

5. Country Report 1

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Mr. Tapasanan:

Thank you very much. I am Nat Tapasanan from the Bank of Thailand. My colleague, on the left-hand side, is from the Ministry of Finance, Fiscal Policy Office. I will be the one who gives the presentation, and he will join me on the Q&A. First of all, I would like to thank you for inviting me to join the conference. It is my pleasure to participate in this conference, and thank you for FSA and 21st COE Market Quality Project, Keio University, for kind invitation.

Today, I will share with you Thailand's experience regarding the legal framework and economic practices on financial service and consumer protection. First of all, I will give you an overview of the household financial products. Then I would like to discuss the key products: types, regulators, and consumer accessibility. I will end my presentation by giving you the ideas regarding consumer protection.

Let me begin by providing some background information on Thailand's household asset and liabilities. Looking back, you can see that household deposits, the key indicator of household savings in Thailand, surpass household debt. During the economic boom, before the 1997 crisis, household debt rose more than double, from 30,000 baht per annum, or around something like 100,000 yen per year in 1990, to around 70,000 baht in 1997, or around 230,000 yen. The figure flattened somewhat during the crisis, and began to rise again recently. The rising of household debt comes with the expansion of other retail financial services, for example credit cards, personal loans, and other electronic payment instruments. This irreversible shift away from cash-based modalities

has been beneficial for both consumers in terms of convenience, and for market participants in terms of revenue sources and credit potential for cost-saving.

Leaving deposits aside and comparing the scope of financial liabilities, bank loans are key sources of income for households, with a size accounting for up to a third of GDP. Household other assets, such as stocks and bonds, show significant expansion to gradually replace conventional deposits. Going down the layer of major bank loans to household housing debts, they accounted for more than half in terms of standing, followed by personal loans and credit cards, but these figures are nothing when compared to the size of the growth rate.

First with the credit card. The credit card expanded quite greatly before we decided to control it in 2002. The growth rate slowed down. It should be noted that personal loans jumped in growth. This is because we had new banks, and we added the data from new banks here. If we carve out the data from new banks, the growth of personal loans is still as high as 23%. The rationale behind the control of credit cards and also the personal loan is simple, and will be discussed later in the next few slides.

Comparing the loans from banks, corporate loans accounted for more than 80%, while consumer loans accounted for only 20%.

Now let me take you from the macro-picture to a micro one. In the next few slides, I want to walk you through key financial products, regulators, and also consumer access. Let us start with the capital market.

The most common products are stocks and debt instruments, where the Office of the Securities and Exchange Commission (SEC) serves as regulator. Small investors came into the market to buy and trade stock in Stock Exchange of Thailand through securities companies. For the instruments, particularly government bonds, the medium for the trade can be through banks.

Now let us turn to the money and lending market. Household financial products such as deposits, loans, definite financial products, and foreign exchange are common products available in the market in Thailand. For deposits, the Bank of Thailand is the key regulator of most deposit-taking financial institutions. Why do I say most? Because there are some special financial institutions under the Ministry of Finance taking deposit

from people as well. Those institutions are Government Savings Bank, Government Housing Bank, Bank for Agricultural and Agricultural Cooperatives. Generally, there are no conditions for consumers to have access to all deposit products offered by banks, except for the negotiable certificate of deposits (NCD), whereby the face value must not be less than 500,000 baht.

Now turn to loans. Loans granted by commercial banks are governed by the Commercial Banking Act, loans granted by other organizations such as non-banks, will be under the Civil and Commercial Code, in which the Ministry of Commerce serves as registrar; not supervisor, only registrar. In the past, regulators allowed banks and other lenders to compete for loan offering to borrowers. However, with complaints from consumers on overcharged interest rates on credit cards and unsecured personal loans mostly from non-banks and operators, the Ministry of Finance and the Bank of Thailand stepped in to protect consumers by using Thai regulations, using special power from an old law called “Announcement of National Executive Council No. 58.”

