Thailand's Deposit Insurance Law: Recent Changes and How They Can Affect You

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The Deposit Insurance Act BE 2551 (2008) which came into force on the 11 th of August 2008 is the act which covers Thai protection provisions that relate to investor deposits at banks and other financial institutions. The protection of deposits is an ongoing concern for all investors large and small, and is becoming more and more of a concern in light of the multiple bank failures in the US and Europe over the past three years. The protection of deposits in a time of financial earthquakes, which seem to surround us on all sides, is of eminent concern. In Thailand , back in 1997, a number of banks, including Siam City bank, failed as part of the regional economic crisis of the time. The government responded by nationalizing the banks. When this happens, normally deposits are protected. Single bank failures usually will not result in nationalization, however, so this cannot be counted on as a general response of government to bank failure.

For the purposes of the general investor, meaning any of us living in Thailand or holding funds in a financial institution here, the key item in the Act concerns the amount of protection per depositor and per bank. Since the Act came into place and through the 10 th of August 2011, the full amount of each deposit is covered. Because of this, it was not necessary to worry over where funds are placed, or how they are distributed between accounts. Whatever the amount deposited, you were covered. Period. Taking effect 11 August 2011 until 10 August 2012 , the coverage drops to 50 million baht per depositor per bank. For most of us, this is still quite a comprehensive coverage amount.

The concern is going forward from 11 August 2012, just a little over a year away, when only 1 million baht will be covered by government protection. The implications of this change are significant, especially when one looks at how the coverage will apply. Multiple branches of the same bank will count as one deposit and will be lumped together. Though married couples will receive protection on a per person and per account basis of up to 1 million, separately, in the event of their owning a joint account, protection will not be separated out for that account. In most cases, the money will be split and counted against the individual account of each spouse. This means that management of funds across varied institutions may become a need for many depositors. The chart below illustrates this.

Depositor One	**Bank A, Branch 1**	**Bank A, Branch 2**	**Act insures**	**Act does not insure**
	1,000,000	1,000,000	1,000,000	1,000,000
Depositor Two	Bank C 1,000,000	Bank D 1,000,000	1,000,000 + 1,000,000 = 2,000,000	0
Depositor Three (who is married to Depositor Four, with 750,000 in a joint account, Bank A)	Bank A Br. 1 (own account) 900,000	Bank A, Allocation from joint account, 375,000	900,000 plus 100,000 of allocation from joint account, = 1,000,000	275,000 of allocation from joint account

A myriad of factors will need to be looked at carefully in light of this Act and these will vary according to the individual needs and prerogatives of each investor. It is significant to recall to mind that just because an individual may have investments over the insured amount, as in a provident fund where one may have been employed for a number of years, it does not mean that there is no protection at all for amounts over one million baht. This is not the case. These amounts may still be covered; however, such coverage would come because of liquidation proceedings in the event of a bank failure and would normally be the result of a court proceeding following the failure of the financial institution. Needless to say, compared to receiving the DPA insured one million baht, this process can well be quite lengthy and in any case the amount reimbursed to the investor will often be much less than 100% of deposits and accrued interest.

A further issue is the whole idea of who has claim in the event of a bankruptcy proceeding. In Thailand , the Bankruptcy Act B.E. (A.D. 1940) provisions would apply here. Sections 94 and 95 of the Bankruptcy Act provide that a secured creditor, meaning one who has a legal claim to an asset of the bank as part of the debt for security purposes, would receive prior consideration. Depositors, who are considered as unsecured creditors of a bank, would receive a lower priority and may not be re-imbursed depending on the gravity of the bank failure. Again, as noted above, this process would be time consuming, and it may be years before a depositor saw his or her funds, if ever. All of this assumes that no government intervention occurs. For practical purposes, as with both the Asian crisis in 1997 and the US/European bank crisis of our present time, it is often the case that governments will intervene if there is widespread failure, to restore consumer confidence in the wider economy. Such intervention often includes emergency protection of deposits, since widespread loss of deposits can cause panic, and widen any resulting economic crisis.

Because of these changes, investors will need to look at the probable solvency and corresponding likelihood of failure for any institution into which they plan to deposit funds. This is not always easy to determine, and must be considered on a bank-to-bank basis over time. Further, it will be necessary to look at how assets are distributed, between banks, other types of insurance, and distribution of assets much more carefully in light of these new changes. How do the issues of Deposit insurance fit in with the general investment picture and our needs for asset protection?

Background Issues and Deposit Insurance: Protecting Your Assets

One of the first actions to take is to make sure that one is informed about the general financial climate, and in particular, that one is aware of the general health of the banks in which one deposits funds, in financial terms. As a rule, the goal is to construct a portfolio with lowered risk and increasing levels of upside potential (Kale, 2006).

