NAGASHIMA

Asia Legal Review

March, 2026　No.114

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Thailand

I. Navigating the Bank of Thailand's New Regulation for Operators of Vehicle Hire Purchase and Leasing Business

タイ中央銀行（BOT）は、自動車・バイクの割賦販売・リース事業を対象として、顧客保護と公正な取引確保を目的に、非金融事業者にも詳細な業務基準を課す新規制を導入した。具体的には、金利上限や手数料開示、返済スケジュール作成、延滞利息規制、広告の正確性確保等を義務付けるほか、一定の重要事項の当局届出も求める。当該規制は 2025 年 12 月に施行済みであるが、一部の規制は 2026 年 6 月 1 日付発効となるため、事業者は早期の体制整備が必要となる。

Background

In June of last year, the Royal Decree Prescribing the Hire Purchase and Leasing Business of Automobiles and Motorcycles Business to be under the Financial Institution Business Act (the "**Royal Decree**") was enacted in order to regulate the hire purchase and leasing of automobiles and motorcycles business (the "**Hire Purchase and Leasing Business**"). The Royal Decree grants regulatory authority to the Bank of Thailand (the "**BOT**") to supervise operators that engage in the Hire Purchase and Leasing Business including, among others, non-financial institution business operators, commercial banks, finance companies. An overview of the Royal Decree has been summarized in our previous Article "Navigating New Regulatory Frameworks: Key Takeaways for the Hire Purchase and Leasing of Automobiles and Motorcycles Business"(NO&T Thailand Legal Update (August, 2025)).

Following the enactment of the Royal Decree, the BOT issued the Notification No. 55/2568 Re: Prescription of Criteria, Method and Condition for the Operation of Business of Hire Purchase and Leasing of Automobiles and Motorcycles dated 2 December 2025, which was published in the Royal Gazette on 3 December 2025

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(the "**BOT Notification**"). The BOT Notification aims to create a fair, responsible and standardized operation of the Hire Purchase and Leasing Business in order to enhance customer protection.

The BOT Notification prescribes requirements covering various stages: (i) the pre-contractual stage, before customers utilize the services, (ii) the period during which obligations under the hire purchase or leasing agreements are being performed; and (iii) the period when customers face issues regarding installment payments. These requirements are intended to ensure that customers receive fair and appropriate services in terms of products, pricing, conditions, and post-service support.

While the BOT Notification sets out obligations for financial institutions, companies in financial sector, and non-financial institution operators, this Article focuses on the requirements, particularly applicable to non-financial institution operators of the Hire Purchase and Leasing Business as well as their obligations towards regulatory authorities.

Key takeaway

A. Criteria for business operation

The BOT Notification stipulates criteria of the Hire Purchase and Leasing Business, which serve as minimum standards for operators. An operator may undertake its operation in a way that is more favorable to the customers than the minimum standards.

The criteria are categorized into (i) general criteria and (ii) specific criteria as summarized below.

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(i) General criteria

The general criteria includes, among others, collection and disclosure of interest, service fee and fine, calculation of interest rate, preparation of debt schedule. The table below shows details of the general criteria applicable to non-financial institution operators of the Hire Purchase and Leasing Business.