Key controls for credit cards since 2002 include minimum income of card applicant, credit line, and interest rate ceiling. As lender changed focus from credit card to personal loan to avoid regulations, the Ministry of Finance and the Bank of Thailand, under the same special laws, decided to make unsecured personal loans a licensed business and capped interest charge as well.

For housing loans, because of the need from the people, we normally do not regulate, do not control. However, we tend to use the selected control in the past couples of years. It does not come from the idea or the issue of consumer protection, but from the economic platform. A lesson learnt from the bubble burst on mortgage industry during the 1997 crisis prompted the Bank of Thailand to avert speculative motives of high-priced houses or real-estates to avoid another bubble. So for a house worth more than 10 million baht, banks can allow only 70% of loans; you need to pay the down payment of 30% in cash.

Hire purchase and leasing services are other important household products. The services can be offered both by banks and non-banks. Banks cannot take transactions, only with moveable properties, and they have to comply with the Bank of Thailand regulations. Non-banks, however, can operate services with all types of properties under the Civil and Commercial Code.

For electronic financial businesses, banks are the only players to provide e-banking with wide ranges of services such as ATM, electronic money transfer, internet banking, telephone banking through baseline, through phone, and mobile banking through cellular phone. E-money, however, can be operated both by banks and non-banks. As of now, only pre-paid cards—whereby money is stored for future payments—is the only product offered in Thailand.

Two less active financial products for household are foreign exchange and private funds. The Bank of Thailand is the regulator of foreign exchange transaction, whereby the fund business is supervised by the Bank of Thailand and the Office of Securities and Exchange Commission.

For insurance, both life and non-life insurance in Thailand are regulated by the Department of Insurance, Ministry of Commerce. Under the Life Insurance and Non-life Insurance Act of 1992, the insurance operators have to comply with ministerial regulations and notification of the Ministry of Commerce, and also the notification of the Department of Insurance.

I took half of my time of my presentation for the overview and the products. I want to spend the final half of the time talking about the key topic: consumer protection for the financial products.

First is the capital market. In the capital market, the Securities Investor Protection Fund has been established to protect stock traders. Any irregularities regarding the trading, consumer can file complaint to SEC, the Office of Securities and Exchange Commission, through several channels—Internet, mail, fax, and phone. With regards to protecting debt instrument, the Office of Securities and Exchange Commission requires transparent disclosure of information and possible risk to consumer. The office also requires that consumer funds and assets be segregated from those of brokers.

Now, we look at products in the money and lending market. Starting with deposits—at the current stage, depositors in Thailand are fully protected by the government. All deposit accounts receive a blanket guarantee by the Financial Institutions Development Fund (FIDF), which is a government entity. The proceeds to cover FIDF guarantee comes from an annual 0.4% contribution of fee of a total deposit outstanding from each bank. The protection in general term will come into effect once a bank failure occurs,

and the depositor will receive a full amount of principle and interest from the FIDF within 30 days. In the near future, a Deposit Insurance Agency (DIA) will be established under the Deposit Insurance Act. The agency will replace the FIDF as depositors' guarantor. Under the Deposit Insurance Scheme, only small depositors will be protected. Now the draft of the Act has passed the consideration of the Council of State, which acts as the government legal advisor. If the government agrees, the draft bill will be submitted to the Parliament for consideration before becoming law. When the law is in effect, we plan for transitional period to allow full banking guarantee to gradually be shifted to the scheme.

Let us turn our attention to loans. Before I talk about the protection of borrowers of consumer loans, I would like to give an impression that during the past five or six years, authorities—both the Bank of Thailand and the Ministry of Finance—have stepped up efforts to promote governance. This slide gives an idea of guidelines of loans regarding consumer protection. Basically, we require that the banks and financial institutions establish and maintain a clear procedure for handling customer complaints as well as promote information disclosure on terms and conditions of financial services. Details of consumer loan contracts should also be disclosed.

