client data

The bank has established its own ethics and code of conduct. One entity is about confidentiality. Employees shall not disclose the bank or client's information. Only authorized personnel can disclose any bank information.

3.5. Mechanisms for complaint resolution

SME Bank initiated the "White Bank" project by establishing P.O. Box 1313, through which customers could file complaints and suggestions. The bank claimed that the bank's President will open and read all letters personally and took action immediately.

Figure 22 SME bank's loan application process



Source: SME bank

Islamic Bank

Islamic bank is established in June 2003, under the Islamic Bank of Thailand Act 2002. The Bank's mandate was to provide financial services consistent with the principles of Shariah. As well as other specialized financial institutions, Islamic bank has to serve the government policy.

According to Islamic Bank annual report 2011, the Ministry of Finance owned 48.5 percent of the bank's shares. The Government Saving Bank owned 39.8 percent and Krung Thai Bank owns 9.8 percent of the bank's share. The private sector owned the rest 2.4 percent of the bank's shares. The total amount of loans was 118,248 million Baht. The total loan size of the bank is small, accounted for 1.35 percent compared to the total amount of loans from commercial banking sector of 8,732,797 million Baht (there were 16 commercial banks in Thailand in 2011). However, the number might be misleading. The bank gave loan mainly to Muslims in Thailand. The bank is specialized in its business. The bank's loan size could be significant in its specialized area of business. The bank's total amount of loans is accounted for 5.7% compared to Thai government budget in 2011 (Thai government budget in 2011 was 2,070,000 million Baht.)

Islamic bank is under the supervision of the Ministry of Finance. The bank follows Islamic rules on financial transaction. These strict rules provide customer protection. For example, "In an Islamic hire-purchase transaction, instead of loaning the buyer money to purchase the item, the bank buys the item from the seller, and resells it to the buyer at a profit, while allowing the buyer to pay the bank in instalments, while asking for strict collateral. The bank customer thus pays a monthly fixed amount, making his financial planning easier (Islamic bank of Thailand)." This study will seek to analyse Islamic bank's policy on customer protection in details. The bank's policies on customer protection will be described in five aspects, which are appropriate product design and delivery and responsible pricing, prevention of over-indebtedness, transparency, privacy of client data, and mechanisms for complaint resolution.

4.1. Appropriate product design and delivery and responsible pricing

Islamic bank provides a wide range of financial services; for example, deposits, loans, foreign exchange and letter of credit. The bank's loan services include long-term loans, short-term loans, hire purchase and leasing. Each type of loans has its own credit limit, grace period, patterns of installation, and the principle of Shariah that applied to the each case. Customers have a variety of choices to choose. The interest rate charged on each type of loans is stated clearly. It is still unclear whether terms and conditions on each type of loans are flexible enough to meet each customer's demand or not.

The loan pricing is important for the financial health of the bank. High-risk customers should be charged higher than low-risk ones. In addition, the price must be consistent with the banking competition and the bank's cost. The Bank conducted a survey on awareness of risk management of administrators and employees. This indicated that the bank was aware of its level of the risk.

4.2. Prevention of over-indebtedness

Islamic bank (IBank) appointed risk officer in each department to transfer knowledge about risk management to the colleague in their department, as well as follow up on the risk management plan. The bank also tried to improve its credit approval process by using new computer software.

The bank's operation has to follow the strict Shariah rules. Therefore, most types of loans require collateral. This should help preventing over-indebtedness problem. However, Islamic bank, as well as SME bank, was suffered with high NPLs and low capital problem. According to Islamic bank's financial statement 2012, its amount of NPLs is about 22.59 percent of total loans. However, it was said in a newspaper that the number would be higher if the bank applied the Bank of Thailand accounting standard.

4.3. Transparency

Islamic bank provides their customers the information on each type of financial services, documents need for making a contract, types of property that can be pledged as collateral, fees and Shariah principles applied to each type of financial services. This study cannot verify whether the bank has informed the customers clearly about the responsibilities or not.

The bank did not apply the Bank of Thailand guidelines for loan loss provisioning. The bank's financial statement may not reflect the actual financial status of the bank. Despite the bank's strict Shariah rules, the bank suffered from high non-performing loans problems. It is unclear what are the causes for high non-performing loans problem. It is questioning whether the bank applied best practices based on Shariah principles or not. Not applying Shariah principle may be or may not be the main cause of the large amount of non-performing loans. In addition, there is still no clear evidence for Islamic bank to be free of corruption yet. The Ministry of Finance took an action investigating whether there is corruption in Islamic bank or not.

The bank new president Thanin Angsuwarangsi (newly appointed in 2013) said that the highest-value account one borrower in default of 2 billion baht in credit. This indicates that the bank did not diversify its loan portfolio well enough. In addition, Mr Thanin Angsuwarangsi also said that past credit analysis procedures are incorrect since the analysis focuses on the collateral value rather than cash flow and collateral was also overvalued by the bank. He added that the loan monitoring process was inefficient.

The bank's non-performing loans problem caused a fear of bank runs. It was reported that more than five billion baht in cash had been withdrawn by the bank's clients over 15 days in February 2013. The bank's executives and the authority did give press conference guaranteeing the good financial health of the bank to gain public confidence back.

There was clear evidence that both SME bank and Islamic bank were suffered from high non-performing loans. It is possible that the rules, standard and regulations applied to state-owned banks, particularly Islamic bank and SME bank, are too weak. If this is true, it implies that both banks have a weak customer protection.

Thai authority is now considering about how to resolve Islamic bank financial problem. One possible resolution is to merge the bank with other state-owned bank.

4.4. Privacy of client data

Islamic bank also established its own ethics and code of conduct. It is stated in their code of conduct that employees shall not disclose the bank or client's information.

4.5. Mechanisms for compliant resolution

Islamic bank provided the main four channels for their customers to send a complaint. First, a customer can contact the ibank call centre. Second, a customer may send a mail to the bank's head office. Third, a customer may email to the bank's specific email address for complaints. Fourth, a customer may send a complain letter through the bank's website.

Examples of the news.

"Mr Areepong said the question of transparency has become a major issue at certain state banks, particularly those with asset quality problems such as the IBank.

IBank, set up in 2003 to provide financial services in compliance with shariah law, as of last November reported NPLs of 24.6 billion baht or 22.59% of total outstanding debt.

But using the more stringent criteria governing commercial banks under Bank of Thailand regulations, bad loans at IBank would be as much as 39 billion baht or 30% of outstanding debt."

Bangkok Post, February 26, 2013

In any case, one state banker said the problems at the SME Bank and Islamic Bank may reflect weaknesses in the specific regulations and laws governing both banks, an overemphasis on asset growth and a lack of experience at the board and management levels.

Bangkok Post, February 18, 2013

"The liquidity of IBank is not a problem and the rumour about large withdrawals was not true. We've been informed that deposits are still flowing into the bank," Somchai Sujjapongse, director-general of the FPO, said.

The Nation, February 12, 2013

The chairman of the House committee on Border Affairs on Wednesday afternoon insisted the financial status of the Islamic Bank of Thailand (IBank) was still strong and that it would not fail as speculated.

Panel chairman Samart Maluleem of the Democrat Party called an urgent news conference after it was reported that more than five billion baht in cash had been withdrawn by the bank's clients over the past 15 days.

Bangkok Post, February 20, 2013

IBank's loan portfolio ranks among the weakest of all Thai financial institutions. The state bank's overall loan quality looks even worse if the bank applies the more stringent reporting standards used by the Bank of Thailand, putting its loans at 39 billion baht, or around 30% of the bank's total outstanding loan portfolio. Loss reserves for the bad loans stand at 10 billion.

The bulk of the bad loans represent property and construction loans offered to borrowers in Bangkok, with the highest-value account one borrower in default of 2 billion baht in credit.

Mr Thanin cautioned that some of the dud corporate borrowers could actually be nominee accounts, complicating the task of loan recovery.

Past credit analysis procedures incorrectly included a focus on pledged collateral rather than cash flow, he said. The collateral was also overvalued by the bank, raising the potential credit risk, while the bank's credit monitoring procedures lacked efficiency, he added.

For instance, in some cases instalments for construction loans were disbursed despite the fact that construction was behind target or had yet to begin.

Mr Thanin said he was unaware of any relations between the bank's problem borrowers and local politicians.

"Frankly, [connected borrowers] might benefit from faster loan reviews. But ultimately, if the documents aren't ready or if the loan doesn't meet our standards, I won't approve the loan, plain and simple," he said.

Bangkok Post, February 13, 2013

Meanwhile, former finance minister Chalongphob Sussangkarn has suggested that the Finance Ministry overhaul the oversight of state banks to improve governance and prudent lending practices.

Non-performing loans (NPLs) at IBank currently amount to Bt39 billion, or about 30 per cent of outstanding loans, its president Thanin Angsurarangsit said yesterday.

He said former executives did not adequately pay attention to cash flow, collateral value and monitoring.

"Loans were made without taking into account whether the business of borrowers could generate enough cash flow to repay the debt," said the newly appointed bank president.

Moreover, the value of collateral placed by debtors was inflated, in some cases 80 per cent higher than market prices.

Former executives did not monitor their lending by reviewing how the projects they had financed were progressing, if at all.

"There were also some irregular lending practices such as giving loans to nominees of the borrowers."

The Finance Ministry is investigating possible corruption at IBank.

The Nation, February 13, 2013

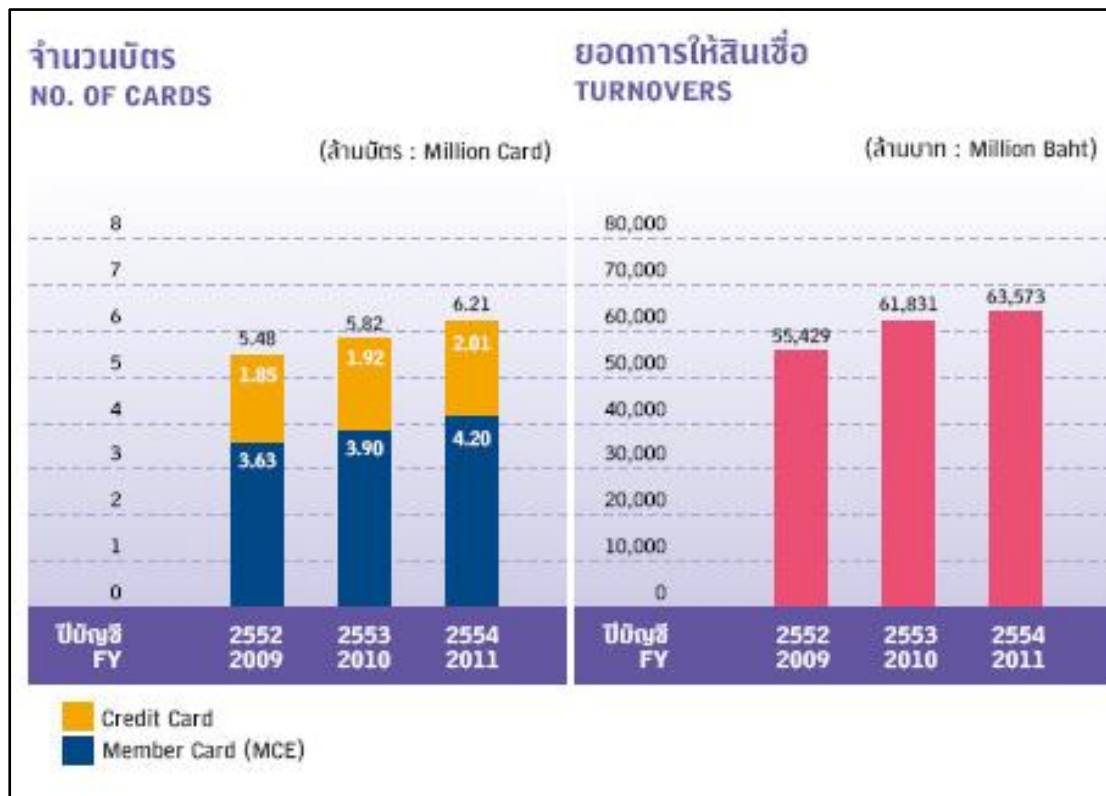
APPENDIX 4. CASE STUDIES – AEON AND CBFIS

9.1.1 AEON

AEON Thana Sinsap (Thailand) Public Company Limited was incorporated by AEON Credit Service Co., Ltd in Japan. According to AEON Thana Sinsap's annual report 2011, the major shareholder of the company was AEON group, which held 63 percent of paid-up capital. The remaining 37 percent of paid-up capital is held by private investors. The biggest private investor was Mr Chatchaval Jiaravanon, who holds 6 percent of the paid-up capital. AEON specialises in credit cards, hire purchase and personal loans. In 2011 the company had THB 43,610 million worth of assets. Total outstanding loans including credit cards bracket that amounted to THB 38,705 million. This number is small compared to the total amount of personal loans from commercial banking sector of about million (see . However, non-bank financial institution has a significant market share in credit card (See Figure 23) , personal loan business and hire purchase. As of February 20, 2012, the AEON Company's total number credit cards was 6.21 million cards

In this study, AEON Company's policies on customer protection will be described in five aspects, which are appropriate product design and delivery and responsible pricing, prevention of over-indebtedness, transparency, privacy of client data, and mechanisms for complaint resolution.

