

**Protocol to Implement the Seventh Package of Commitment on Financial Services
under the ASEAN Framework Agreement on Services**

**THAILAND
SCHEDULE OF SPECIFIC COMMITMENTS**

THAILAND

SCHEDULE OF HORIZONTAL COMMITMENTS UNDER AFAS

Modes of Supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
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Horizontal Commitments Applicable to Financial Services

All Sectors and Subsectors included in this schedule	<p>1), 2), 3) With regard to the scope of operation and types of financial services that can be provided, each type of financial institution will be permitted to operate the sector or subsector of banking and other financial services only to the extent that their respective governing legislation permit them to do so.</p> <p>3) Except representative offices and branches, commercial presence in financial services in this schedule is permitted only through a limited liability company or a public limited company which is registered in Thailand.</p> <p>Commercial presence in financial services in this schedule shall meet the conditions stipulated in the Foreign Business Act and related laws and regulations.</p> <p>Unless explicitly provided otherwise in the specific commitment, foreign equity participation must not exceed 49 percent of the registered capital.</p> <p>4) Temporary movement of natural persons is <u>unbound except</u> in the following categories:</p> <p>I. Business Visitor : A natural person who stays in Thailand for the purpose of participating in business meetings or contacts, entering into contract to sell or purchase services,</p>	<p>1), 2), 3) With regard to the scope of operation and types of financial services that can be provided, each type of financial institution will be permitted to operate the sector or subsector of banking and other financial services only to the extent that their respective governing legislation permit them to do so.</p> <p>3) For commercial entity incorporated pursuant to Thailand's laws and regulations with foreign equity participation not exceeding 49 percent of the registered capital: None</p> <p>Commercial presence which is owned or controlled by foreigner(s) may be subject to certain requirements as stipulated in related laws and regulations, including the Foreign Business Act.</p> <p>Others: Unbound, including subsidies</p> <p>4) Unbound, except as provided in the MA column</p>	
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	<p>visiting of business establishments or other similar activities and entering with a purpose to establish a commercial presence in Thailand. Such temporary entry will be permitted for an initial period of not more than 90 days and may be extended for a further period of not more than one year, provided that the criteria stipulated by the Immigration Bureau and the Department of Employment have been satisfied.</p> <p>II. Intra-corporate Transferee : A corporate transferee of the managerial or executive level or a specialist, provided that such person has been employed by the company concerned outside Thailand for a period of not less than one year immediately preceding the date of his or her application for admission and has satisfied the criteria stipulated by the Immigration Bureau and the criteria for management needs¹ stipulated by the Department of Employment. The temporary stay is limited to a one year period and may be extended for a further three terms of not more than one year each.</p> <p>3), 4) Acquisition and usage of land: according to the Land Code of Thailand, foreign nationals or domestic companies which are deemed foreigners are not allowed to</p>		

¹ In considering managerial needs, the following facts shall be taken into consideration by the relevant authority, namely: (1) size of fully paid-up capital; (2) employment creation; (3) extent of foreign investment; (4) export promotion; (5) transfer of technology; (6) special needs of the management.

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	<p>purchase or own land in Thailand. However, they may lease land and own buildings. Foreigners are also allowed to own part of condominium units under the laws and regulations governing the ownership of condominiums.</p>	<p>3), 4) Acquisition and usage of land: according to the Land Code of Thailand, foreign nationals or domestic companies which are deemed foreigners are not allowed to purchase or own land in Thailand. However, they may lease land and own buildings. Foreigners are also allowed to own part of condominium units under the laws and regulations governing the ownership of condominiums.</p>	

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A. Insurance including reinsurance and retrocession			
Life insurance services (CPC 81211)	<p>1) None</p> <p>2) None</p> <p>3) a) New establishment is subject to license approval by the Minister of Finance with the consent of the Cabinet.</p> <p>b) (i) The amount of shares held by persons of Thai nationality shall not be less than 75 percent of the total amount of voting shares sold.</p> <p>(ii) In the case where the Insurance Committee deems appropriate, the Insurance Committee may grant permission that persons of non-Thai nationality hold shares up to 49 percent of the total amount of voting shares sold.</p> <p>(iii) In the case where the condition or operation of the insurance company is in a state that may cause damage to the insureds or to the public, or in order to promote the strength of the insurance company, or to strengthen the stability of the life insurance business, the Minister of Finance, with the advice of the Insurance</p>	<p>1) None</p> <p>2) Life insurance premium is tax deductible up to a certain amount for holders of policies issued by local companies</p> <p>3) None</p>	