Now I will move down the layer to the consumer loan. As mentioned in the earlier slide, to protect consumers, personal loans and credit card loans are subject by law to the ceiling of interest rate, penalty, fees, and other charges. For unsecured personal loans, limit of the ceiling of interest rate, penalty, fees, and other charges are set at no more than 28% per annum, while credit card interest rate ceiling cannot exceed 18% per annum. The Bank of Thailand has also allowed credit card operators to charge consumers who withdraw a capped advance at no more than 3% of a drawn amount. In the past, some operators charge a fixed amount. If you just withdraw an amount of something like 1,000 baht, you will be charged at 200 baht. It is very high. If you want to withdraw 3,000 baht, you are still charged 200 baht, so it seemed to be unfair. So to protect the consumer, the BOT set that the charge will not exceed 3% of the drawn amount.

Getting back to the 18% and 28% cap, the ceiling came from the discussion with industry to compensate the risk of clean loans such as credit cards and personal loans, and moved down the interest rate to the cap level, 18% and 28%. Operators agree to cut operating costs such as advertisements and pre-sale and after-sale promotion. Though

interest rates charged are different, the Bank of Thailand has set common requirements. For consumer protection on both personal loans and credit card loans, operators must meet the requirements shown: disclosure of key information; changes of interest rate, fees and service charges need Bank of Thailand approval; permission to charge actual but reasonable debt collection expenses; and punishment for unrealistic and exaggerated advertisements.

As for e-banking and e-money business, the Bank of Thailand requires that operators comply with the Guidelines for Security of Electronic Services and Practicing Guidelines for IT outsourcing, as well as the principles of corporate governance. Moreover, banks have to be responsible for fraud involving electronic fund transfer. They have to set the scope of responsibility of e-money—issuer, retailer, and consumer—in the event of fraud or loss of cards. They have to disclose all service fees and have to establish refund policies. Collectively, we believe that these guidelines should help promote sound and ethical governance practices that should enhance consumer protection. Another objective of regulatory directive is to ensure a level playing field in the payment card business by bringing both non-bank and bank service providers and their common regulatory framework.

For insurance, key guidelines on consumer protection are focused on reserve requirement, establishment of complaint channel at the Department of Insurance, disclosure requirements, and clear insurance policy.

I will take this opportunity to highlight on the Bank of Thailand and private sector efforts to push for the awareness guideline of consumer cards and electronic services. As today, fraud on consumer card and some electronic services are evident; it is an important task for risk management on the part of operators to develop a resilient security and fraud management system. In addition, operators can develop more qualitative processes, such as use of audit trail process of customer transaction, and continue monitoring of technological development, and detect new forms of fraud. A well-functioning consumer complaints unit should be established to help to solve legal problems and alert service providers with information of highly-suspicious activities in a timely manner.

Certainly, cardholders, just like you and me, can also help reduce electronic services fraud by simply following awareness guidelines. Do not let cards out of sight; do not

recklessly discard receipts of card transaction; check receipts against statement; report lost or stolen cards to card issuer immediately; do not give card details through any suspicious channels; do not write down or disclose card Personal Identification Number.

Lastly, I want to say that in Thailand, not only regulators of financial products have direct responsibility to oversee the consumer protection issue. There is another entity, the Office of the Consumer Protection Board, to be on hand to receive and help solve any violation of consumer rights. The Office of the Consumer Protection Board will either handle complaints on its own or ask for cooperation with the involved regulatory bodies. This is my presentation. Thank you for your attention.

Question:

I have a couple of questions. In your handout on page four, there is a chart about the financial liabilities and assets of the household sector, and each says the bond market is quite large compared to equity and bank loans. I thought that in Thailand, the bank loan market may be much bigger compared to the equity and bond market. So that is the first question: why is this so large, and why has it been growing so much? Because the bond market is very important in the Asian bond market, as it creates initiative.