Figure 23 AEON company's total credit cards and loans



Source: AEON Company

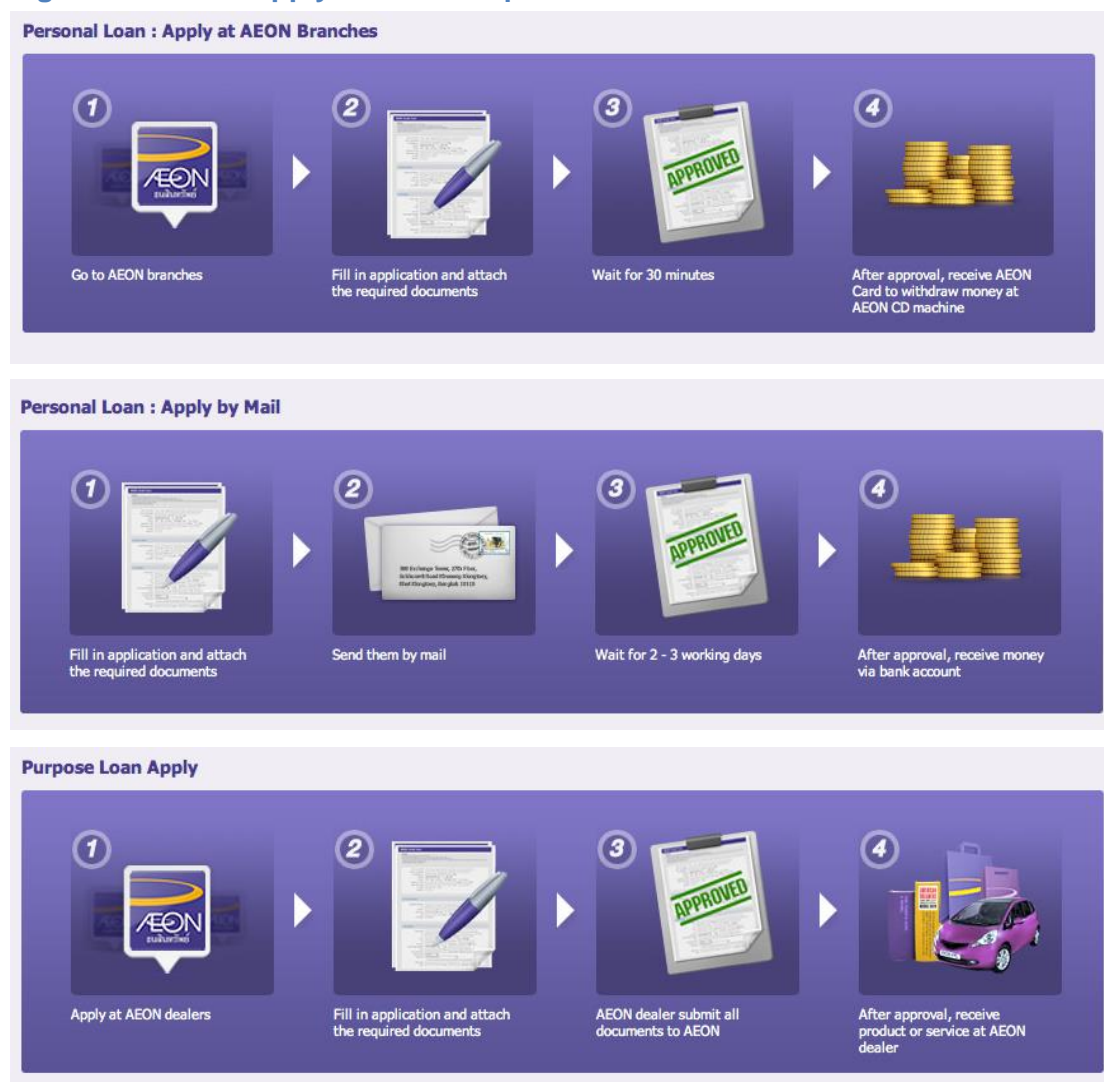
5.1. Appropriate product design and delivery and responsible pricing

AEON Company provides three main services; credit card, personal loan and hire purchase. There are four types of credit cards for customers to choose; AEON cards, AEON Royal Orchid Platinum card, Co-brand card, AEON member card, and Corporated card. Each type of credit card serves for different purpose and provide different benefits. Credit card holders can obtain cash advances from ATMs. Credit card interest rate is 20 percent per annum.

There are three types of loan services provided by AEON, personal loan and purpose loan. For personal loans, a customer can apply for loan at AEON branches and wait for only 30 minutes or a customer can send loan application by mail and wait for only 2-3 working days (see Figure 24).

The application process and required documents was stated in a clear and easy language. However, it remains unclear whether or not the company's customers are well informed about their responsibility.

Figure 24 How to apply for AEON's personal loan



Source: AEON Company

5.2. Prevention of over-indebtedness

AEON Company focuses on microfinance business. Most of the company customers are micro-businesses or middle-low income persons. Appropriate credit limit is then very important. It should be consistent with customer's capacity.

5.3 Transparency

AEON Company is registered in the Stock Exchange of Thailand. Therefore, the company has to disclose its information to the public.

So far, AEON Company did not have any financial problem. As of 2012, the company has past due loans more than three month of 3.6% of total loans. According to the company's

management report, bad debt and doubtful accounts of 4,530 million baht in fiscal year 2011, or 42% of total revenues.

5.4. Privacy of client data

AEON Company has Corporate Quality Secretariat (CQS) Office for the purpose of Company's information security. The Company was awarded the ISO/IEC 27001:2005 certification for its Information Security Management System (ISMS) by Bureau Veritas Certification (Thailand) Ltd. The company had policy for customer's data protection. According to the company's guidelines, "As customers' satisfaction is the first priority focus, the Company has provided variety of products to satisfy customers' need and committed to promote secure management of personal information and raised awareness of the need to protect personal information and comply fully with relevant laws. In addition, the Company has Customer Service Department to be responsible for customer relationship management involving inquiry and complaint resolution in the framework of customer satisfaction approach, which is evaluated and reported to the management on monthly basis. (AEON Company)"

5.5. Mechanisms for compliant resolution

AEON Company provides five channels for its customers to send the company complaints; emailing, calling, faxing, mailing and sending the complaints to the company's Facebook page (Figure 25).

Figure 25 AEON's Complaint Handling Procedure

Complaint Handling Procedure

Step 1 : You may lodge a complaint verbally or in writing using the above channel.

Step 2 : Your complaint will be acknowledged within one business day upon receipt.

Step 3 : Complaints will normally require five (5) to 14 business days to be resolved from the date of receipt. However if a complaint requires complex investigations or extensive research, you will be notified and the timeframe will be extended. You will be kept informed of the status of your complaint from time to time.

Step 4 : If you are not satisfied with the resolution offered, you may choose to contact the following parties to review your case.

1. Financial mediation Bureau (FMB) - An independent body set up to help settle disputes between customers and financial services providers
<http://www.fmb.org.my/>
2. BNMLINK- A complaint resolution arm of Bank Negara Malaysia (BNM)
<http://www.bnm.gov.my/bnmlink>

Source: AEON Company

9.1.2 CBFIs

Here, Community-Based Financial Institutions (CBFIs) includes the formal groups (informally set up by a group of people in a community) and semi-formal group (set up and received initial fund with minimum regulations imposed by government agencies).

Village Fund (One-million-baht Fund) are the most important semi-formal CBFIs. Village Fund Office in Bangkok set up minimal regulations to ensure "good practices" of the Village Fund groups, including minimum numbers of committee members, terms of heads of the groups, maximum amount of credit provided to each customer, accounting and audit system. These aim to increase transparency and coverage of the system. However, given the fact that, numbers of Village Fund officers are very limited, Village Fund employs local officers of Community Development Department to be "mentors" of Village Fund groups around the country. One officer monitors about 500 groups which is quite a heavy burden, regardless of

the fact that CDD local officers also have their own regular functions to carry out. Thus, like informal CBFI, it's the competition in the local/rural financial markets that actually "regulate" the efficiency and effectiveness of semi-formal CBFIs like village fund.

2.1 Coverage of target groups and poverty targeting

It is not correct to say that CBFIs all target the poor as there is no criteria such as ceiling of income or assets to exclude the rich. In fact, it is because benefits they offer seem to be too small to attract the rich. On the contrary, CBFIs need the rich or at least middle income people to save with them so that they can have enough supply of money for lending. Thus, in some area such as urban communities, middle income people may also be members of CBFIs. However, CBFIs are more likely to reach the poor than other sources.

Basically, regulations of CBFIs are designed to balance the target of maximizing size of fund (by reaching more clients) and minimizing risk of defaults. As a result, people who seem to impose risk to the groups are basically excluded, for example, those who cannot save, those who are not trusted due to some ill behaviour like gamblers. The rules may not exclude those people directly, but as far as the borrowers need group guarantors, those ill-behaved people cannot find anyone to be their guarantors, even people from the same family.

2.2 Product design and delivery

Community-Based Financial Institutions in Thailand can be divided into two groups according to products supplied to clients: saving-lending groups and micro-insurance groups. This paper will present only saving-lending groups. Saving-lending CBFIs include Credit Unions (mostly found in the central area), Saving for Production Groups under Community Development Department of Ministry of Interior (mostly in the North, North-eastern and Central region), Sajja Saving Groups by Buddhist monks (mostly in the Eastern and Southern region), Muslim Saving groups (mostly in the Southern region) and Village Funds. Attractive and innovative product design of CBFIs can be found in many provinces in Thailand. However, recently they tend to converge to have similar patterns of core businesses. Since CBFI-industry in Thailand has been evolved for more than 20 years, they have actively learnt experiences among each other, particularly from best practice groups, such as Sajja group in Trad province (Eastern region), Nam Khao Saving groups in Songkhla (Southern province), Tasai Saving for Production group in Chainat (Central region), and Bankham Saving group in Chaiyaphum (Northeastern region).

Saving and Lending

Products of saving-lending CBFIs range from basic services of saving and lending to individual customers to welfare scheme and community enterprises. As for the core saving and lending business, clients need to save "Sajja-money" monthly at a fixed amount, around 50 or 100 baht, depending on their ability to save. Sajja is not only a saving money, but also an equity that yields dividend (from the groups' profit) at the end of each year. From field studies in 2010-11 by Patamawadee et al., dividends of well-performed groups in the North-eastern, Eastern, and Southern Thailand amounted to about 6-7 percent of Sajja money that each client has saved. Apart from dividends, Sajja money generates clients' sense of ownership as their money is accumulated month by month in the group.