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	<p>Committee, has the power to relax the requirements of the shareholding other than those prescribed in b) (ii). However, such allowance will be subject to rules, procedures and conditions or timeframes as prescribed by the Insurance Committee or the Minister of Finance as the case may be.</p> <p>c) (i) At least three-fourths of the directors must be Thai nationality.</p> <p>(ii) In the case where the Insurance Committee deems appropriate, the Insurance Committee may permit a proportion of non-Thai nationality of more than one-quarters but shall not reach one half of the total number of directors.</p> <p>(iii) In the case where the condition or operation of the insurance company is in a state that may cause damage to the insureds or to the public, or in order to promote the strength of the insurance company, or to strengthen the stability of the life insurance business, the Minister of Finance, with the advice of the Insurance Committee, has the power to relax the requirements of the directorship other than those prescribed in c) (ii). However, such allowance will be subject to rules, procedures and conditions or timeframes as prescribed by the Insurance Committee or the</p>		

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	<p>Minister of Finance as the case may be.</p> <p>4) Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner.</p>	<p>4) None</p>	
Non-life insurance services (CPC 8129)	<p>1) Unbound except for international marine, aviation and transit and all classes of reinsurance</p> <p>2) None</p> <p>3) a) New establishment is subject to license approval by the Minister of Finance with the consent of the Cabinet.</p> <p>b) (i) The amount of shares held by persons of Thai nationality shall not be less than 75 percent of the total amount of voting shares sold.</p> <p>(ii) In the case where the Insurance Committee deems appropriate, the Insurance Committee may grant permission that persons of non-Thai nationality hold shares up to 49 percent of the total amount of voting shares sold.</p> <p>(iii) In the case where the condition or operation of the insurance company is in a state that may cause damage to</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) None</p>	

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	<p>the insureds or to the public, or in order to promote the strength of the insurance company, or to strengthen the stability of the non-life insurance business, the Minister of Finance, with the advice of the Insurance Committee, has the power to relax the requirements of the shareholding other than those prescribed in b) (ii). However, such allowance will be subject to rules, procedures and conditions or timeframes as prescribed by the Insurance Committee or the Minister of Finance as the case maybe.</p> <p>c) (i) At least three-fourths of the directors must be Thai nationality.</p> <p>(ii) In the case where the Insurance Committee deems appropriate, the Insurance Committee may permit a proportion of non-Thai nationality of more than one-quarters but shall not reach one half of the total number of directors.</p> <p>(iii) In the case where the condition or operation of the insurance company is in a state that may cause damage to the insureds or to the public, or in order to promote the strength of the insurance company, or to strengthen the stability of the non-life insurance business, the Minister of Finance, with the advice of the Insurance Committee, has the power to relax the</p>		

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	<p>requirements of the directorship other than those prescribed in c) (ii). However, such allowance will be subject to rules, procedures and conditions or timeframes as prescribed by the Insurance Committee or the Minister of Finance as the case may be.</p> <p>4) Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner</p>	<p>4) None</p>	
<p>Services auxiliary to insurance (excluding pension funding services)</p> <p>Insurance broking and agency services (CPC 81401) (Brokers shall not induce, advise or do any acts so as to cause any person to enter into insurance contracts with insurers abroad, except for reinsurance contracts)</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) Foreign equity participation not to exceed 49 per cent.</p> <p>4) a) Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner b) Unbound for individual broker and agent.</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) No limitation as long as foreign equity participation does not exceed 49 per cent</p> <p>4) None</p>	
Insurance consultancy services (CPC 81402)	<p>1) None</p> <p>2) None</p> <p>3) None other than that indicated in the horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) No limitation as long as foreign equity participation does not exceed 49 per cent</p>	

