

SHARE LENDING CIRCLE ACT, B.E. 2534 (1991)

BHUMIBOL ADULYADEJ, REX;

Given on the 13th Day of July B.E. 2534 (1991)¹;

Being the 46th Year of the Present Reign

His Majesty the King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on *Share Lending Circle*,

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly as follows:

Section 1. This Act is called the “*Share Lending Circle Act, B.E. 2534 (1991)*”.

Section 2. This Act shall come into force on the day following the date of its publication in the Royal Thai Government Gazette.

¹ Translated byunder contract for the Office of the Council of State of Thailand’s Law for ASEAN project.- Initial version – pending review and approval.

Section 3. All other laws, rules and by-laws in so far as they have already been provided herein, or are contrary to or inconsistent with the provisions of this Act, shall be replaced by this Act.

Section 4. In this Act,

“*Share Lending Circle*” means a practice whereby at least three persons agree to be members of a *Share Lending Circle*, all of whom have a duty to contribute, on a regular basis, money or any other kind of assets to a pool of funds. At every round, one of the members of the *Share Lending Circle* will receive the pooled fund, either by way of bidding or in any other way. This term shall also include other types of capital raising as prescribed in the Ministerial Regulation;

“Juristic Person” shall include non-registered ordinary partnership;

“Competent official” means a person appointed by the Minister to execute this Act;

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

Section 5. No juristic person shall be head or organizer of a *Share Lending Circle*.

Section 6. No physical person shall be head or organizer of *Share* Lending Circles which have one of the following characteristics:

- (1) Be head or organizer of more than three *Share* Lending Circles;
- (2) The total number of members of all *Share* Lending Circles exceeds 30 persons;
- (3) The total pooled funds of all *Share* Lending Circles for each round exceed the amount prescribed in the Ministerial Regulation;
- (4) The head or organizer of *Share* Lending Circles receives benefits other than the right to receive the pooled fund in one of the rounds without paying interest.

For the purpose of this Section, a person who promises to pay money or any other kind of assets on behalf of the head or organizer of a *Share* Lending Circle, shall also be deemed as head or organizer of such *Share* Lending Circle.

Section 7. The provision of Section 6 shall not prejudice the right of a member of the *Share* Lending Circle to file a lawsuit or make a claim against the head or organizer of the *Share* Lending Circle.

Section 8. No juristic person shall make promises to pay money or any other kind of assets on behalf of the head or organizer of a *Share* Lending Circle, or on behalf of its members.

Section 9. No person shall make an advertisement inviting the general public to participate in a *Share* Lending Circle.

Section 10. No person shall use a business name or name description which contains the term “*Share*” or any other terms of the same meaning and as prescribed by the Minister in the Royal Thai Government Gazette.

In the case where the Minister has issued a notification pursuant to paragraph 1, the persons who had used, before the date of entry into force of such notification, a business name or name description which contains one of the terms prescribed by the Minister, he or she shall be allowed to continue the use of the said name or name description for a period not more than one hundred eighty days as from the date of the entry into force of such notification, unless such person is authorized to continue his or her practice under this Act.

Section 11. In the case where a Ministerial Regulation is issued pursuant to Section 4 prescribing other types of capital raising as *Share* Lending Circle under this Act, and such practice of *Share* Lending Circle has characteristics which are prohibited under Section 5 or Section 6, the head or organizer of such *Share* Lending Circles which began before the date of the entry into force of the Ministerial Regulation, may continue his or

her practice, only for the pending *Share* Lending Circles and until their completion, without exceeding two years as from the date of the entry into force of such Ministerial Regulation.

In the case where it is a juristic person who carries out the practice pursuant paragraph 1 and intends to continue to be head or organizer of the pending *Share* Lending Circles, it shall submit a report on its practice of *Share* Lending Circle in the form prescribed by the Minister, to the competent official within ninety days as from the date of the entry into force of the Ministerial Regulation.

Any juristic person who has already had in its objectives, the practice of being head of a *Share* Lending Circle or organizer of other types of capital raising which are prescribed, by a Ministerial Regulation, to be *Share* Lending Circle under this Act, on the date of the entry into force of such Ministerial Regulation, said juristic person shall cancel such objective by submitting a request to the Registrar under the law relating to the said juristic person, within one hundred and eighty days as from the date of the entry into force of such Ministerial Regulation, unless said juristic person is authorized to continue its practice pursuant to paragraph one. In such case, the said juristic person shall cancel such objective by submitting a request to the Registrar under the law relating to the said juristic person at the latest within two years as from the date of the entry into force of the Ministerial Regulation.

In the case where a juristic person fails to comply with paragraph three, the Registrar under the law relating to the said juristic person shall have the power to cross out such objective from the Registry. However, the exercise of such power by the Registrar shall not exonerate the said juristic person from liability under this Act.