Except Village Fund groups, Sajja money is normally used as one criterion to determine how much money will be lent to each client. CBFIs also use clients' behaviour of saving Sajja money as an indicator of good clients or risky clients. Those who start delaying saving Sajja money are likely to have a financial problem and need further monitoring or advices. While this is a way to protect the business of CBFIs themselves, it is also a way to prevent financial problems occurring to clients. People like CBFIs because it is negotiable and close relationship.

Each client will have a saving book as a document. It costs about 30 baht when an account is opened. In general, Sajja money cannot be withdrawn unless clients want to leave the

groups. In other words, if the clients withdraw some or all of Sajja money, their membership will be terminated. If membership is terminated, debt will be deducted and the rest of Sajja money will be returned.

However, for some best practice groups, a part of Sajja money are allowed to be withdrawn with a special permission if the clients are in emergency.

Welfare scheme to individual CBFI member

Welfare scheme used to be a supplement product, but recently a core and common product offered by CBFIs. It becomes one of the “product competition” strategies among CBFIs since it can be designed to meet the needs of clients in each area. This shows the advantages of CBFIs over commercial MFIs. As a member who saves constantly, a client has right to receive welfare benefits, such as a subsidy of transportation fee to a hospital, a subsidy of bed fee when hospitalized, and a lump-sum money to children or relatives when passing away. Due to welfare scheme, a CBFI can increase its member from one per household to every member of each household. The increase in number of members of a CBFI, mostly reflect the attractiveness of its welfare program and trust to the CBFI.

Due to attractive dividends and welfare program, only few people leave the groups, since they are satisfied with the dividends and welfare programs provided. Even though they migrate out, they can maintain membership status by constantly send Sajja money to the group. This shows how clients are satisfied with services from the groups.

Community Welfare

Apart from dividend to individual clients and welfare program to individual households, the group will also share a part of its profit to support community’s social activities and some simple community’s infrastructures or equipment. However, this is not a kind of commercial services but people feels good to contribute to their community and increase senses of ownership to the CBFIs.

Long-term credit and emergency loans

Long-term credit of more than one year is not common for CBFIs. However, for well-established CBFIs with sufficient amount of fund (e.g. at least 10 million baht), they may provide long-term credit as well. Also, emergency loan of about 5,000 baht can be offered for a short period with zero interest rate (Ban Kham Saving group at Chaiyaphum)

Recently, emergency loan is increasingly popular. Many CBFIs start providing this service.

Banks for Community Enterprises and Networks

Some advanced CBFI groups will provide services not only to individual households but also to community activities. For example, they use their accumulated capital to invest in and operate community enterprises like small rice mills, or providing agricultural marketing services to their clients. Such a CBFI is, thus, turned to be a bank for the community enterprises. In many areas, CBFIs form a network and the most advanced group will act as a leader as well as a bank for the network. Some groups with excess money will save at the “network’s bank” while some groups with excess demand will borrow. The network’s bank will offered 5% interest rate for groups who want to save while charging 7% interest for groups who want to borrow.

Most of advanced groups are self-help groups established and developed for more than 20 years. They are best-practice groups that have contributed a great deal to the development of CB-MFIs in Thailand and being models for the government-initiated Village Fund.

Limitations of CBFIs

1. Small loan size is not adequate and can create debt rotation as a client needs to borrow from many sources

For newly-established CBFIs, as their accumulated fund is not large, they have limited ability to provide sophisticated and appropriate products. The groups like one-million baht Village Fund, if not merged to a Sajja group, will provide basically a working capital loan with a limited amount of not more than 20,000 baht.

With a small amount of working capital lent by some CBFIs, it turns out that a client cannot rely on a single source of credit. Of course, this depends on an activity the client has borrowed money for. As for a rice-growing farmer in the central-plain of Thailand, a credit of 20,000 baht per year provided by Village Fund is not enough for rice production on an average farm land of 25 rai. (1 hectare = 6.25 Rai) which required at least 60,000 baht. Thus, a farmer will also borrow from other available sources including BAAC, relatives and friends, and informal money lenders that charged a much higher rate of interest.

2. Office hours are limited and may not be able to respond promptly when credit is needed

In general, CBFIs are operating by volunteers. Their working hours for CBFIs are limited. Many groups will operate one day in a month, for example on the 5th of each month. Thus, service hours are limited and CBFIs are unlikely to provide services on-time when needed. Seriously, when the operation day for repayment is fixed once in a year like small Village Funds, rather than allowing repayment in a small amount per month, farmers who do not have a lump-sum of 20,000 baht for repayment needed to borrow from more expensive sources. Particularly, when the repayment day is the same for every client in the village, the market demand for money on that day will be at peak and informal lenders tend to charge the highest interest rate. Clients will borrow from informal sources to repay Village Fund after that they will immediately borrow a new loan from Village Fund. Recently, however, medium and large CBFIs start paying a small amount of "salary" or fringe benefits to their staff and increases the number of days of services.

In short, regardless of many well-designed products relevant to members' needs, size of loans and hours of services are major constraints. As for rural areas where farm activities are seasonal, product design and services needed to be fitted to the production and marketing plans of the clients. It seems that the bigger the size of the groups in terms of size of fund, the better they can offer appropriate products and services to their clients.

Attractive welfare programs can create risk

Pay less attention to promote saving

While we want to encourage the poor to save, an opportunity for the poor to save is even more limited than an opportunity to borrow. Thus, financial inclusion for the poor should focus more on opportunity and ability for the poor to save and to access to insurance. The role of CBFIs on saving services are significant to the poor because low transaction cost can make it worth for the poor to save even for a small amount. In reality, however, CBFIs focus on credit services rather than saving. This is may be because of the idea that the poor have limited ability to save, particularly for long term saving. In urban area where people have ability to save, the idea is that saving more than borrowing can create cost to CBFIs.

Given that marginal value of one baht of the poor is much higher than that of the rich, protection of saving money of the poor is, thus, very meaningful. Saving money with CBFIs is not legally guaranteed. Small and medium CBFIs (approximately less than 50 million baht) will normally use all saving or Sajja money for lending. The money from saving are, thus, circulated in a village without reserve.

Given the fact that saving of any CBFIs is not legally guaranteed, it is probably more appropriate if a CBFIs acts as an agent to collect medium or long term saving money from its members and put the money into formal institutions as group savings.

2.3 Prevention of Over-indebtedness

By nature, CBFIs concern about their clients' over-indebtedness, either because they concern about well-being or welfare of their members or because they concern about risk imposed on their groups as over-indebtedness implies client's less ability to repay debt. For the second reason, to cope with risk, CBFIs simply reduce the amount of loans provided to risky borrowers. Most of the cases, over-indebtedness can be observed from the clients' behaviour to borrow from several sources, particularly when they repay debt by borrowing money from other sources. Many CBFIs have money but they are reluctant to offer more credit just because they feel that the credit they have offered has already reached the ceiling of clients' ability to repay.

In practices, one way to prevent over-indebtedness of their clients is to merge small CBFIs into one. This is to reduce cost of searching information about debt status of each client. As for the sake of the members' well-being, CBFIs sometimes allow debt transfer. That is, if some clients have high debt burden, or going to lose their land because they cannot repay debt to other creditors, these clients are allowed to borrow a big amount of money from a CBFIs to repay debt. This is an effort to make a CBFIs an only creditor. Once debt are transferred, repayment period is likely to be extended while interest burden will be lowered since interest rates charged by CBFIs tend to be lower than other sources.

2.4 Transparency

Transparency seems to be a problem simply because CBFIs do not have a good system to manage and convey information on financial performances. For example, they may not have a standard accounting system and do not have an auditing system. Most CBFIs use "monthly meeting" as a way to declare their financial status and some simple figures such as total Sajja money may be announced on a white board, however. As far as people have trust to CBFIs committees, figures of CBFIs performance are meaningless. Clients will care how much dividend they can get, assuming that an accounting system and calculation is correct.

Given the fact that people in a community know each other and a CBFIs exists with trust in leadership (except for Village Fund), a problem is, in general, not a matter of private interest or group interest of leaders, but a matter of management risk which is sometimes unobservable by CBFIs's members.

Sajja groups by monks pay attention to honesty by applying morality of goodness. They design quite a systematic accounting system, though a bit different from standard system, and use the similar system and regulations in every Sajja group around the country. Another interesting innovation of Sajja groups is the "cross-auditing system" under which they exchange auditing. Group A audits group B, and B audits C, etc.

For Village Funds, there exists weakness in terms of leadership and people's sense of ownership. In an area where a CBFIs exists before an establishment of Village Fund, leaders of CBFIs may also be leaders of Village Funds. In some area, loan sharks turn to be leaders of Village Fund. Others are retired government officers, retired bank officers, etc. However, Village Fund formally regulates and uses a more formal/standard approach for accounting management and auditory system. Nevertheless, given the fact that a number of Village Fund is huge, the coverage and efficient auditing system is still in question.

2.5 Responsible pricing

1. Interest rates and fees charged by CBFIs are low but fixed.

CBFIs have rigidity to adjust interest rates. Given limited market boundary and imperfect competition in money market, there are several rates of market interest determined by

various types of lenders including CBFIs. There is no one-price interest rate in an area. Except Village Funds, CBFIs do not use strategy of price (interest rates) competition. On the contrary, they compete by offering welfare scheme, dividend, and period and time of services.

Interest rates charged by Village fund are the lowest among CBFIs, ranged from 6% to 12% per annum. This is because the government fully subsidized the interest rate. The one-million-baht fund was given to each village free of charge. Given very low interest rates to clients, it is not necessary for Village Funds to offer other fringe benefits such as welfare scheme to attract more clients. On the other hand, given low interest rates charged, the supply of credit they have is not enough to meet the demand. The question is why Village Funds do not increase interest rates?

It is observed that interest rates of CBFIs are higher in some area than in other areas depending on clients' ability to pay. For example, Village Funds in urban Chainat is higher than in rural Chainat. However, the interest rates of Village Funds observed in many areas were not more than 12%. The reason why the interest rates cannot be charged higher than this is because a higher interest rate increases a risk of default as clients may not be able to repay. Given the fact that one of KPIs of Village Funds is the repayment rate. It is safe if the interest rate is kept low.

2. Sajja groups which provide more benefits in welfare scheme tend to charge higher interest rates than Village Funds.

Village Funds with interest rates of 6-12% per year provide limited amount of welfare scheme. Other CBFIs like Sajja groups or saving groups tend to charge a higher rate of interest up to about 2% per month or 24% per year. They, however, offer a big package of welfare benefits to members, including buying debt from loan sharks by some Sajja groups. Such a practice obviously benefits those who save on the cost of those who borrow. While it said this is to discourage unnecessary consumption, it unintentionally hurt those who really need credits even though they can eventually receive some benefits from welfare program. In practices, however, there is no complaints against this 24% interest rate. It seems to be an acceptable rate, much better conditions comparing to a very higher rates charged by informal lenders without any welfare benefits. Welfare scheme seems to be attractive to members and help strengthens social capital in a community much more than simple financial services by Village Funds.

2.6 Fair and respectful treatment of clients

This is not a problem with CBFIs. Rather, it is a problems of who has the right to join the groups. Normally, it is anyone who meets the pre-conditions of CBFIs, such as those who have Sajja money to save, or those who have some villagers to support as guarantors, or those who pass the vote of CBFIs committee. Normally, those who are drunken, no willing to work and gamblers are tended to be excluded. In some area, where there are migrants who always move around for jobs, permanent residence or Thai nationality is required

2.7 Privacy of client data

There is no mechanism to guarantee privacy of client data under the CBFIs.

Mechanisms for complaint resolution

Normally, CBFIs have a simple document for members. Sajja groups have a well-written document providing to its members necessary information since the beginning when people apply for membership. Once being a member, clients can complain through two channels. One is informal procedure through clients-staff direct and indirect contacts and the other is through the group meetings. Complaints through written documents are rare.

A CBFIs will normally organise a general meeting where its members and the committee meet once a year. In between, sometimes CBFIs issues are raised in a monthly meeting of

the village (not the meeting of CBFIs). Thus, CBFIs have sufficient channels through which clients/members/owners can complaint, including an indirect channels such as gossips. While a direct complaint is not a Thai culture, gossip is. However, how the CBFIs respond or react to the complaints are more important and vary from one group to another. Given a closed society, peer pressure is an effective way that can lead to change.