<table>
<tr><th>Criteria / Transaction</th><th>Collection and disclosure of interest, fee and fine*</th><th>Interest rate</th><th>Type and list of service fee and fine*</th><th>Preparation of debt schedule*</th><th>Closure of account and early termination of agreement</th><th></th></tr>
<tr><td colspan="7">For operator of hire purchase business</td></tr>
<tr><td>Hire purchase with individual customer for personal use</td><td rowspan="3">✓
• Operators must charge interest, service fee and fine penalty appropriately at a fair rate by considering actual costs of service provision.
• Operators must charge service fees on a pro rata basis based on the actual service period. In case the service fee is prepaid and the customer notifies the cessation of the service, the operator shall refund the service fee proportionate to period of unused service.
• Operators must disclose an accurate, complete and up-to-date information of interest (e.g. effective and flat interest rate, default interest rate), service fee (indicating Baht per unit of service use) and fine penalty (if applicable).</td><td>✓
Effective interest rate not exceeding the following rate
• For new car: 10% per annum.
• For used car: 15% per annum.
• For motorcycles: 23% per annum.</td><td rowspan="3">✓
Operators may charge service fee related to hire purchase and leasing which is expense incurred by operators due to the operation of the Hire Purchase and Leasing Businesses and the default by customers e.g. expense paid to government authority.</td><td rowspan="3">✓
Operators must prepare a debt schedule under the hire purchase agreement for each customer including, among others, number of installments, payment date, payment amount, and outstanding amount.</td><td rowspan="3">✓*
• Operators must prescribe conditions for account closure and early termination in the agreement and inform customers during the sale process.
• Operators must prescribe cause of termination in the agreement.</td><td>✓
• Operators must prescribe a discount for hire purchase interest which has not been due.</td></tr>
<tr><td>Hire purchase with individual customer for commercial purpose</td><td>-</td><td>-</td></tr>
<tr><td>Hire purchase with juristic person</td><td>-</td><td>-</td><td>-</td></tr>
</table>

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For operator of leasing business						
Leasing with *individual customer*	✓ Same as above	-	✓ Same as above	-	✓ Same as above	-
Leasing with *juristic person*		-	-	-		

*This criterion will take effect from 1 June 2026.

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(ii) Specific criteria

The specific criteria includes, among others, calculation of default interest, order of payment application, internal management for fair service, and outsourcing arrangement. The table below shows details of specific criteria applicable to the non-financial institution operators of the Hire Purchase and Leasing Business.

Criteria / Transaction	Calculation of default interest and order of debt application			Internal management for fair and responsible financial service*	Outsourcing
	Default interest rate	Basis for calculation on default interest*	Order of debt application*		
For operator of hire purchase business					
Hire purchase with *individual customer for personal use*	✓ Default interest rate should not exceed 5% per annum.	✓ Operators must calculate default interest rate based on an installment amount comprising of principal, interest and VAT.	✓ Operators must apply the received payment to outstanding installment in accordance with the amount due for each installment. Payment shall first be applied to service fee, interest and principal that has been overdue for the longest period.	✓ Operators must comply with criteria as specified including, among others: • Directors or high-level executive ensure that employees fully provide information to customers. • Operators must procure products that corresponds to customers' need, and ability of debt repayment. • Operators must ensure that its advertisement is correct and clear. • Operators must ensure that the sale offer does not disturb the customers' privacy and the customers are provided with complete information that is sufficient for decision making with correct understanding.	✓ Operators which outsource service from a third party must be directly responsible to customers and must establish the selection process for outsourced party prior to execution of new agreement or renewal of agreement*.
Hire purchase with *individual customer for commercial purpose*	-		-		

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				• Operators must promptly propose debt restructuring plan when there is a sign that customers face financial problem.	
Hire purchase with *juristic person*	-		-	-	
For operator of leasing business					
Leasing with *individual customer*	✓ Same as above	✓ Same as above	✓ Same as above	✓ Same as above	✓ Same as above
Leasing with *juristic person*			-	-	

*This criterion will take effect from 1 June 2026.

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B. Duties with relevant authority

In addition to criteria that the operator of the Hire Purchase and Leasing Business must comply with, the BOT Notification stipulates the duties for the non-financial institution operator to conduct certain disclosures, filing, and notification to the BOT, for example:

- **Report on identity verification**

  Operators of the Hire Purchase and Leasing Business must submit identity verification report to the BOT (i) by 31 March 2026 in the case where the operators commence the Hire Purchase and Leasing Business prior to the effective date of this BOT Notification, or (ii) within 120 days from the date of registration with the Department of Business Development in case of operating the said businesses from effective date of the BOT Notification.

- **Report and notification of details on changes**

  Where the chief executive officer of the operator is changed, the operator must notify such change to the BOT within 30 business days from the date of change.

- **Notification of cessation of the business**

  Where an operator that has no account receivables and complaint pending with the BOT wishes to cease the operations of Hire Purchase and Leasing Business, the operator shall notify the BOT at least 30 business days prior to the date of business cessation.

