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Foreign Currency Loans**



Exchange Control: Foreign Currency Loans

Effective 18 December 2007, small foreign currency loans are fully exempt from the Bank of Thailand's 30% Unremunerated Reserve Requirement ("URR").

Small foreign currency loans are those loans obtained from authorized financial institutions, from affiliated companies abroad, from other non-resident lenders and from the issue of debt instruments denominated in foreign currencies, in amounts not exceeding USD 1 million over periods greater than 1 year.

For such loans, the sellers of the foreign currency (i.e. the borrower under the loan transaction) shall submit the required Foreign Exchange Transaction Forms and certify that the loan transaction is not undertaken with the intention of evading the 30% Reserve rules.

After the authorized financial institution verifies the loan transaction, it shall affix its stamp to the Foreign Exchange Transaction Forms and certify that the loan transaction is a "small borrowing - exempted from the URR".

For foreign currency loans that do not fall within the above small loan borrowing exemption, the Bank of Thailand's Rules and Practices in Relation to URR dated 29 January 2007 still apply.

Those rules are as follows:

1. Financial institutions are not required to withhold the 30% Reserve when customers sell foreign currencies under short-term loans, such as loans over periods of 1 month, 3 months and 6 months, and the loans have been fully hedged. The hedging shall be in plain vanilla FX swaps or cross currency swaps for the same amount and maturity as the term of the borrowing. In the case of loans over 1 year, the swap contract maturity must be for at least 1 year.
2. If the swap contract maturity is shorter than the term of the borrowing, the customer and the financial institution must enter into further swap contracts to fully hedge the loan under 1. All swap contracts under mutually agreed principles and practices must be signed on the date of selling the foreign currency.
3. Financial institutions shall request customers to present evidence of the loan amount and the term of borrowing, and shall require the customer to submit the Foreign Exchange Transaction Form under the exchange control regulations. The financial institution shall affix its stamp and certify on the Forms that the loan is exempt from the 30% Reserve. The Forms shall be submitted as evidence for the loan only through the financial institution to which the customer has sold the foreign currency, except in the case of a loan with maturity exceeding 1 year and the customer has already fully hedged the loan for at least 1 year or the Competent Officer approves otherwise.
4. As the loan and the hedge contracts mature, the financial institution shall request the borrower to submit the required documents and promptly exchange the foreign currency against the Thai Baht.
5. Financial institutions shall ensure that the exempt loan complies with the above Rules. In the case where a borrower is unable to comply, the financial institution shall notify the Competent Officer of the causes in writing and seek approval from the Competent Officer for all subsequent transactions requested by the borrower for exemption from the 30% Reserve.

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