The table below shows that members' participation in the meetings are listed among important process of management and is concerned by CBFIs (Patamawadee et al, 2010)

Key Concerned Issues of CBFIs	No. of CBFIs replied
Financial Aspects	
Members' Ability to Repay	17
Sufficient amount of fund to meet demand for credit	9
Sufficient amount of fund to provide "welfare" as committed to members	2
Efficient Use of Fund	2
Members' Participation in group meeting	19
Social Aspects	
Create Jobs, Improve productivity	6
Support welfare/ security	1
Reach to the poor, handicaps, elder people	2
Reduction of members' dependency on high-interest informal lending	4

Sources: Patamawadee et al, (2010)

2.9 Conclusion

While there is no legal regulations or legal regulations cannot be fully enforced, competition among CBFIs within a market boundary and CBFIs objectives of community empowerment and maximization of market size (loan or Sajja money) influence CBFIs practices. Recently, CBFIs offer attractive products such as welfare schemes, increase numbers of hours for services, or offer better credit condition to meet member's satisfaction. On the contrary, however, some CBFIs offer too much benefit and may imposed risk to the groups. For example, welfare scheme increases cost and burden to CBFIs through time regardless of group's income, or dividend is fixed at a high level regardless of a drop of profit. Fast expansion of some CBFIs have risk involved.

The weakest points of CBFIs are no guarantee of saving and financial risk when the groups are rapidly expanded beyond peer pressure and social bonding, while regulations have not been carefully set up and accounting and audit system has not been used for financial planning. Non-sustainability of some CBFIs will, finally, be harmful to consumers. One recommendation is to make CBFIs committee understand how to use accounting system for financial planning and empower people on financial literacy for self-protection.

APPENDIX 5. BANK OF THAILAND - BASIC RIGHTS OF CUSTOMER

APPENDIX 3: BANK OF THAILAND – BASIC RIGHTS OF CUSTOMER

BOT Policy	Oversight selling securities and insurance through commercial bank issued by BOT on Nov 21, 2012	
Objective	To oversight selling securities and insurance through commercial bank in consider of the basic rights of customer as a main issue 1. The right to receive the accurate information 2. The right to choose the financial products and services freely 3. The right to appeal to fairness The right to be considered for compensation if damage occurred	
Department of bank directly related to this announcement	Department / team of Treasury, Department / team of Branch Network, Department / team of Marketing Communication	
Summary of Rules, Procedures and Conditions which bank must practices		
Title	Details	Enforcement
1. Selling of bank's products	1.1 Must show the different of products with securities products / insurance explicitly such as money deposit with life insurance and money deposit with draft 1.2 Must disclosure the details of products, risk, compensation adequately and transparently 1.3 Could not force sale the securities products / insurance with products of bank 1.4 Could not promote as a sweepstakes draw 1.5 Using media marketing to promote sale must not propagandize exaggeration 1.6 All sale promotion channels must be at an appropriate time without causing a nuisance or losing their privacy 1.7 Sale person must get a licence based on guideline of regulators and inform the customer clearly 1.8 Sale agent must have a cognition concerning the products and could provide a product details, risk, compensation, the coverage that customer will receive, tax that must be paid by customer and customer's right according to the truth 1.9 They must be a separate counter service for securities and insurance products from the withdraw and deposit money counter service	Enforcement from Jan 1, 2013 onward
2. Procedure for after sale and complaint	2.1 If the bank services do not follow this announcement and cause of damage to the customer, bank must compensate as appropriate 2.2 Must have appropriate procedures, systems, channels for complaining	
3. Others	3.1 Must have a specifically department to support and responsible for selling securities products / insurance 3.2 Must have procedures, channels or information centre service by phone (Call Centre) 3.3 Sale proposal must have information concerning consumer rights through bank branch, including bank website with details of basic rights of customer according to BOT regulation 3.4 Must keep confidentiality of customer information and prohibit to give information to other organizations without customer consent	

APPENDIX 6. CREDIT INFORMATION BUSINESS ACT

Credit Information Business Act

B.E. 2545

BHUMIBOL ADULYADEJ..REX..

Given on the 13th day of November B.E. 2545;

Being the 57th Year of the Present Reign.

By Royal Command of His Majesty King Bhumibol Adulyadej, it is hereby proclaimed that:

Whereas it is deemed appropriate to enact the law relating to Credit Information Business;

This Act contains certain provisions that restrict personal rights and freedom, which, according to Section 29 in conjunction with Section 50 of the Constitution of the Kingdom of Thailand, can only be enacted by virtue of legislation as follows;

Section 1 This Act shall be called “Credit Information Business Act, B.E. 2545”

Section 2 This Act shall come into force after one hundred and twenty days after its publication in the Government Gazette.

Section 3 In this Act,

“Information” means anything that can bear the meaning of facts pertaining Credit Information, regardless of whether such bearing of the meaning is due to the condition of that thing or due to any other methods, and regardless of whether being prepared in the form of document, file, report, book, map, drawing, picture, film, video or audio record, record made by computer, or any other methods that can disclose the information recorded.

“Information Processing” means any process that deals with Information, including the gathering, recording, filing, retaining, amending, retrieving, using, disclosing, publishing, accessing, deleting or destroying of Information.

“Information Controller” means any individual, group of persons or juristic person in private sector whether single entity or multiple entities, responsible for controlling or carrying on the Information Processing.

“Information Processor” means Information Controller or any person who carries on the Information Processing on behalf of the Information Controller or Credit Information Company.

“Credit Information” means facts or information relating to customers applying for Credit Facilities as follows,

- (1) Facts that identify clients applying for credits:
 - (a) In case of an individual, this subparagraph means client’s name, address, date of birth, marital status, occupation, official identification card number or government employee’s identification card or passport, and tax payer number (if any);
 - (b) In case of a juristic person, this subparagraph means address, corporate registration number, or tax payer number.
- (2) Record of credit application and approval and payment of credit transaction of client who applies for credit including record of payments of goods or services by credit card.

“Prohibited Information” means an individual’s information that does not relate to the request for credit or affects the feeling or may cause damage or obviously affected the rights and freedom of the person who is the owner of the information. Such Prohibited Information covers the followings:

- (1) Physical handicaps,
- (2) Genetics,
- (3) Information of a person who is in the process of criminal investigation or criminal proceedings,

(4) Other information that are announced by the Committee.

“Credit” means loan or loan credit, or securities lending, hire-purchase, leasing, guarantee, aval, acceptance of bill of exchange, purchase, purchase at discount of bill of exchange, be a creditor as a result of payment or order the payment for the benefit of the customer, or be a creditor as a result of payment made in accordance with letter of credit obligations or other obligations, including the insurance, life insurance, acceptance of customer for the sale and purchase of securities, and other transactions prescribed by the Committee.

“Credit Card” means card or other materials issued by authorized person to customers to be used as a mean of payment of goods, services or other expenses in place of cash, or to be used for cash withdrawal, with a condition that the customers are required to pay fees, service fee, interest, or other costs, but excluding card used for the advance payment of goods or services or other expenses.

“Credit Information Business” means business relating to the control or processing of Credit Information in order to provide Credit Information to the Members or Recipients of Service.

“Company” means a limited company under the Civil and Commercial Code or the public limited company under the law governing public limited company.

“Credit Information Company” means the Company that obtains the License to carry on Credit Information Business.

“License” means the certificate to permit the carrying on of Credit Information Business.

“Owner of Information” means individual or juristic person who is the owner of information or of the record of client who applies for services from the Member, regardless of whether it is the application for credit or any other services.

“Financial Institution” means a juristic person granted with the License to carry on the following businesses within the Kingdom of Thailand:

- (1) Commercial bank, (2)
Finance company, (3)
Securities company,
- (4) Credit Foncier company,
- (5) Insurance company,
- (6) Life insurance company,
- (7) Juristic person who provides Credit Card service,
- (8) Juristic person established under specific legislation to operate financial activities and services,
- (9) Juristic person who grants credit in the ordinary course of business as prescribed by the Committee.

“Member” means Financial Institutions that the Credit Information Company admits as a member.

“Recipient of Service” means Member or juristic person who carries on a legal business of credit granting in its ordinary course of business.

“Sources of Information” means individual, group of individual, or juristic person, who provides information to Credit Information Company.

“Committee” means the Credit Information Protection Committee.

“Officers” means the persons appointed by the Minister under the recommendation of the Committee, to carry out the tasks under this Act.

“The Minister” means the Minister in charge of the enforcement of this Act.

Section 4 This Act shall not be applicable to the Information Processing of individual, group of individuals or any juristic person, for the internal use of the group of individuals or juristic person in particular, or to be used in the businesses as prescribed by the Minister.

Section 5 The Ministry of Finance shall be in charge of the enforcement of this Act, and shall have power to prescribe Ministerial notifications for the purpose of enforcement of the provisions of this Act.

Ministerial notifications shall take effect after their publication in the Government Gazette.

Chapter I

Establishment of the Company and Application for License

Section 6 The Credit Information Business shall not be carried on unless the business entity is established in the form of company and after a license from the Minister has been obtained.

The establishment of a company to carry on the business under the first paragraph can be done after prior approval from the Minister.

The application for approval, the granting of approval, the application for the License and the granting of the License, shall be in accordance with the rules, procedures, and conditions, and shall be subject to fees, prescribed by the Minister.

Section 7 The Credit Information Company shall consist of shares held by Thai nationals more than half of registered capital of a limited company, or paid capital of a public limited company, as the case may be; and the board of directors of the Company shall consist of directors with Thai nationality of more than half of the total number of the directors within the board.

The Sections of Association of the Credit Information Company shall not empower foreigners to nominate or appoint majority of executive directors, or to manage and control such corporation in whatever manner.

Section 8 The Credit Information Company shall use a name that includes the words "Credit Information Company" at the beginning and the word "Limited" or "Public Limited", as the case may be, at the end.

Chapter II

Carrying on Credit Information Business

Section 9 No person other than a Credit Information Company shall engaged in the Credit Information Business.

Section 10 The Credit Information Company, the Information Controller, and the Information Processor, are prohibited from gathering and recording Prohibited Information.

Section 11 No person other than a Credit Information Company shall, in conduct of business, make use of the name "Credit Information Company" or any other words with the same meaning.

Section 12 It is prohibited for the Credit Information Company, the Information Controller, and the Information Processor who carry on the business in the Kingdom of Thailand to carry on the business outside the Kingdom.

Section 13 It is prohibited for the Credit Information Company, the Information Controller, and the Information Processor to process the information held longer than the period as prescribed by the Committee.

Section 14 It is prohibited to announce or advertise that any person is able to rectify or correct Credit Information so as to make it different from the information kept at the Credit Information Company.

Section 15 It is prohibited for any person or juristic person to enter into an agreement or to commit any action with the result of preventing or obstructing the provision of credit information to or the use of credit information by a Credit Information Company, or resulting in the restriction of carrying on the Credit Information Business, without approval from the Committee.

Chapter III Rights and Obligations of

Credit Information Company, Member, and Recipient of Service

Section 16 The Credit Information Company shall conduct information processing from information obtainable from the Member or from reliable Sources of Information, in accordance with the rules, procedures and conditions as prescribed by the Committee.

Section 17 In the process of information processing, the Credit Information Company or the person who is appointed to be the Information Processor, shall prepare the following systems and requirements as the least:

- (1) System to classify the kept information;
- (2) System to correct information so as to be complete and up to date;
- (3) System to secure the confidentiality and safe of Information to prevent the abuse of Information, and to prevent the unauthorized person from the access of Information, including the system to prevent the Information from being amended, damaged or destroyed illegally or without permission;
- (4) System for the request of use of Information and the normal report of Information;
- (5) System to check and correct Information of the owner of such Information;
- (6) System to record and report the result of every access to the Information, which must be kept for a period of not less than two years from the date of recording of the access to the Information, in order for the owner of Information to be able to examine;
- (7) System to destroy Information held beyond a period prescribed by the Committee;
- (8) Other systems or requirements as prescribed by the Committee.