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	4) Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner.	4) None	
Average and loss adjustment services (CPC 81403)	1) None 2) None 3) None other than that indicated in the horizontal section. 4) Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner.	1) None 2) None 3) No limitation as long as foreign equity participation does not exceed 49 per cent 4) None	
Actuarial services (CPC 81404)	1) None 2) None 3) None other than that indicated in the horizontal section. 4) Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner.	1) None 2) None 3) No limitation as long as foreign equity participation does not exceed 49 per cent 4) None	

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B. Banking and Other Financial Services			
Acceptance of deposits and other repayable funds from the public	1) None for financial advisory and financial data processing. Unbound for all other services	1) None	
Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction	2) None for financial advisory and financial data processing. Unbound for all other services	2) None	
Financial leasing	3) a) <u>Representative office-of banks</u> None	3) a) <u>Representative office of banks</u> None	
Payment and money transmission services including credit, charge and debit cards, travelers cheques and bankers drafts	b) <u>Foreign bank branches</u> I. None for existing foreign bank branches under present shareholding structure. New establishment is subject to licence approved by the Minister of Finance with the consent of the Cabinet.	b) <u>Foreign bank branches</u> None, except as indicated in the market access column	
Guarantees and commitments			
Trading for own account or for account of customers ² in the following:	II. ATM operations permitted under the following conditions only: i) joining ATM pools operated by Thai banks; or ii) operation within own premises or sharing the facilities with other commercial banks in Thailand.		
(A) Money market instruments (B) Foreign exchange (D) Exchange rate and interest rate instruments (E) Transferable securities			
Participation in issues of all kinds of securities, including under-	III. Existing foreign banks which already had the first branch office in Thailand prior to July 1995 will each be permitted to open no more than two		

² The commitments for Securities Companies under this subsector are separately listed below.

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<p>writing and placement as agent (whether publicly or privately) and provision of services related to such issues³</p> <p>Asset management⁴ as follows:</p> <ul style="list-style-type: none"> - cash or portfolio management - collective investment management - custodian and depository services <p>Advisory, intermediation and other auxiliary financial services⁵</p> <p>Provision and transfer of financial information, and financial data processing and related software</p>	<p>additional branches.</p> <p>IV. None for participation in cheque clearing and settlement system.</p> <p>c) <u>Locally incorporated banks</u></p> <p>I. Market access limited to the acquisition of shares of existing banks.</p> <p>II. (i) The amount of shares held by persons of Thai nationality shall not be less than 75 percent of the total amount of voting shares sold. Combined shareholding of an individual and his/her related persons shall not exceed 10 percent of total number of shares sold⁶, unless otherwise permitted by the Bank of Thailand</p> <p>(ii) In the case where the Bank of Thailand deems appropriate, the Bank of Thailand may grant permission that persons of non-Thai nationality hold shares up to 49 percent of the total amount of voting shares sold.</p> <p>(iii) In the case where it is necessary to rectify the operation or to</p>	<p>c) <u>Locally incorporated banks</u></p> <p>None, except as indicated in the market access column.</p>	

³ The commitments for Securities Companies under this subsector are separately listed below.

⁴ The commitments for Asset Management Companies under this subsector are separately listed below.

⁵ The commitments on Investment Advisory for Securities Companies under this subsector are separately listed below.

⁶ Total number of shares sold include voting and non-voting shares

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	<p>strengthen the stability of any locally incorporated bank or for the purpose of the financial institutions system stability, the Finance Minister with the recommendation of the Bank of Thailand shall have the power to relax the requirement of the shareholding other than those prescribed in (c) II (ii). Such equity participation will be authorized for a period of up to 10 years, with foreign shareholders who enter in this period being grandfathered thereafter with respect to the absolute amount of their equity holding.</p> <p>III. (i) At least three-fourths of the directors must be of Thai nationality.</p> <p>(ii) In the case where the Bank of Thailand deems appropriate, The Bank of Thailand may permit a proportion of non-Thai nationality directors of more than one-quarters but shall not reach one half of the total number of directors.</p> <p>(iii) In the case where it is necessary to rectify the operation or to strengthen the stability of any locally incorporated bank or for the purpose of the financial institution system stability, the Finance Minister with the recommendation of the Bank of Thailand shall have the power to relax the requirement of the directorship other than those</p>		