- **Disclosure of information on fine settlement or accusation**

  Where the operator, its directors or the person having management power over the operator has been subject to fine settlement or accused by the BOT on the ground of violation of the BOT Notification, the operator must disclose information regarding such fine settlement or accusation to customers.

C. Effective date

The BOT Notification has already taken effect from 3 December 2025 onwards. However, certain criteria as remarked above will come into force on 1 June 2026.

Conclusion

In light of the approaching full effect of this BOT Notification in June 2026, operators of the Hire Purchase and Leasing Business, including both current and prospective operators, should pay close attention to and fully understand their compliance obligations thereunder. Operators falling within the scope of these requirements need to implement the necessary internal preparations and coordinate with customers to ensure that their business operations comply with the new regulatory standards governing the Hire Purchase and Leasing Business.

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Malaysia

II. Navigating Geopolitical Disruption with Force Majeure Clauses

中東情勢の緊迫化とそれに伴うホルムズ海峡の封鎖により、グローバルサプライチェーンを前提とする現代の企業活動において、不可抗力による契約の履行遅滞や履行不能のリスクが突如顕在化しています。かかる事態が起きるたびに準拠法を踏まえた契約上の手当てが重要であることを再確認させられます。本稿ではマレーシア法を例に「契約消滅（Frustration）」の法理と「不可抗力（Force Majeure）条項」の取り扱いを概説します。

Introduction

Recent geopolitical developments, including conflicts in the Middle East and ongoing tensions affecting global trade routes such as the Strait of Hormuz, have highlighted the vulnerability of international supply chains. In the current globalized economy, businesses are interconnected with their overseas counterparties, whether through supply arrangements, financing structures, technology partnerships or upstream procurement networks. As a result, geopolitical developments may also have a knock-on impact on transactions that may appear to be domestic in nature, particularly where local businesses depend on foreign suppliers, logistics routes, or internationally sourced materials. In light of the above, it may be prudent for contracting parties to review their commercial agreements to identify provisions that may assist in addressing potential risks of non-performance or default due to events that happen beyond the parties' control.

The Position under Malaysian Law

From the Malaysian law perspective, the general principle of contractual interpretation is that the meaning of any contractual provision must be ascertained by looking at the contract as a whole and be given effect so far as possible to every part of it. The contract is generally interpreted within the four walls of the contractual document, including, amongst others, the statutory framework applicable to contracts based on the Contracts Act 1950 (the "**CA 1950**") and any terms implied in law or in fact.

Doctrine of Frustration

Pursuant to Section 57(1) and (2) of the CA 1950, a contract is *frustrated* where the acts required to be performed under the contract becomes impossible or unlawful. In such event, the contract becomes void. Section 57(3) of the CA 1950 further requires a promisor to compensate a promisee, if the promisor promised to do something which he knew, or, with reasonable diligence, might have known, and which the promisee did not know, to be impossible or unlawful, for the promisee to be compensated with the loss which he sustained through the non-performance of the promise.

In an illustration provided under the CA 1950 where the doctrine of frustration applies, Party A contracts to take in cargo for Party B at a foreign port. The Government of Party A afterwards declares war against the country in which the foreign port is situated. The contract becomes void when the war is declared.

Notwithstanding the illustration above, the application of the doctrine of frustration is fact-specific and depends on the facts of each case. In order to apply the doctrine of frustration, it needs to be proven that the unlawful or impossible event (i.e. the supervening event) has rendered performance impossible or that the contract has fundamentally changed from what was originally contemplated by the parties,[1] rather than merely more difficult or expensive. In short, the court must find it practically unjust to enforce the original promise. In addition, the contract must have been one for which no provision has been made in the contract. This is because if a

[1] The Malaysian Court of Appeal case in ***BIG Industrial Gas Sdn Bhd v Pan Wijaya Property Sdn Bhd and another appeal* [2018] 3 MLJ 326**

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provision has been made, then the parties will generally be taken to have allocated the risk between themselves on the same.