Section 12 . In the performance of duties, the competent official shall have the following powers:

(1) to enter any premises where there is reason to suspect that a wrongdoing under this Act is being committed, during the time between sunrise and sunset, or during the working hours of such premises, for inspection;

(2) to seize or freeze accounts, documents, evidence or any other articles concerned or where there is reason to suspect that they are related to the commission of wrongdoing under this Act, for the purpose of verification or legal proceedings;

(3) to issue inquiry letter or to call any person to give statement or to send the accounting evidence or any other necessary materials for consideration. The time given to such person shall, however, be appropriate.

Section 13. In the course of performance of duty of the competent official under section 12, a relevant person shall facilitate as appropriate.

An identification card of the competent official shall be in accordance with the form prescribed in the Ministerial Regulation.

Section 15. In the course of performance of duty, the competent official shall be the official under the Criminal Code.

Section 16. Any juristic person which violates section 5 shall be liable to a fine of one to three times of the central funding of each installment of the share lending circle while it shall not be less than two hundred thousand Baht. The Court shall order such juristic person to stop executing as the leader of the share lending circle or to organize the share lending circle.

Section 17. Any person who violates section 6 shall be liable to an imprisonment for a term not exceeding six months or a fine not exceeding one hundred thousand Baht or to both.

Section 18. Any juristic person who violates section 8 shall be liable to a fine not exceeding two hundred thousand Baht.

Section 19. Any person who violates section 9 shall be liable to a fine not exceeding fifty thousand Baht.

Section 20. Any person who violates section 10 shall be liable to a fine not exceeding twenty thousand Baht and a fine not exceeding five hundred Baht per day during the time of violation.

Section 21. Any juristic person which fails to submit a report in accordance with section 11 paragraph two or submit a false report shall be liable to a fine not exceeding

one hundred thousand Baht and a fine not exceeding one thousand Baht until its compliance.

Section 22. Any juristic person who fails to comply with section 11 paragraph three shall be liable to a fine not exceeding twenty thousand Baht and a fine not exceeding five hundred Baht until its compliance.

Section 23. Any person who obstructs the competent official who performs his or her duty under section 12 shall be liable to a fine not exceeding three months or a fine not exceeding six thousand Baht or to both.

Section 24. Any person without a reasonable reason not to comply with the order or a summon by the competent official in accordance with section 12 or refuses to respond to any questions shall be liable to an imprisonment not exceeding one month or a fine not exceeding two thousand Baht or to both.

Section 25. Any person who violates section 13 shall be liable to a fine not exceeding two thousand Baht.

Section 26. In the case of a juristic person which violates section 5 or section 8, the managing director or any person who is responsible for management or administration of such juristic person shall be liable to an imprisonment of not exceeding one year or a fine not exceeding three hundred thousand Baht or to both except where such person can prove that he or she was not involved in, or did not give consent to the offending act committed by the juristic person.

Section 27. A juristic person who is a leader of the *share* lending circle or organizes the *share* lending circle on the date that this Act comes into force or a natural person who is a leader of the *share* lending circle or organizes the *share* lending circle which falls within the prohibition under section 6 on the date that this Act comes into force may execute such activity for the remaining *share* lending circle until it is complete but such time shall not exceed two years from the day which this Act has come into force.

In the case where the executor under paragraph one is the juristic person and wishes to execute as the leader of the *share* lending circle or shall organize the *share* leading circle only for the remaining *share* lending circle shall submit a report on the *share* lending circle, in accordance with the form prescribed by the Minister, to the competent official within ninety days from the day that this Act has come into force.

A juristic person whose purpose is to be the leader of the *share* lending circle or to organize the share lending circle on the day that this Act has come into force, such juristic person shall abolish such purpose by submitting an application to the registrar in accordance with the law related to such juristic person within one hundred and eighty days from the day that this Act has come into force except in the case where such juristic person may be the juristic person which may continue to execute such activity under paragraph one, such juristic person shall proceed to abolish the purpose by submitting an application to the Registrar in accordance with the law related to such

juristic person but it shall be no more than two years from the day that this Act has come into force.

In the case where a juristic person fails to act under paragraph three, the registrar under the law related to that juristic person shall have powers to cross out such purpose from the registration. The use of power of the Registrar shall not exonerate the said juristic person from liability under this Act

Any juristic person who fails to submit the report under paragraph two or submits a false report or fails to act in accordance with paragraph three shall be liable to the penalty prescribed in section 21 or section 22 as the case may be.

Section 28. The provision in section 8 shall not affect any contract made by that juristic person prior to the day that this Act comes into force.

Section 29. Any person who uses or displays in his or her business the word “*share*” on the day that this Act comes into force shall use or display such name for not exceeding one hundred and eighty days from the day that this Act has come into force unless such person may continue to execute such activity under section 27.

Section 30. The Minister of Finance and the Minister of Interior shall have charge and control of this Act and shall have the power to appoint the competent official for the execution of this Act.

The Minister of Finance shall have the power to issue Ministerial Regulations and Notifications for the execution of this Act.

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

Countersigned by

Anand Panyarachun

Prime Minister