The preparation of systems and requirements in the first paragraph shall be in accordance with the rules, procedures and conditions as prescribed by the Committee.

Section 18 For the purpose of controlling and processing Information of the Credit Information Company, the Member is required to send Credit Information of its customers to the Credit Information Company in which it is a Member, and must inform in writing to the customers about the sent Credit Information within 30 days from the sent date of Credit Information to the Credit Information Company. Additional Information regarding history of credit payment and history of payment of goods and services by credit card to the Credit Information Company, the Member must inform its customers in accordance with the rules, procedures and conditions as prescribed by the Committee.

Section 19 Member under the following obligations must:

- (1) Report and send Information in accordance with Section 18 to the Credit Information Company, and inform the customers of such provision of Credit Information.
- (2) Provide the most up-to-date Information. If it is aware of any incorrectness of Information, the Member shall correct and send the correct Information to the Credit Information Company.
- (3) In the case that the Member receives a report from the Credit Information Company stating that the owner of Information views that the sent Information is incorrect, the Member shall:
 - (a) Examine facts as requested for correction;
 - (b) Report the examination result to the Credit Information Company without delay;
 - (c) If the Information is incomplete or incorrect, the Member shall correct it and report the correct Information to every Credit Information Company that received such Information;
 - (d) The consideration of the request for correction under (a) must be complete within 30 days from the receipt of such request from the owner of Information. In the case the owner of Information submits

additional Information within such 30 days, an extension of time shall be given to the Credit Information Company for consideration for not more than 30 days from the date of last receipt of Information;

- (e) During the consideration referred to in (d), the Credit Information Company shall keep Information requested for correction in the Information System of the owner of Information.
- (4) If an objection is made against Information and the argument is inconclusive, the Member shall report to the Credit Information Company to record such argument in the Information System of the owner of Information.
- (5) When a default for payment of debt occurs, the Member shall report to the Credit Information Company of the date of the commencement of the default.

A report or record of arguments referred to in the first paragraph shall be in accordance with the rules and procedures as prescribed by the Committee.

Section 20 Credit Information Company shall disclose or provide Credit Information to the Member or the Recipient of Service who wishes to use such Information for the purpose of analysing the grant of Credit, the insurance and life insurance, and the grant of credit card, provided that it obtains a letter of consent from the Owner of Information for the disclosure or provision of Credit Information to the Member or the Recipient of Service.

Apart from the disclosure or provision of Information to the Member or the Recipient of Service under the first paragraph, the Credit Information Company shall disclose Information without written consent from the Owner of Information in the following cases:

- (1) Where an order or summon is made by court or it is public litigation Information.
- (2) Where a letter from the police officer is made to request such Information for the purpose of investigation of criminal offences in relation to financial business within his or her authority.
- (3) Where a letter is made by the Ministry of Finance, the Bank of Thailand, the Securities and Exchange Commission and the Securities Exchange of Thailand, for the purpose of implementation of their work in controlling or inspecting Financial Institution under the relevant laws.
- (4) Where a letter is made by the Secondary Mortgage Corporation under the Secondary Mortgage Corporation law, or Special Purpose Vehicles for securitization under the Securitization law for the purpose of asset valuation under relevant laws as necessary to the circumstances.
- (5) Where a letter is made from the Thai Asset Management Corporation under the Thai Asset Management Corporation law, or from the Asset Management Corporation under the Asset Management Corporation law, or from the Asset Management Company under the Asset Management Company law, for the purpose of asset valuation to purchase or be transferred under the relevant laws, as necessary to the circumstances.

The disclosure or provision of Information under (4) or (5) above must be approved by the Committee.

When Credit Information is disclosed or provided pursuant to the second paragraph, the Credit Information Company must inform in writing to the Owner of Information within 30 days from the date of disclosure or provision of Information. In the case that the Information is from an individual Financial Institution, the notice must be made to that Financial Institution.

Section 21 The Recipient of Information of the same category is entitled to obtain the same Information from the Credit Information Company.

Section 22 The Recipient of Information is under the following obligations:

- (1) Use Information only for the purposes stipulated under Section 20.
- (2) Not to disclose or distribute Information to any unauthorized person or persons.

Section 23 The person who obtains Information under the second paragraph of Section 20, shall use such Information for such purpose only, and must keep the Information confidential in a safe place to prevent other person or persons to access to such Information.

Section 24 Subject to Section 20; the following persons are prohibited to disclose Credit Information,

- (1) Credit Information Company, Information Controller, Information Processor, Member, or Recipient of Service.
- (2) Person who knows Information as a result of his or her implementation of work in (1).
- (3) Person who knows Information from the persons in (1) or (2).

Chapter IV

Protections to Owner of Information

Section 25 For the purpose of protections given to the Owner of Information, the Owner of Information is entitled to:

- (1) Right to know which of his or her Information is kept by the Credit Information Company;
- (2) Right to check his or her Information;
- (3) Right to request for correction of incorrect Information;
- (4) Right to object when his or her Information is incorrect;
- (5) Right to be informed the result of the checking of his or her Information within specified time;
- (6) Right to know causes of refusal of the application for Credit or services from Financial Institution in the case that the Financial Institution uses Information of Credit Information Company as reason for refusal;
- (7) Right to appeal to the Committee pursuant to Section 29.

The exercise of the right may be subject to application fee prescribed by the Committee but must not exceed Baht 200.

Section 26 Where the Owner of Information exercises his or her right to check or correct his or her Information kept with Credit Information Company or Member, the Credit Information Company or Member shall review the application and check the Information without delay, and inform the inspection result or correction of Information together with reasons to the Owner of Information within 30 days of the receipt of application.

In the case that the Credit Information Company or Member views that Information is incorrect for whatever reasons, the Credit Information Company or the Member shall correct the Information without delay, and shall report the corrected Information to the relevant Source of Information, Member or Recipient of Service for further correction of Information accordingly.

Section 27 In the case of dispute between the Owner of Information and Credit Information Company in regard to the correctness of Information and the case becomes inconclusive; the Credit Information Company shall record the dispute with supporting evidence provided by the Owner of Information in the Information system of the Owner of Information. In preparing a report of Information for the provision of service to Member or Recipient of Service, the Credit Information Company shall state in the report that there exist dispute from the Owner of Information on what matter. In this regard, the Owner of Information may appeal the dispute to the Committee for decision.

If the disputes arise between Financial Institution, Member, or Recipient of Service on one part, and the Credit Information Company or the Owner of Information on another part, and the dispute becomes inconclusive, the Credit Information Company, Financial Institutions, Member or Recipient of Service shall record such disputes in the Information system of the Owner of Information, and inform the relevant persons. In this regard, the Owner of Information may appeal the disputes to the Committee for decision.

An appeal of disputes to the Committee in the first and second paragraph shall be in accordance with the rules and procedures as prescribed by the Committee.

When a decision is made by the Committee pursuant to the first and second paragraph, the Credit Information Company, Financial Institutions, Member and Recipient of Service shall comply with such decision.

Section 28 In the case that Financial Institution, Member, or Recipient of Service refuses the provision of Credit Facilities, or commits any other dealing that causes the increase of service fee to the customer, due to the reason relevant to Information of such customer, the Financial Institution, Member, or Recipient of Service shall state the reason(s) of such refusal or increase of service fee, including Source of Information to the customer in writing, enabling the customer who is the Owner of Information to inspect the correctness of Information without paying any fee, provided that such customer exercise his or her right of inspection within 30 days from the date of receipt of refusal or of the commission of such dealing.

In the case that the Owner of Information views that the Information in the first paragraph is incorrect, the Owner of Information may submit additional evidence to the Financial Institution, Member or Recipient of Service to review the Credit granting consideration or other types of reviewing again.

Provisions of Section 26 and Section 27 shall be applied as appropriate.

Chapter V

Supervision of Credit Information Company

Section 29 A Committee shall be established and shall be called "Committee for the Protection of Credit Information". The Committee comprises the Governor of the Bank of Thailand as a chairman, the Permanent-Secretary of Ministry of Finance as a deputy of the chairman. Other members of the Committee include the Permanent-Secretary of Ministry of Justice, the Secretary-General of the Council of State Commission, the Director-General of the Fiscal Policy Office, the Secretary-General of the Office of the Securities and Exchange Commission, the Director-General of Department of Administration, the Director-General of Department of Commercial Registration, the Director-General of Department of Insurance, the Director-General of Department of Co-operatives Promotion, the Secretary-General of the Consumer Protection Commission, the Director of NECTEC, and other five Experts.

The Cabinet shall appoint the Experts referred to in the first paragraph. In this regard, at least two of the Experts so appointed must be well versed in the field of consumer protection; one of them must be an Expert in banking and finance; and one of them must be an Expert in computer. The Experts shall be in position for a four-year tenure and shall be re-appointed. None of them shall be appointed and held in the same position more than two consecutive terms.

The Committee shall appoint an Assistant Governor or a Senior Director of the Bank of Thailand to serve as the Secretary to the Committee.

Section 30 The Committee shall have powers and duties to supervise the Credit Information Business. Such powers and duties include the followings,

- (1) To issue notification or order to ensure due implementation of this Act;
- (2) To issue announcement determining rules, procedures and conditions relating to the Credit Information Business, Information Controller, Information Processor, including determining fees and other charges in relation to the carrying on of business of the aforementioned persons;
- (3) To order a Credit Information Company to submit a report regarding the carrying on of business of the company in general or in any particular aspect, with details and within the determined period;
- (4) To order a Credit Information Company to explain or interpret wording of the report prepared under (3);

- (5) To consider and make decision of appeal made under this Act;
- (6) To appoint sub-committee;
- (7) To implement other actions under the Act or under the cabinet resolutions prescribed as the power and duty of the Committee.

In the implementation under this Section, the Committee may appoint sub-committee or the Bank of Thailand to implement or recommend the Committee for further actions.

Section 31 Apart from the termination from office pursuant to Section 29, the mandate of the Committee member appointed by the Cabinet may be terminated in the case of:

- (1) Death;
- (2) Resignation;
- (3) The Cabinet requests to leave;
- (4) Being a bankrupt;
- (5) Being an incompetent or semi-incompetent;
- (6) Having been imprisoned by a final court judgment except for an offence committed by negligence or insignificant offence;
- (7) Being in the position or under the duties or having interest in a Credit Information Company, Information Controller, or Information Processor.

In the case that a member of the Committee leaves the office before the end of his or her term, the Cabinet may appoint another person to fill the vacancy. The person so appointed shall retain his or her office to the same extent of the residue tenure as the vacating committee was entitled to retain the same.

In the case that the Cabinet appoints additional members of the Committee in such a period of time during which the existing Committee remains in their office, the newly appointed persons shall retain their office to the same extent as the existing Committee.

Section 32 If, at the Committee's meeting, the Chairman or the deputy Chairman is not present, the Committee present may choose one of their members to be Chairman of such meeting.

In the Committee's meeting, there must be no less than half of the members of the Committee to attend the meeting to form a forum.

Decisions of the meeting shall be made by majority vote. One member of the Committee has one vote. Where the voting is tied, the chairman shall have a casting vote.

Section 33 A Sub-committee shall consist of members who are qualified in the matter to which they are appointed, and shall consist of not less than three persons but not more than five persons.

Sub-committee shall have powers and duties as prescribed in this Act, as well as those authorized by the Committee.

Section 32 shall be applicable to the meeting of sub-committee.

Section 34 The Committee have a power to order any person to deliver documents or Information relating to the matter complained by any person or relating to any other matter concerning the protection of Information of the Owner of Information. In this regards, the Committee may also summon any person for inquiry.

Section 35 In the implementation under this Act, the Committee or Sub-committee shall give opportunity to the accused party or the party suspected to commit an infringement of right of the Owner of Information, to explain the facts and express their opinion, except where the necessity and urgency call for otherwise.