This makes knowing the health of a bank imperative. Given this, we might assume that evaluating banks would be a critical undertaking if investments at any level are to be safe. If we cannot determine the health of Banks, what can be done? We must look at the annual reports, recent newspaper and internet articles related to the banks, and take more of a personal stake in evaluating the health of financial institutions. Evaluating banks may seem a monumental task beyond the scope of the average investor. However, in practice, there exist a number of resources that we can turn to: Business.com contains an expensive listing of links and articles and analyses of banks with headquarters in Thailand[1]. These can be reviewed with a view to profiling the health of a bank to determine risk factors before depositing funds in excess of the one million baht threshold, or just for general banking information. Bank Thailand information services contains a general listing, including websites of most major banks, and can also be used in gaining a perspective on the Thai banking industry and it's key players[2].

The whole idea of deposit insurance has been debated at some length, with some analysts feeling that the incentive is lowered for banks to take care of their own financial health if a government scheme is in place. Critics recently lashed out at a program in New Zealand for just this reason (Udanga, R., 2010)[3]. A further criticism of government protections is that they help create banks which become risk immune and are ‘too big to fail' in the words of some analysts critical of the failures in the US banking system these past two years (Cox, R., & Bravo, F 2010, November 24)[4] . Even as the US clears up some of the banking failures, the Federal Deposit Insurance Corporation, which insures bank deposits in the US, is bracing for another round of bank failures that may well be fully as disastrous as the first (Dash, E. 2010, February 24)[5]. In essence, what can happen is that with the government assuming increasing portions of risk, like deposit insurance or bailing out the banks when they fail, bankers may become increasingly irresponsible, because the risk of failure is transferred to the public domain.

It is of note that, when one considers the case of some of the US banking disasters as noted above, the reason given in part for the establishment of the Act in Thailand back in 2004, was, in part, to avert disasters like the 1997 economic earthquake that hit Thailand and much of Asia (Wichit, C. 2004)[6]. Connected to this, when insurance is not a factor, or is less of a factor, often there is a tendency for investors to switch funds to capital markets, accepting increased risk because the protections in the banking market are lowered. (Polkuamdee, N. 2005)[7]. Though this re-allocation of funds is not an objective of governments, it does sometimes come as a by-product of reducing deposit insurance. The reason for this is that, as a general rule with investments, increasing risk will generate increased return. However, when deposit insurance rates are lowered, the actual effect is that there is increased risk (that a bank failure may result in non-insured deposits being forfeited by depositors) but with, generally, no increase in return. The investor, responding logically, may decide to move funds to securities or other avenues in the capital market to compensate for this increase in risk by increasing her/his potential return. Though not an objective of government policy, this may often be a side effect.

What Can You Do with Your Money: Key Issues to Consider

Here are some specific actions that may be taken to cope with these changes and some issues to consider:

• Balance your assets between capital and banking markets. Capital markets may have protections of their own, and will tend to pay more for increased risk (Spaulding, 2005)[8]. Realize that lowering the amount of deposit insurance, in fact, increases your risk, so you should re-allocate assets to account for this. The capital markets generally reward increased risk, and may well be appropriate depending on your investment objectives.

• Spread your deposits over several banks to minimize the risk, and decrease your exposure in any one bank (remember these must be different banks, multiple branches of the same bank do not count) to below or possibly slightly above the million baht threshold. Banks abroad outside of Thailand : Western countries have greater bank insurance protection. The US 's FDIC currently guarantees deposits of up to $250,000 USD per insured bank.

• Consider investing excess funds in a business of your choosing in an area in which you have some knowledge or expertise. Managed well, this can pay great dividends and puts the risk in your own hands, increasing both control and the feeling of autonomy.

• If in a provident fund with more than one, or even several million baht invested, evaluate its management very carefully. If there is a large employer portion, such as 50%, it may not be worth cashing out, especially given the high tax penalties, however you certainly need to keep a closer watch on management of the fund, given these changes. Provident funds are protected within the one million baht threshold if they are held in one of the financial institutions covered by the Act. The risk arises beyond this amount. Often, employers may provide protection beyond this million baht threshold, and this would be something to verify with the particular employer in question.

• Consider investing in real estate, as there are still a number of markets outside of the Bangkok area that are undervalued, and you may well be able to take advantage of land value appreciation as well as relatively low risk, with this type of investment.

• Manage assets within your family, since each person is counted separately for insurance purposes, assets can be put into banks under children's or spouses names, to stay under the one million baht ceiling for each person.

• Effect on expatriates and Thai foreign couples: Since the Act makes no distinction between nationality or place of residence in determining coverage; the same rules will apply to these investors. The protection threshold of one million baht per bank is maintained in either case.

• Why deposit in a Thai bank? In light of the US banking crisis, Thai banks, and other banking systems in Asia , have instituted policies aimed at stabilizing the sector. Pomerleano, in an extensive study, rated the capital adequacy, asset quality, management, earnings, and liquidity of the region's banks as basically sound[9]. Given this, there is no reason to desert Thai banks, though reasonable precautions, as with any investment decision (and as discussed above) need to be followed.

The key is to look at these changes in a positive way and respond to the challenge with effective money management now and in the future.

1.
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