The doctrine of frustration under Section 57 of the CA 1950 would also not apply if the supervening event is caused by the party seeking to rely on it, such as, if such party has breached the contract or caused the occurrence of the said event. For example, a charterer who, in breach of the contract, orders a ship into a war-zone, thereby causing the ship to be detained, cannot rely on the said detention as a ground of frustration. This is commonly referred to as *self-induced frustration*, which is ineffective for the purposes of Section 57 of the CA 1950.[2]

Given the limited circumstances where the doctrine of frustration may be applied based on the above, and the consequences that a frustrated contract becomes void, parties may often prefer to include clearly defined force majeure clauses to provide greater contractual certainty.

Force Majeure

It is trite under Malaysian law, that for a party to rely on or put in defence of force majeure, the relevant clause must be specifically and clearly provided in the contract and cannot be implied by law.[3] There can therefore be no general rule as to what constitutes a situation of force majeure. Whether such a (force majeure) situation arises, and the rights and obligations that follow, would depend on what the parties, in their contract have provided for.

Malaysian courts generally adopt a strict interpretation of such clauses and will examine whether the relevant event falls within the events specified in the contract and whether the contractual requirements for invoking the clause have been satisfied. Such events generally cater to certain unforeseeable events that would render the parties' obligations under the contract impossible to perform. It may be prudent to note that, such clauses commonly provide, expressly or impliedly, that the clause cannot be relied upon if the effects of what would otherwise be a force majeure event or state of affairs could be avoided by the exercise of reasonable endeavours by the party affected. In other words, the party relying on the force majeure clause should prove that there were no reasonable steps that it could have taken to avoid or mitigate the event or its consequence.[4]

Examples of supervening events or force majeure events stated in a force majeure clause include "acts of God", "epidemics", "natural disasters" and "war", on the condition that such events actually cause the inability of the party which intends to rely upon the force majeure clause, to comply with its obligations under the contract. Contrary to the doctrine of frustration above, with a force majeure clause, the contractual parties may agree in writing on the scope of force majeure events that avail the parties to the benefit of such clause. In the context of the geopolitical developments mentioned in this article, a party intending to rely on the force majeure clause must successfully prove that the geopolitical developments have made it impossible for the party to perform its contractual obligation.

Subject to the wordings of the "force majeure" clause in the contract, such clause generally relieves a party from its obligation to perform under a contract on the occurrence of a specified force majeure event or state of affairs covered within the scope of the clause and there may even be examples of automatic termination of the contract or termination with prior notice on the condition that the force majeure event continues to subsist throughout the period after the party exercises its rights under the force majeure clause up until the effective date of termination.

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[2] Ibid

[3] The Malaysian High Court case of ***Mission Game Sdn Bhd v Special Coral Sdn Bhd*** **[2022] CLJU 566**

[4] The Malaysian High Court case of ***The Tree Property Management Sdn Bhd v Cherengin Hills Sdn Bhd*** **[2025] CLJU 2048**

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Practical Legal Considerations Moving Forward

For existing agreements, contractual parties should peruse their contract to understand their obligations in view of the force majeure events. For future agreements, it may be prudent for parties to have clarity regarding their roles and responsibilities, including the following, if such event arises.

1. Clear Definition of the Force Majeure Events

   Contracts should clearly define the events that constitute force majeure, including geopolitical risks such as war, sanctions, embargoes, and supply chain disruptions.

2. Notification and Procedural Requirements

   Force majeure clauses commonly require prompt written notice and supporting evidence of the impact on performance. Failure to comply with these procedural steps may prevent reliance on the clause.

3. Mitigation Obligations

   Affected parties are usually required to take reasonable steps to mitigate the impact of the event, such as sourcing alternative suppliers or transport routes where feasible.

4. Allocation of Risk and Consequences

   Parties should consider what happens if a force majeure event persists for a prolonged period. Some contracts may provide for suspension of obligations for a defined period, followed by a right for either party to terminate the contract if the disruption continues.

Conclusion

As geopolitical tensions and global disruptions continue to create uncertainty for global commerce, force majeure clauses are becoming increasingly important risk allocation tools in Malaysian-law governed contracts. As force majeure clauses are not implied in law, careful drafting of such clauses is essential. Businesses may therefore wish to review their contracts and take note of the above, to ensure that the scope of force majeure events, and the rights and obligations of the parties in such circumstances, are clearly defined.

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