In making the decision or order in any matter under this Act, the Committee or Sub-committee shall take into account the potential damage that may arise in relation to the Owner of Information, Credit Information Company, Financial Institution, Recipient of Service, or any related persons. Where appropriate, the Committee or Sub-committee may set up rules, procedures and condition temporarily to enforce such determination or order.

Section 36 In the implementation under this Act, the Bank of Thailand shall have the following powers and duties:

- (1) Receive complaints from the Owner of Information who has been tarnished or damaged as a result of the operation of the Credit Information business, Credit Information Company, Financial Institution, Recipient of Service, in order to pass onto the Committee or Sub-committee as the case may be.
- (2) Supervise the operation of Credit Information Company, Information Processor, or person who commits any act that infringes the right of the Owner of Information, and shall have power to inspect Information as deemed appropriate and necessary to protect the Owner of Information, and shall report to the Committee.
- (3) Coordinate with other official or government agencies that have powers and duties to control, supervise and inspect Financial Institutions, Recipient of Service, or any other person.
- (4) Take legal actions in relation to the infringement of the Owner of Information where the Committee deems appropriate or where a request is made under this Act.
- (5) Implement any other actions as the Committee or Sub-committee may instruct.

Section 37 In the implementation under this Act, the officers shall have the following powers and duties:

- (1) Enter into business premises of the Credit Information Company, or the place where Information is processed.
- (2) Enter into any premises where there are reasonable grounds for suspecting that an offence under Section 9 is being committed therein, or where there is evidence or documents relating to the commission of the said offence, in order to conduct an investigation during the sunrise until the sunset, or during the business hours of that place.
- (3) Seize or attach properties, documents or things relating to the commission of offences under this or her Act for the purpose of investigation or legal proceedings.
- (4) Implement any other action as instructed by the Committee or Sub-committee.

Section 38 The Committee, Sub-committee and officers who implement the tasks under this Act shall be regarded as the officials under the Penal Code.

In the implementation of their duties, the officers shall produce their identification card to the persons concerned.

Chapter VI

Suspension and Revocation of License

Section 39 The Minister under the recommendation from the Committee, may suspend or revoke License to carry out Credit Information Business of any Credit Information Company, if it is apparent that:

- (1) Such Company carries out the Business dishonestly or may cause damage to the public;
- (2) Such Company wilfully refrains from doing or violates prohibitions stipulated under the law;
- (3) Such Company wilfully violates or fails to comply with the rules, procedures or conditions prescribed by the Ministry or the Committee under this Act.

Section 40 When the Ministry revokes License of any Credit Information Company; the Committee is entitled to prescribe rules, procedures or conditions to regulate the management of Information of such Credit Information Company.

Chapter VII Civil Liability

Section 41 Credit Information Company, Information Controller, or Information Processor, who wilfully or negligently discloses incorrect Information to the other, or discloses correct Information but not for the purposes set out under this Act, causing damage to Member, Recipient of Service, or Owner of Information, such Credit Information Company is liable to pay compensation for such action.

Chapter VIII Criminal Liability

Section 42 Any Credit Information Company who fails to comply with Section 7, Section 8 or Section 16, shall be subject to fine of not exceeding Baht 300,000 and fine of not exceeding Baht 10,000 per day during the period of failure to comply or until the correction is made.

Section 43 Any person who violates Section 9 Section 14 or Section 15 shall be subject to imprisonment of five to ten years, or fine of not exceeding Baht 500,000 or both.

Section 44 Any Credit Information Company, Information Controller, or Information Processor who violates Section 10 or Section 12 shall be subject to imprisonment of five to ten years, or fine of not exceeding Baht 500,000 or both.

Section 45 Any person violates Section 11 shall be subject to imprisonment up to one years, or fine of not exceeding Baht 100,000, or both.

Section 46 Any Credit Information Company, Information Controller, or Information Processor who violates Section 13 shall be shall be subject to fine of not exceeding Baht 300,000 and fine of not exceeding Baht 10,000 per day during the period of failure to comply or until the correction is made.

Section 47 Any Credit Information Company or Information Processor who fails to comply with the first paragraph of Section 17, or fails to comply with rules, procedures and conditions prescribed by the Committee in the second paragraph of Section 17, shall be subject to fine of not exceeding Baht 300,000 and fine of not exceeding Baht 10,000 a day during the period of in compliant or until the correction is made.

Section 48 Any Member who fails to submit Information of his or her customers to the Credit Information Company in which it is a Member shall be subject to fine of not exceeding Baht 500,000 and fine of not exceeding Baht 10,000 per day during the in compliant or until the correction is made.

Any Member who neglects to inform his or her customers of Information to the Credit Information Company or fails to do so within the period prescribed under Section 18 or fails to comply with rules, procedures and conditions prescribed by the Committee in of Section 18 shall be subject to imprisonment of five to ten years, or fine of Baht 500,000 or both.

Section 49 Any Member who conceals or provides fault Information in relation to his or her customers to the Credit Information Company, shall be subject to fine of not exceeding Baht 300,000 and fine of not exceeding Baht 10,000 per day during the in compliant or until the correction is made.

Section 50 Any Member who fails to comply with Section 19(2) (3) (4) or (5), or fails to comply with rules, procedures and conditions prescribed by the Committee in Section 19, shall be subject to fine of not exceeding Baht 300,000 and fine of not exceeding Baht 10,000 a day during the period of in compliant or until the correction is made.

Section 51 Any Credit Information or Information Processor who discloses or provides Information to their Member of Recipient of Service for the benefit otherwise than, or discloses or provides Information to other persons apart from those prescribed in Section 22, shall be subject to imprisonment of up to five years, or fine of not exceeding Baht 500,000 or both.

Section 52 Any Recipient of Service who violates or fails to comply with Section 22 shall be subject to imprisonment of five to ten years or fine of not exceeding Baht 500,000 or both.

Section 53 Any person, or member of the Committee, or sub-committee, who receives Information of any other person as prescribed in Section 23, or as a result of the implementation of duties under this Act, discloses such Information to other person, shall be subject to imprisonment of five to ten years, or fine of not more than Baht 500,000, or both.

The first paragraph shall not be applicable to the disclosure under the following circumstances:

- (1) Disclose under his or her duty;
- (2) Disclose for the purpose of police investigation or court hearings;
- (3) Disclose in relation to the commission of offences under this Act;
- (4) Disclose for the purpose of the correction of operation of Credit Information Company;
- (5) Disclose to the official or authorities supervising Financial Institutions or other juristic persons under specific laws;
- (6) Disclose after obtains consent from Owner of Information from time to time; (7) Disclose of Information regarding litigation where Information is available to the public.

Section 54 Any Credit Information, Information Controller, Information Processor, Member or Recipient of Service, or any person who violates Section 24, shall be subject to imprisonment of five to ten years, or fine of not exceeding Baht 500,000 or both.

Section 55 Any Credit Information Company or Member who fails to comply with Section 26 shall be subject to fine of not exceeding Baht 300,000 and fine of not exceeding Baht 10,000 per day during the period of violation or until correction is made.

Section 56 Any Credit Information Company, Financial Institution, Member or Recipient of Service who fails to comply with Section 27 shall be subject to fine of not exceeding Baht 300,000 and fine of not exceeding Baht 10,000 per day during the period of violation or until correction is made.

Section 57 Any Financial Institution, Member or Recipient of Service who fails to comply with Section 28 shall be subject to fine of not exceeding Baht 300,000 and fine of not exceeding Baht 10,000 per day during the period of violation or until correction is made.

Section 58 Any person who fails to comply with order of the Committee under Section 30(1), (2), (3) or (4), or under Section 34, shall be subject to imprisonment of up to one month, or fine of not exceeding Baht 10,000 or both.

Section 59 Any Credit Information Company who violates or fails to comply with rules, procedures and conditions determined by the Committee under Section 40 shall be subject to fine of not exceeding Baht 300,000 and fine of not exceeding Baht 10,000 per day during the period of violation or until the correction is made.

Section 60 Any person who commits any action to the Information kept in computer memory system of the Credit Information Company, Member, Recipient of Service or Owner of Information, or gathers, corrects, discloses, deletes or destroys Information in such computer memory system illegally or without permission from the relevant authorities, shall be subject to imprisonment of five to ten years, or fine of not exceeding Baht 500,000, or both.

Section 61 Directors, manager, personnel, or other persons responsible for the operation of the Credit Information Company, or the Information Controller, or the Information Processor, who commits or omits any action for the purpose of seeking illegitimate interest for himself or for others to the detriment of the Owner of Information or of other persons, shall be subject to imprisonment of five to ten years, or fine of not exceeding Baht 500,000 or both.

Section 62 Where it appears that there are any offences under this Act, it shall be deemed that the Bank of Thailand is the injured party under the Criminal Procedure law;

and in the criminal action, the prosecutor is entitled to claim for property or price or compensation for damage on behalf of Owner of Information or of the true injured party. In this regards, provisions relayed to the above action under the Criminal Procedure law shall be prescribed, as it may deem appropriate.

This provision shall not prejudice the Owner of Information or the real injured party to exercise their right to claim or to do any action under the law against the offender.

Section 63 The offences under Sections 42, Sections 45, Sections 46, Sections 47, the first paragraph of Sections 48, Sections 49, Sections 50, Sections 55, Sections 56, Sections 57 or Sections 59, can be settled by the committee appointed for such purpose by the Minister pursuant to the rules determined by the Committee.

The committee for the settlement of offence appointed by the Minister under the first paragraph shall consist of three persons, one of which must be the police officer under the Criminal Procedure law.

Where the committee for the settlement of offence settles any case, and the alleged party pay fine pursuant to the settlement within the given time, the criminal case shall be extinguished.

Section 64 In the case that the offender under this Act is a juristic person, the managing director, managing partner, or representative of such juristic person shall be liable for such offence, unless the above-mentioned person can prove that such offence has been committed without his or her knowledge or consent, or that he or she has performed reasonable action to prevent such offence.

Chapter IX Transitional Provisions

Section 65 Any person who carries out Credit Information Business or other business of similar nature ~~before the date this Act comes into force~~ shall be required to submit application under Section 6 within 60 days from the date this Act comes into force. During the period when the consideration of the application is pending, the applicant can continue his or her business until otherwise ordered by the Minister.

Section 66 A person who uses name or trade name with wordings "Credit Information Company" or other words of similar meaning on or before the date this Act comes into force, which is otherwise prohibited under Section 11, shall stop using such name or wordings within 180 days as from the date this Act comes into force.

Countersigned by:

Thaksin Shinawatra

Prime Minister

(Ref.: Government Gazette, Volume 119, Part 114A, dated 13 November
2545)

APPENDIX 7. Trade Competition Act

TRADE COMPETITION ACT B.E. 2542 (1999) *

Bhumibol Adulyadej, Rex.,
Given on the 22nd day of March B.E. 2542;
Being the 54th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on trade competition by revising the rules relating to anti-monopoly provided in the law on pricing fixing and anti-monopoly;

Knowing that this law contains certain provisions in relation to the restriction of a person's rights and liberties in regard to which section 29 in conjunction with section 31, section 35, section 36, section 45, section 48 and section 50 of the Constitution of the Kingdom of Thailand so permit by virtue of provisions of law;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1: This Act is called the "Trade Competition Act, B.E. 2542 (1999)".

Section 2: This Act shall come into force after thirty days as from the date of its publication in the Government Gazette.