Secondly, in the next chart, page five, you have talked about bank loans and personal loans. Especially personal loans have been growing very rapidly in these couple of years, so I was wondering, is there any problem for consumers and lenders relations, and a related issue is, are they licensed? Are they different from bank regulation and consumer finance regulations? So in other words, in Japan, banks have to obtain license, and consumer credit companies can start without any license but registration is required. So are there any kind of entry regulations in banks and consumer companies?

Last one is you have mainly talked about the deposit market, loan market, and insurance market. There was no presentation about the capital market—securities and bonds. So if you have some regulations or rules in securities market, I would very much appreciate it if you can share the information with us.

Mr. Tapasanan:

Let me explain the third question first. The regulation regarding capital market, regarding consumer protection, is on slide number 15. Regarding personal loans and credit cards, I explained in my presentation that, normally, we let the market decide, but when the consumer complains regarding overcharged interest rates—and actually, not only overcharged interest rates, but also an unorthodox debt-collection—the Bank of Thailand and the Ministry of Finance agree to use a special law, as mentioned above, the National Executive Law, issued by the era of dictatorship to make that credit card business and personal loan business a licensed business, and it will be under the supervision of both the Ministry of Finance and Bank of Thailand.

Regarding the size of the capital market, the stocks, when I tried to explain in slide number three, I used the market capitalization to compare with that loan, and you are correct—bank loans in Thailand are quite large. But in the recent surge of the stock market in Thailand lately, the capital market, capitalization increased quite greatly. It is expected in five years' time, it may perhaps be on a par with bank loans.

Mr. Suwanaporn:

May I just add to Mr. Nat's explanation regarding your question to whether or not the non-bank operators have to face the same kind of regulation with the banks? Yes, with this special law, they would stipulate that the non-banks, when they want to do credit card or personal loans or consumer lending business, they need to get licenses from Bank of Thailand and Ministry of Finance, and there are certain rules and regulations that they have to comply with. They have to have minimum capital requirement, they need to meet minimum certain standard, and that makes it on par with the bank side.

Moderator:

Can I ask you one question from myself? On page 12 or 20, you talked about e-money and e-banking. You talked about guidelines, which is on the page 20 slide. We have Dr. Yokoi from London University today, and in the United Kingdom too, under the EU directive, electronic money guidelines have been prepared and some of them have been legalized. There are so many guidelines out there, but in making those guidelines, did you look at the cases of other countries first in making your own guidelines? E-money and e-banking—I have not seen many of them in Thailand myself, but how prevalent

have those services become in Thailand, and do you have any future outlook for these?
Thank you.

Mr. Tapasanan:

Electronic banking and business in Thailand have just started. I would say that it is not popular, and only few banks and non-banks offer operations. But when talking about the e-banking, e-business, we should look at both sides. First operators—I would say that the majority of operators are ready to offer products and services regarding e-banking and e-money on electronic service, but it depends on the consumer. You need to have hardware. You need to learn how to use it, and I would say that in the next couple of years, this type of business will not be expanded much. However, with the technology and advance in education regarding electronics, I would say that in the medium term—three to five years—these services will replace conventional products.

Moderator:

Well then, there is one thing I cannot understand clearly. In making guidelines in your country, did you look at examples of other countries?

Mr. Tapasanan:

Mostly from European countries.

Question:

The first is, I have noticed that in some cases, you share responsibility between different regulators. Is there a rationale behind how you do this, and is there a coordination scheme that you have drawn up? The other thing is that on deposit insurance, I have noticed that you have now a bill with the parliament that you are hoping to pass, but I was wondering if the blanket guarantee that you presently have is a scheme that you have traditionally had, or is it a result of perhaps the crisis in 1997, 1998? What sort of co-insurance—because you were saying that it is partial guarantee apply—what co-insurance limit are you hoping to have passed through the parliament? The third point is that personal loans... I guess it is consumer credit. You have a 28% ceiling. Is it economical for consumer credit companies to have 28% ceiling on them? I mean, is it

viable for them at this rate, and does it actually discourage them from offering loans to unsuitable creditors?

