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Newsletter

THAILAND: CHANGE TO CALCULATION METHOD FOR DEFAULT INTEREST - WHAT BORROWERS AND LENDERS NEED TO KNOW

On 28 October 2020, a Bank of Thailand Notification (No. Sor Kor Sor2. 9/2563 re: calculation of default interest and the application of payment in relation to the outstanding debt (the "Notification")) amending the methods for calculation of interest was announced in the Royal Gazette. The Notification applies to all financial institutions, specialized financial institutions, personal loan and nano finance providers, leasing and hire purchase business operators, asset management companies, and companies within financial business groups operating these types of businesses.

Under the Notification, the Bank of Thailand (the "BOT") has amended the methods for calculation of interest as follows:

- Limiting the default interest rate not to exceed 3% of the normal interest rate as specified in the loan agreement** – formerly, a financial provider was allowed to use its discretion to impose default interest at any rate so long as it did not exceed the maximum amount restricted by law (i.e. 15% or greater in the case of financial institutions).
- Calculation of default interest merely on the amount that is in default** – formerly, when the borrower defaulted in paying any installment payment, the lender was able to demand the payment of default interest calculated on the entire outstanding amount, including the amount which was due and payable in the future.
- Application of proceeds when the debt is repaid by the borrower in default.** The payment shall be applied respectively to fees, default interest and the principal amount of the amount outstanding for the longest time and then to the following outstanding amounts in the same order of application – formerly, a financial provider could apply the payment to all outstanding unpaid fees, all default interest and lastly, to the principal amount.

The calculation of interest for an amount in default under (1) and (2) is only applicable to individual and small and medium sized enterprise borrowers. It will take effect on 1 April 2021. The application of proceeds under (3) is applicable to all types of borrowers (individual, small and medium sized enterprises and corporate borrowers) and will take effect on 1 July 2021.

Example: the borrower is in default for 3 installments. The borrower repays THB 10,300 from THB 30,900 of outstanding unpaid amounts.

Former: Vertical Application of Proceeds

	Fees	Interest	Principal
1 st installment	300	4,000	6,000
2 nd installment	300	4,000	6,000
3 rd installment	300	1,400 2,600 (outstanding amount)	6,000

Notification: Horizontal Application of Proceeds

	Fees	Interest	Principal
1 st installment	300 →	4,000 →	6,000 →
2 nd installment	300 →	4,000 →	6,000 →
3 rd installment	300 →	4,000 →	6,000 →

*Former method: Repayment will be applied to THB 900 fees and THB 9,400 interest without deducting any principal amount.

**New method: Repayment will be applied to THB 300 fees, THB 4,000 interest and all principal amounts of the first installment of THB 6,000.

Key Contacts



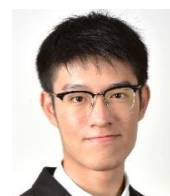
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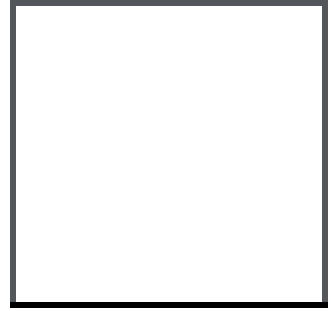
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Note that this Notification will be retroactively effective to an agreement entered into prior to the date of the Notification if there are any outstanding obligations to be performed by the parties. An exception applies to syndicated loan agreements where one of the lenders is an offshore entity and is not regulated by the BOT. By issuing this Notification, the BOT aims to minimize borrowers' burden in relation to their debt obligations, encourage fairness in the provision of financial services and reduce the amount of non-performing loans in the financial markets.

If you have any questions in relation to the issues raised above or related issues please contact the authors listed in the column on the right.



This publication is intended to highlight an overview of key issues for ease of understanding, and not for the provision of legal advice. If you have any questions about this publication, please contact your regular contact persons at Mori Hamada & Matsumoto or Chandler MHM Limited. If you should have any inquiries about the publications, or would like more information about Chandler MHM Limited, please contact bd@mhm-global.com.