Section 3: In this Act:

"business" means undertaking in agriculture, industry, commerce, finance, insurance, and services and shall include other undertakings prescribed by Ministerial Regulations;

"finance" means commercial banking under the law on commercial banking, finance and credit foncier businesses under the law on operation of finance, securities and credit foncier businesses, and securities business under the law on securities and securities exchange;

"business operation" means a distributor, manufacturer for distribution, orderer or importer into the Kingdom for distribution or purchaser for manufacture or redistribution of goods or a person engaging in the business of service providing;

"goods" means things capable of consumption and shall include documents of title to things;
"service" means engaging in the provision of work, providing any right, authorizing the use or exploitation of any property or undertaking in return for remuneration in the form of money or other benefit but shall not include the hire of service;

"price" means a price of goods and shall also include remuneration for services provided;

"business operator with market domination" means one or more business operators in the market of any goods or service who have the market share and sales volume above that prescribed by the Committee with the approval of the Council of Ministers and published in

the Government Gazette, provided that the market competition condition shall also be taken into consideration;

"Commission" means the Trade Competition Commission;

"member" means a member of the Trade Competition Commission;

"Secretary-General" means the Secretary-General of the Trade Competition Commission;

"competent official" means a Government official appointed by the Minister to perform activities under this Act;

"Minister" means the Minister having charge and control of the execution of this Act.

Section 4: This Act shall not apply to the act of:

1. Central administration, provincial administration or local administration;
2. State enterprises under the law on budgetary procedure;
3. Farmers' groups, co-operatives or co-operative societies recognised by law and having as their object the operation of businesses for the benefit of the occupation of farmers;
4. businesses prescribed by the Ministerial Regulation, which may provide for exemption from the application of this Act in whole or only in respect of any provisions thereof.

Section 5: The Minister of Commerce shall have charge and control of the execution of this Act, provided that in respect of financial undertakings, the Minister of Commerce and the Minister of Finance shall jointly have charge and control, and shall have the power to appoint competent officials, issue Ministerial Regulations for the execution of this Act and issue Notifications thereunder.

Such Ministerial Regulations and Notifications shall come into force upon their publication in the Government Gazette.

CHAPTER I

Trade Competition Commission

Section 6. There shall be a Trade Competition Commission consisting of the Minister of Commerce as Chairman, Permanent-Secretary for Commerce as Vice-Chairman, Permanent-Secretary for Finance and not less than eight, but not more than twelve, qualified persons with knowledge and experience in law, economics, commerce, business administration or public administration appointed by the Council of Ministers, provided that at least one-half must be appointed from qualified members in the private sector, as members and the Secretary-General shall be a member and secretary.

The appointment of qualified persons under paragraph one shall be in accordance with the rules and procedure prescribed in the Ministerial Regulation.

Section 7. A qualified person appointed as member must not be a political official, holder of a political position, executive member or holder of a position with the responsibility in the administration of a political party.

Section 8. The Commission shall have the powers and duties as follows:

1. to make recommendations to the Minister with regard to the issuance of Ministerial Regulations under this Act;
2. to issue Notifications prescribing market share and sales volume of any business by reference to which a business operator is deemed to have market domination;
3. to consider complaints under section 18(5);
4. to prescribe rules concerning the collection and the taking of goods as samples for the purposes of examination or analysis under section 19(3);
5. to issue Notifications prescribing the market share, sales volume, amount of capital, number of shares, or amount of assets under section 26 Paragraph two;
6. to give instructions under section 30 and section 31 for the suspension, cessation, correction or variation of activities by a business operator;
7. to issue Notifications prescribing the form, rules, procedure and conditions for an application for permission to merge businesses or jointly reduce and restrict competition under section 35;
8. to consider an application for permission to merge businesses or jointly reduce or restrict competition submitted under section 35;
9. to invite any person to give statements of fact, explanations, advice or opinions;
10. to monitor and accelerate an inquiry sub-committee in the conduct of an inquiry of offences under this Act.
11. to prescribe rules for the performance of work of the competent officials for the purpose of the execution of this Act;
12. to perform other acts prescribed by the law to be powers and duties of the Commission;
13. to consider taking criminal proceedings as in the complaint lodged by the injured person under section 55.

Section 9. The qualified member under section 6 shall hold office for a term of two years.

At the expiration of the term under paragraph one, if a new qualified member is not yet appointed, the qualified member who vacates office at the expiration of the term shall continue to hold office for the purpose of the performance of work until a newly appointed qualified member takes office.

The qualified member who vacates office at the expiration of the term may be re-appointed but may not serve for more than two consecutive terms.

Section 10. The provisions of section 75, section 76, section 77, section 78, section 79, section 80, section 81, section 82 and 83 of the Administrative Procedure Act, B.E. 2539 (1996) shall apply to the appointment of a qualified member, the vacation of office of a qualified member and a meeting of qualified members *mutatis mutandis*, and a qualified member shall also vacate office upon being under the prohibitions under section 7.

Section 11. The Commission may appoint a sub-committee to consider and make recommendations on any matter or perform any act as entrusted and prepare a report thereon to the Commission.

Section 12. The Commission shall appoint one or more specialised sub-committees consisting of, for each sub-committee, not less than four and not more than six persons qualified in the matter concerned and having knowledge and experience in various fields such as law, science, engineering, pharmacology, agriculture, economics, commerce, accountancy, or business administration as members, with the representative of the Department of Internal Trade as member and secretary.

The specialized sub-committee shall elect one member as the Chairman.

Section 13. The specialized sub-committee has the duty to consider and give opinions to the Commission on the following matters, as entrusted by the Commission:

1. the matter concerning the conduct indicative of market domination, a merger of businesses, the reduction or restriction of competition under section 25, section 26, section 27, section 28 and section 29;
2. the consideration of an application for permission to merge businesses or initiate a reduction or restriction of competition under section 37;
3. other matters to be considered at the request of the Commission and other acts to be performed as entrusted by the Commission.

For the purpose of this Act, a specialised sub-committee may submit opinions or recommendations to the Commission with regard to the execution of this Act. In carrying out the acts under paragraph one, the specialised sub-committee shall have the power to issue a written summons instructing the persons concerned to give statements or furnish documents or any other evidence for supplementing its consideration.

Section 14. The Commission shall appoint one or more inquiry sub-committees consisting of, for each sub-committee, one person possessing knowledge and experience in criminal cases who is appointed from police officials, public prosecutors and, in addition, not more than four persons possessing knowledge and experience in economics, law, commerce, agriculture, or accountancy, as members, with the representative of the Department of Internal Trade as member and secretary.

The inquiry sub-committee shall have the power and duty to conduct an investigation and inquiry in relation to the commission of offences under this Act and, upon completion thereof, submit opinions to the Commission for further consideration.

The inquiry sub-committee shall elect one member as the Chairman.

Section 15. In the performance of duties under this Act, a member of the Commission and member of an inquiry sub-committee under section 14 shall have the same powers and duties as an inquiry official under the Criminal Procedure Code.

Section 16. In the case where the Commission submits to the public prosecutor the opinion for prosecution, an objection to the public prosecutor's non-prosecution order under the Criminal Procedure Code shall be the power, vested in the Commissioner-General of the Thai Royal Police Force of the Changwad Governor as the case may be, to be instead exercised by the Chairman of the Commission.

Section 17. The provisions of section 9 and section 10 shall apply mutatis mutandis the sub-committee, specialised sub-committee and inquiry sub-committee.

CHAPTER II

Office of the Trade Competition Commission

Section 18. There shall be established the Office of the Trade Competition Commission in the Department of Internal Trade, Ministry of Commerce, with the Director-General, who shall be the superior official responsible for the official affairs of the Office, with the powers and duties as follows:

1. to carry out administrative tasks of the Commission, Appellate Committee and sub-committees appointed by the Commission;
2. to prescribe regulations for the purpose of the work performance of the Office of the Trade Competition Commission;
3. to monitor the movement and oversee conduct of business operators and report the same to the Commission;
4. to conduct studies, analyses and research into goods, services, and conduct in the operation of business and make recommendations and give opinions to the Commission on the prevention of market domination, mergers of businesses, reduction and restriction of competition in the operation of businesses;
5. to receive complaints by which it is alleged by any person that violation of this Act has been committed and to consider the same for submission to the Commission for its consideration, in accordance with the regulations prescribed and published in the Government Gazette by the Commission;
6. to co-ordinate with Government agencies or agencies concerned with the performance of duties under this Act;
7. to perform activities in the implementation of Notifications, regulations and resolutions of the Commission and perform such acts as entrusted by the Commission, Appellate Committee or sub-committees appointed by the Commission.

Section 19. In the execution of this Act, the competent official shall have the following powers:

1. to issue a written summons requiring any person to give statements, facts or written explanations or furnish accounts, records, documents or any evidence for examination or supplementing his consideration;
2. to enter a place of business, manufacture place, distribution place, purchasing place, warehouse, or service place of the business operator or any person or other place reasonably suspected to accommodate the imminent commission of an offence under this Act for the purpose of examining and ensuring the compliance with this Act or searching for and attaching evidence or property capable of forfeiture under this Act or arresting offenders under this Act without warrant in the following circumstances:
 - (a) a fragrant offence is apparently being committed in the premises;
 - (b) the person having committed a fragrant offence has entered, while being pursued, or is reasonably and firmly suspected to have hidden in the premises;
 - (c) it is reasonably suspected that the evidence or property susceptible of forfeiture under this Act in the premises provided that it must also be reasonably suspected that the delay in the process of securing a warrant will result in the evidence or property being moved, hidden, destroyed or transformed from its original state;
 - (d) the person to be arrested is the owner of the premises and such arrest is one under a warrant or can be carried out without warrant;
 For these purposes, the competent official shall have the power to inquire into facts or summon accounts, records, documents or other evidence from the business operator or from the persons concerned and instruct such persons in such premises to perform such act as is necessary;
3. to collect or take goods, in a reasonably quantity, as samples for an examination or analysis without payment of the prices of such goods, in accordance with the rules prescribed by the Commission in the Government Gazette;
4. to attach documents, accounts, records or evidence for the purpose of examination and taking legal proceedings under this Act .

Section 20. In the performance of duties of the competent official, a person concerned shall render reasonable assistance.

Section 21. In the performance of duties, the competent official shall produce an identity card to the persons concerned.

The identity card shall be in accordance with the form prescribed by the Minister in the Government Gazette.

Section 22. The competent official shall send a written summons under section 13 paragraph 3, section 19 (1) or section 44 (3) to a domicile or place of business of the person specified therein between sunrise and sunset or during the working hours of such person or may send the same by registered post requiring acknowledgement of receipt thereof.

In the case when the competent official has sent the summons under paragraph one but the person specified in the summons refused to accept it without justifiable ground, the competent official shall request an administrative or police officer to accompany him as a witness in order to leave the summons at such place. If the person specified in the summons is not found at his domicile or place of business, the summons may be sent to any person who is sui juris and residing at or working in such building or place of business. If no one is found or someone is found but refuses to accept the summons, the summons shall be posted in a conspicuous place at such domicile or place of business before the administrative or police officer so accompanying as a witness.

When the competent official has taken action under paragraph one or paragraph two, it shall be deemed that the person specified in the summons has received such summons, in the case of posting, at the expiration of five days after the date of posting, and, in the case of sending by a registered post requiring acknowledgement of receipt, at the expiration of five days as from the date of its receipt.

Section 23. In the execution of this Act, members, members of the Appellate Committee or sub-committee, Secretary-General, and competent officials shall be the officials under the Penal Code.

Section 24. For the purpose of arresting offenders under this Act, the competent official shall have the same powers as administrative or police officers under the Criminal Procedure Code.

An arrest of an offender may be made without a warrant when there appears the commission of a flagrant offence or other ground on which the administrative or police officer is permitted to make an arrest under the Criminal Procedure Code.

CHAPTER III

Anti-Monopoly

Section 25. A business operator having market domination shall not act in any of the following manners:

1. unreasonably fixing or maintain purchasing or selling prices of goods or services;
2. unreasonably fixing compulsory conditions, directly or indirectly, requiring other business operators who are his customers to restrict services, production, purchase or distribution of goods, or restrict opportunities in purchasing or selling goods, receiving or providing services or securing credits from other business operators;

3. suspending, reducing or restricting services, production, purchase, distribution, deliveries or importation without justifiable reasons, destroying or causing damage to goods in order to reduce the quality to that lower than the market demand ;
4. intervening in the operation of business of other persons without justifiable reasons.

Section 26. A business operator shall not merge businesses, which may result in monopoly or unfair competition as prescribed and published in the Government Gazette by the Commission unless the Commission's permission is obtained.