Mr. Tapasanan:

Again, I would like to answer the third question first, because I just remember the last question, and I think I forgot the first two. For the interest rate ceiling, both credit cards and personal loans—credit card is 18% and personal loan is 28%. Talk about the credit card first. Normally, banks offer credit card loans at the rate of around something like 7% to 15%, but non-banks operators—before they were licensed or be under the law—they charged consumers as high as 30-something percent, up to something like 48%. But the real trouble and the complaints that we received from the public is the default rate. The default rate from both banks and non-banks are charged as high as 80%. That is why we stepped in and controlled.

Regarding personal loans, it is the same story. Normally, banks offer personal loans for unsecured objectives, for non-objective purposes, they charge you something like under 20%. While non-banks charge around 30 per cent or more? The real pain for consumers is the service fee. There are various types of service fees. The complaints normally did not come from the interest charge, because for market rate from the loan shark or for the acquaintance lender, it can be something like 2% to 5% a month, and this type of rate is still acceptable in Thailand, particularly in the urban areas. So we step in, and try to control the rate. But we receive complaints from non-banks that 28% is still too low to operate, because there is high risk for an unsecured loan. That is why we force them to agree in principle that for any costs that you can cut, please do so. So we do not allow them to use pre-sale and after-sale promotions, and try to control that.

Regarding the second question, perhaps, Mr. Suwanaporn would like to answer that because it is regarding deposit insurance. It is talking about what would be in the draft of the deposit insurance. Talking about the limited guarantee, actually I do not know if I have the power to say what type of limits is in the deposit insurance. Let us say something like this. The idea about the ceiling for the guarantee will be for small investors, and we set a figure that covers more than 90% of deposits that count, but the amount of the insurance that DIA will have to cover will be around 48%. It means that 52% which will be not guaranteed will be for the large depositors.

The first question is about the cooperation among regulators. The Bank of Thailand and the Office of Securities and Exchange Commission are under Minister of Finance, not Ministry of Finance. Sorry about that. So we do not have any problems at all. The secretary-general of the SEC serves as the board of BOT, and also the Bank of Thailand governor serves as the deputy chairman of the SEC board, except for the insurance because insurance is under the Ministry of Commerce, so I think that it is quite difficult for cooperation. But during the past five or six years, we have a committee to oversee bank supervision. We invite the Director-General of the Department of Insurance to sit on our board, so we work closely through that channel.

Mr. Suwanaporn:

Just want to make some clarifications, so try to give the best answer. Regarding the third question that you asked, regarding the limit, interest rate ceiling, and the cap on interest rate that personal loan companies, the consumer lending business can charge, together we came up with 28% limit, and the decision to place the cap is weighted heavily on the consumer protection side. In order to try to curb unfair charges on the consumers, we decided to go ahead with that cap.

We realized that there may be some side effects on the operators, but they would have to adjust the rate to operate in this environment. We know that a lot of countries, especially in Europe, do not have this kind of limit, because they are afraid that small borrowers or consumers may be driven out of the market because operators may be forced to try to target higher-income customers. In this respect, because of low-income customers posing high risks, high default rate, operators may try to focus on high end customers, and that may drive out the small-time borrowers to the black market. Therefore, operators need to adjust themselves; they have to become careful and cautious about default risk and excessive lending. That is something that we need to try to adjust, to cope with the consequences. But we place more emphasis on consumer protection.

Regarding the second question on deposit insurance, I think Mr. Nat rightly said that we try to come up with guidelines, with direction, that would try to serve the majority of the Thai people. Right now, the draft of the law has been more or less completed. It is under the review of the state legal department, and once it is ready, it will be submitted to the parliament for approval.

Regarding the first question on why in Thailand we have so many supervisors, regulators. This is again unlike in Japan and in the United Kingdom, where they have

only one single regulator. For some reason that we could not explain rationally, we just had to have this kind of system, and we could not explain as well why supervision of the insurance business is under different ministries which are not dealing with money or financial transactions. Right now, at the Ministry of Finance, we are looking for ways to try to see how cooperation can be made at the extent possible so as to ensure unified, ensure the same kind of standards, and try to make the best use of the existing framework. Thank you.

