



Timely Newsletter

Peer-to-Peer Lending Regulation of the Bank of Thailand

On 20 September 2018, the Notification of the Ministry of Finance regarding the Electronic Systems or Network for Credit Transactions between Private Parties was enacted to introduce guidelines for peer-to-peer lending in Thailand. Additional details on the regulation of peer-to-peer lending must be prescribed by the Bank of Thailand (“**BoT**”).

Subsequently, on 29 April 2019, the Notification of the Bank of Thailand No. 4/2562 regarding the Determination of Rules, Procedures, and Conditions for Operating Peer-to-Peer Lending Businesses, Systems and Platforms (the “**Notification**”) was announced in the Government Gazette and became effective on 30 April 2019.

This Notification facilitates lending between individuals and access to sources of funds. However, the Notification does not apply to any platform provider who is a financial institution as defined in the Financial Institutions Business Act B.E. 2551 (2008), or incorporated under specific laws.

Under the Notification, peer-to-peer (“**P2P**”) lending is defined as a credit transaction between individuals (borrowers) and individuals (investors) through electronic systems or platforms. P2P lending allows individuals to directly obtain loans from other individuals without the involvement of a financial institution.

The P2P platform will be the center of P2P lending transactions. Firstly, the borrower needs to submit the purpose and details of each loan to the P2P platform. The lender will then consider the loan purpose as it appears in the platform. If the lender agrees to lend, the lender and the borrower will enter into a loan agreement and an escrow agent will transfer the money collected from the lender to the borrower.

The Notification includes qualifications of the relevant parties as follows:

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1. **Platform Provider:** An operator wishing to be a platform provider is required to obtain a permit from the BoT and to attend a Regulatory Sandbox¹ Test. The operator must also have qualifications as follows:

- being a private company or public company incorporated in Thailand;
- having paid-up capital of not less than THB 5 million; and
- having not less than 75 per cent of shareholders being Thai nationals.

2. **Borrower:** The qualifications of the borrower are as follows:

- being a natural person who has the capacity to repay the debt;
- not being a platform provider;
- not being a director, a person who has managing powers or a major shareholder of the platform provider; and
- complying with the criteria of the Notification such as the requirement to do self-declarations.

The Borrower may not borrow more than 1.5 - 5 times his/her monthly income and not more than THB 50 million for business operations purposes.

3. **Lender:** The qualifications of the lender are as follows:

- being either a natural person or a juristic person;
- if an institutional investor, private equity trust, or venture capital business under the Notification of the Capital Market Supervisory Board regarding Offering Securities through Crowd Funding System, the lender can provide a loan without limitation; and
- other lenders can provide loans that do not exceed THB 500,000 per year.

The interest rate for a loan agreement through a P2P lending transaction must not exceed 15 per cent in accordance with the Civil and Commercial Code and the fee for the provision of

¹ A Regulatory Sandbox is a mechanism which allows new innovations to operate in a limited sphere.

a platform provision must be charged at an appropriate rate.

With the enactment of the Notification, there are now guidelines for P2P lending transactions, which provide an alternative method for obtaining loans. The Notification also facilitates access to credit by a borrower and enables lenders to decide to lend. We will continue to monitor what affects enactment of this Notification may have.

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 person(s) at Mori Hamada & Matsumoto or Chandler MHM Limited, or any of the Key Contacts listed in the far-right column.