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	<p>prescribed in (c) III (ii) above. Such relaxation may be granted with rule and time clause.</p> <p>d) <u>Financial leasing services</u></p> <p>Can only be provided by leasing companies which are subject to maximum foreign equity participation of 49 per cent of paid-up registered capital, or by finance companies which are subject to maximum foreign equity participation of 25 per cent of paid-up registered capital.</p> <p>e) <u>Factoring services</u></p> <p>Can only be provided by factoring companies which are subject to maximum foreign equity participation of 49 per cent of paid-up registered capital, or by finance companies which are subject to maximum foreign equity participation of 25 per cent of paid-up registered capital.</p> <p>f) <u>Credit, charge and debit cards</u></p> <p>Credit, charge and debit cards can only be provided by companies which are subject to maximum foreign equity participation of 49 percent of paid-up registered capital or locally incorporated banks and foreign bank branches.</p> <p>The conduct of businesses under d), e) and f) will be subject to licensing and</p>	<p>d) <u>Financial leasing services</u></p> <p>None</p> <p>e) <u>Factoring services</u></p> <p>None</p> <p>f) <u>Credit, charge and debit cards</u></p> <p>None</p>	

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	<p>regulations to be announced.</p> <p>4) For banks, representative offices and finance companies, no quantitative limit applies for ASEAN nationals. Approval shall be granted based on foreign services provider's business plans and needs.</p>	4) None	
<p><u>For Securities Companies⁷:</u></p> <ul style="list-style-type: none"> - securities brokerage and dealing - derivatives brokerage and dealing - securities borrowing and lending <p>Trading for own account, or for account of customers in the following: (C) derivative products incl., but not limited to, futures and options (E) transferable securities</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) Unbound except:</p> <ul style="list-style-type: none"> I. For representative offices: none II. For licensed securities company: foreign equity participation can be allowed up to 100 percent of paid-up capital. <p>4) As indicated in the horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) As indicated in the horizontal section.</p>	

⁷ Securities companies mean securities companies which are not commercial banks and insurance companies.

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<p><u>For Securities Companies⁷:</u> Securities Underwriting</p> <p>Participation in issues of all kinds of securities, including underwriting and placement as agents (whether publicly or privately) and provision of services related to such issues</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) Unbound except:</p> <p style="padding-left: 40px;">I. For representative offices: none</p> <p style="padding-left: 40px;">II. For licensed securities company: foreign equity participation can be allowed up to 100 percent of paid-up capital.</p> <p>4) As indicated in the horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) As indicated in the horizontal section.</p>	

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<p><u>For Asset Management Companies:</u></p> <ul style="list-style-type: none"> - mutual fund management - private fund management - derivatives fund management - venture capital management <p>Asset management</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) Unbound except:</p> <p>I. For representative offices: none</p> <p>II. For asset management companies: foreign equity participation can be allowed up to 100 percent of paid-up capital. However, during the first five years after the license has been granted, at least 50 percent of the paid-up capital of the asset management company must be held by financial institutions established under Thai law⁸.</p> <p>4) As indicated in the horizontal section.</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>4) As indicated in the horizontal section.</p>	

⁸ Financial institutions established under Thai law, in this section, mean securities companies, commercial banks, life insurance companies, and specialized financial institutions established under specific law.

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<u>For Securities Companies⁷</u> Advisory, Intermediation and Other Auxiliary Financial Services: Investment Advisory	1) Unbound 2) None 3) Unbound except: I. For representative offices: none II. For securities companies: a) foreign equity participation can be allowed up to 100 percent of paid-up capital. b) License may be granted to financial institutions licensed under Thai Laws, and a limited company which is newly established. 4) As indicated in the horizontal section.	1) None 2) None 3) None 4) As indicated in the horizontal section.	
Other auxiliary financial services			
Credit card services (CPC 81133) (Mobilizing funds from the public is prohibited, unless licensed under a financial law)	1) None 2) None 3) a) As indicated in B 3) (f) above. b) Financial institutions must obtain prior approval from the Bank of Thailand 4) As indicated in the horizontal section	1) None 2) None 3) No limitation as long as foreign equity participation does not exceed 49 per cent 4) None	

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Financial consultancy services (CPC 81332)	1) Unbound 2) None 3) None other than that indicated in the horizontal section 4) As indicated in the horizontal section	1) None 2) None 3) No limitation as long as foreign equity participation does not exceed 49 per cent 4) None	