Question:

Referring to your slide on page four, I also am quite surprised to see the high proportion of bonds and equities in household portfolios. In response to your question from Prof. Yoshino, I gathered that you have made a rather quick transition from a bank-led system to a capital system. Prof. Kanda, in his key-note speech, suggested such a transition might be very costly, and I am wondering what has been the Thai experience. Have these regulatory and enforcement costs really been high in making such a transition? What kind of problems have you encountered in this transition from a regulatory perspective?

Mr. Suwanaporn:

What kind of problems that we make a transition from bank-led, bank-based financial system into more...

Question:

Right. And am I correct that it has been a rather rapid transition? Has it been a rapid transition?

Mr. Suwanaporn:

It has been a rapid transition movement in the past few years. We have not foreseen... we have not faced major disruption. So far, the transition has been quite smooth. The growth in equity market and bond market sometimes could be erratic, because you look at equity market—it is based on market capitalization, value, so it depends on the sentiment, the confidence, and the demand in the market. So it could be, even that is not

the real money that is available, but it is the notional amount of capitalization of the market value, the whole stock market.

Regarding bond market, because in the past few years, the government has been relentlessly trying to improve the bond market in terms of coming up with a good supply of bond issuer, and also trying to put in place necessary infrastructure to promote bond market development. But you are right. We may have some work to do in terms of trying to promote governance, trying to promote regulation on the capital market side. Because this is direct financing, we need to make sure that the proper checks and balances are put in place, and that the monitoring system and also this disclosure system are well and sufficient to ensure fair and efficient financial intermediation.

Mr. Tapasanan:

I would like to add that after the crisis, banks were reluctant to lend, because of various situations. So there was a need for money; have to find somewhere to get money. They did it through the capital market. They never used to issue bonds before, but they had to because of the banks' problem, the NPL as high as nearly half of assets, and banks are afraid to lend because they do not want to have a new NPL. The surge of corporate bonds did come from the past couples of years. Now banks loans began to rise again last year to around 6%. And you will see that this type of activity will be continuing there.

Question:

I have a question about the consumer loan and about the consumer protection bureau. The first question is about the consumer loan. We do have an upper limit on the interest rate for consumer loans, but that cap is not observed, and people say that the cap might be too high. This is being discussed at a committee of FSA chaired by Mr. Yoshino and I myself am a member. Even if there is a cap on the interest rate, and even if the cap is lowered, the problem of consumers' overborrowing and lenders' overlending will not go away. In order to manage the problem well, we are trying to establish a system to register with a specialized institution personal information such as how much a consumer has borrowed from which institutions and how s/he is repaying, in order to solve the problem of overborrowing and overlending. It has not been functioning well, however. Do you have any system for managing the personal credit information in Thailand?

You talked about the restrictions on advertisement. What kind of advertisement is subject to restrictions? In Japan, the problem is how to control advertisement on TV and newspapers, as well as leaflets and so forth distributed on the street. Please tell us about your regulations.

Thirdly, you talked about the consumer protection bureau. I understand that if there are problems between the consumers and operators, the consumer bureau may step in. What is the nature of the consumer protection bureau within the government? Is it a body independent from any other governmental agency, or is it attached to some agency in charge of financial matters, for example, the Ministry of Finance?

Mr. Tapasanan:

Consumer Protection Board is a government agency, and they receive complaints from consumers; any kinds of complaints, not just only financial services, any complaints. Even a new automobile you have just bought breaks down, you can bring that car and smash in front of the office to make a protest. Regarding the worry or the concern regarding on the size of lending, the size of loans for personal purposes, actually there is also a limit. Any borrower, any credit card borrower, any personal loan borrowers are limited to only five times of their income. So if you earn 100,000 yen a month, you can borrow up to 500,000 yen a month.