The publication by the Commission under paragraph one shall specify the minimum amount or number of market share, sale volume, capital, shares or assets in respect of which the merge of businesses is governed thereby.

The merger of businesses under paragraph one shall include:

1. a merger made by a manufacturer with another manufacturer, by a distributor with another distributor, by a manufacturer with a distributor, or by a service provider with another service provider, which has the effect of maintaining the status of one business and terminating the status of the other business or creating a new business;
2. a purpose of the whole or part of assets of another business with a view to controlling business administration policies, administration and management;
3. a purpose of the whole or part of shares of another business with a view to controlling business administration policies, administration and management;

The application by a business operator for the permission under paragraph one shall be submitted to the Commission under section 35.

Section 27. Any business operator shall not enter into an agreement with another business operator to do any act amounting to monopoly, reduction of competition or restriction of competition in the market of any particular goods or any particular service in any of the following manners:

1. fixing selling prices of goods or services as single price or as agreed or restrict the sale volume of goods or services;
2. fixing buying prices of goods or services as single price or as agreed or restrict the purchase volume of goods or services;
3. entering into an agreement to have market domination or control;
4. fixing an agreement or condition in a collusive manner in order to enable one party to win a bid or tender for the goods or services or in order to prevent one party from participating in a bid or tender for the goods or services;
5. fixing geographical areas in which each business operator may distribute or restrict the distribution of goods or services therein or fixing customers to whom each business operator may sell goods or provide services to the exclusion of other business operators from competition in the distribution of such goods or services;
6. fixing geographical areas in which each business operator may purchase goods or services or fixing persons from whom business operators may purchase goods or services;
7. fixing the quantity of goods or services which or to which each business operator may manufacture, purchase, distribute, or provide services with a view to restricting the quantity to be that lower than the market demand;
8. reducing the quality of goods or services to a level below that of previous production, distribution or provision, whether the distribution is made at the same or at a higher price;

9. appointing or entrusting any person as a sole distributor or provider of the same goods or services or those of the same kind;
10. fixing conditions or procedures in connection with the purchase or distribution of goods or services in or order to ensure the uniform or agreed practice.

In the case where it is commercially necessary that the acts under (5),(6),(7),(8),(9) or (10) be undertaken within a particular period of time, the business operator shall submit to the Commission under section 35 an application for permission.

Section 28. A business operator who has business relation, with business operators outside the Kingdom, whether contractual or through policies, partnership, shareholdings or in the form of relation of any other similar description, shall not carry out any act in order that a person who is in the Kingdom and intends to purchase goods or services for personal consumption will have restricted opportunities to purchase goods or services directly from business operators outside the Kingdom.

Section 29. A business operator shall not carry out any act which is not free and fair competition and has the effect of destroying, impairing, obstructing, impeding or restricting business operation of other business operators or preventing other persons from carrying out business or causing their cessation of business.

Section 30. The Commission shall have the power to issue a written order instructing a business operator who has market domination, with market share of over seventy five percent, to suspend, cease or vary the market share. For this purpose, the Commission may prescribe rules, procedure, conditions and time limit for compliance therewith.

Section 31. In the case where the Commission considers that a business operator violates section 25, section 26, section 27, section 28 or section 29, the Commission shall have the power to issue a written order instructing the business operator to suspend, cease or vary such act. For this purpose, the Commission may prescribe rules, procedure, conditions and time limit for compliance therewith.

The business operator who receives the order under paragraph one and disagrees therewith shall have the right to appeal under section 46.

The business operator may not claim compensation from the Commission by reason that the Commission has issued the order under paragraph one.

Section 32. In the consideration of the case under section 31, the Commission must afford the business operator, members of a specialised sub-committee, members of an inquiry sub-committee or competent officials concerned a reasonable opportunities to give explanations and present supporting evidence.

In issuing an order under section 31, the Commission must specify reasons for such order both in respect of questions of fact and in questions of law, and signatures of the members considering the case shall be entered.

The notification of the order under paragraph two shall be carried out within seven days as from the day the Commission issues the order, and section 22 shall apply mutatis mutandis.

Section 33. The person receiving the order under section 31 must comply with such order unless the Court or the Appellate Committee gives a decision or issues an order suspending the execution thereof or revoking the order of the Commission.

Section 34. In the case where the Court gives a judgment that any business operator is guilty of an offence under section 25, section 26, section 27, section 28 or section 29, the Court shall issue an order instructing the business operators to suspend, cease, rectify or vary such act.

CHAPTER IV

Application for Permission and Consideration of Application

Section 35. Any business operator wishing to apply for permission to carry out the act under section 26 or section 27(5),(6),(7),(8),(9) or (10) shall submit an application in accordance with the form, rules, procedure and conditions prescribed and published by the Commission in the Government Gazette.

The application must at least:

1. contain adequate reasons and specify necessity for the act;
2. specify the intended procedures therefor;
3. specify the duration therefor.

Section 36. The Commission shall complete the consideration of the application under section 35 within ninety days as from the date of its receipt; provided that the business operators, members of the specialized sub-committee and competent officials concerned must be given reasonable opportunities to give explanations and present supporting evidence.

In the case where the consideration cannot be completed within the time specified in paragraph one on account of necessity, the Commission may extend an extension of time for not more than fifteen days, but the reasons and necessity for the extension shall also be recorded therein.

Section 37. When the Commission has made an inquiry and is of the opinion that the application under section 35 submitted by the business operator is reasonably necessary in the business, beneficial to business promotion, has no serious harm to the economy and does not affect material and due interests of general consumers, the Commission shall issue such business operator with a written order granting permission. But if the Commission issues an order rejecting permission, the order shall be notified in writing to the business operator without delay. In granting permission under paragraph one, the Commission may fix the time or any condition for compliance by the business operator to whom permission is granted, and, if it is of the opinion that economic situations, facts or conduct relied on by the Commission in its consideration have changed, the Commission may amend, make addition to or revoke such time or conditions at any time.

The business operators who receives the Commission's order and disagrees with such order shall have right to appeal under section 46.

Section 38. The Commission must specify reasons for the order granting or rejecting permission under section 37 both in questions of fact and in questions of law and the order shall contain signatures of the members considering the application, and section 32 paragraph three shall apply mutatis mutandis.

Section 39. The business operator to whom permission is granted under section 37 must carry out the business within the scope, duration and conditions permitted by the Commission.

In the case where there is a violation of or failure to comply with paragraph one, the Commission shall have power to revoke the permission order under section 37 in whole or in part and may also fix the time within which compliance is required.

CHAPTER V

Initiation of an Action for Compensation

Section 40. The person suffering injury as a consequence of the violation of section 25, section 26, section 27, section 28 or section 29 may initiate an action for claiming compensation from the violator.

In initiating an action for claiming compensation under paragraph one, the Consumer Protection Commission or an association under the law on consumer protection has the power to initiate an action for claiming compensation on behalf of consumers or members of the association, as the case may be.

Section 41. If the action for claiming compensation under section 40 is not submitted to the Court within one year as from the day the person suffering the injury has or ought to have had the knowledge of the ground thereof, the right to submit the case to the Court shall lapse.

CHAPTER VI

The Appeal

Section 42. There shall be an Appellate Committee consisting of not more than seven qualified persons having knowledge and experience in law, economics, business administration or public administration appointed by the Council of Ministers as members.

The member of the Appellate Committee shall elect one member among themselves as Chairman.

The Director-General of the Department of Internal Trade shall appoint Government officials within the Department of Internal Trade to act as secretary and assistant secretaries.

Section 43. The person appointed as member of the Appellate Committee must not be under the prohibitions under section 7 and shall not be a member of the Commission.

Section 44. The Appellate Committee shall have the following powers and duties:

1. to prescribe the rules and procedure for the appeal under section 47 paragraph one;
2. to consider and decide on the appeal against an order of the Commission under section 31 or section 37;
3. to issue a summons requiring the persons concerned to give statements or furnish documents or evidence for supplementing the consideration of the appeal;
4. to issue an order suspending the execution of the order of the Commission under section 31 or section 37.

Section 45. A member of the Appellate Committee shall hold office for a term of four years. In the initial period, at the expiration of two years, three members of the Appellate Committee shall vacate office by drawing lots and such vacation of office by drawing lots shall be deemed as the vacation of office at the expiration of term.

Section 9 paragraph three and section 10 shall apply to the Appellate Committee mutatis mutandis.

Section 46. The appeal against the order of the Commission under section 31 and section 37 shall be submitted to the Appellate Committee by the person receiving the order within thirty days as from the date of the knowledge of the Commission's order.

Section 47. The rules and procedure for the appeal shall be as prescribed and published in the Government Gazette by the Appellate Committee.

The Appellate Committee shall consider and decide on the appeal within ninety days as from the date of the receipt thereof and notify the decision in writing to the person submitting the appeal, and section 36 and section 38 shall apply mutatis mutandis.

The decision of the Appellate Committee shall be final.

When the Appellate Committee has decided upon the appeal, the Commission and business operators shall comply with such decision.

CHAPTER VII

Penalties

Section 48. Any person who fails to comply with the summons issued by a specialised sub-committee, competent officials or the Appellate Committee under section 13 paragraph 3, section 19(1) or section 44(3), as the case may be, shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding five thousand Baht or to both.

Section 49. Any person who obstructs the performance of duties by the competent officials under section 19(2), (3) or (4) or section 22 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand Baht or to both.

Section 50. Any person who fails to render assistance to the competent officials under section 20, shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding two thousand Baht or to both.

Section 51. Any person who violates section 25, section 26, section 27, section 28 or section 29 or fails to comply with section 39 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding six million Baht or to both, and, in the case of the repeated commission of the offence, shall be liable to the double penalty.

Section 52. Any person who fails to comply with the order of the Commission under section 30 or section 31 or with the decision of the Appellate Committee under section 47 shall be liable to imprisonment for a term of one year to three years or to a fine of two million to six million Baht, and to a daily fine not exceeding fifty thousand Baht throughout the period of such violation.

Section 53. Any person discloses information concerning the business or operation of a business operator which, according to the ordinary course of dealing of the business operator, is the restrictive and confidential information and which such person has acquired or knew on account of the performance under this Act shall be liable to imprisonment for a term not exceeding one year, or to a fine not exceeding one hundred thousand Baht or to both, unless it is the disclosure in the performance of Government service or for the purpose of investigation or trial.

Any person who acquires or has the knowledge of any fact from the person under paragraph one and discloses such information in the manner likely to cause damage to any person shall be liable to the same penalty.

Section 54. In the case where the offender who is liable to the penalty under this Act is a juristic person, the managing director, managing partner, or person responsible for the operation of the juristic person in that particular matter shall also be liable to the penalty provided for such offence unless he can prove that such act was committed without his knowledge of consent or that he already took appropriate precaution in preventing such offence.

Section 55. The injured person in the offences under section 51 and section 54 may not institute a criminal action on his own motion but shall have the right to lodge a complaint with the Commission for consideration under this Act.

Section 56. All offences under this Act which are punishable by fine or imprisonment for a term not exceeding one year shall be under the power of the Commission to settle the cases. In exercising such power, the Commission may entrust a sub-committee, the Secretary-General or a competent official to act for him. When the offender has paid the fine in the amount settled within the specified period, the case shall be deemed settled under the provision of the Criminal Procedure Code.

Transitory Provision

Section 57. In the case where a business operator is under necessity and has carried on the acts specified in section 27(5), (6), (7), (8), (9) or (10) on the day this Act comes into force, such person shall submit an application within ninety days as from the date of the entry into force of this Act, and when the application has been submitted, such business operator may continue to carry out the acts under section 27(5), (6), (7), (8), (9) or (10) until he receives the notification of the result of the consideration of the application.

*Tentative Translation by Dr Pinai Nanakorn, Legal Officer of the Foreign Law Division, Office of the Council of State. The translation is, at this stage, hurriedly prepared in the translator's personal capacity and on a non-remunerative basis in favour to the Department of Interior Trade for use in its seminar and for academic purposes.

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