

Date: 14 September 2016

To: International Swaps and Derivatives Association, Inc.

From: Baker & McKenzie, Ltd.

Re: Collateral Taker Insolvency

Dear Sirs,

We refer to your instruction letter requesting us to prepare a 'collateral taker insolvency' legal opinion with respect to the laws of Thailand for the benefit of members of ISDA.

This memorandum is limited to the laws of Thailand as currently interpreted by the Supreme Court of Thailand in its published decisions which have been published and are available to the public as of the date hereof. We do not purport to be qualified to pass upon, and express no opinion herein as to, the laws of any jurisdiction other than that of Thailand. Our memorandum is also to be construed in accordance with the laws of Thailand.

I. INTRODUCTION

In this memorandum we consider the issues relating to the right of the Collateral Provider under certain provisions of:

- (i) the 2016 Phase One Credit Support Annex for Initial Margin (IM) governed by New York law (the "**IM NY Annex**");
- (ii) (the 2016 Phase One IM Credit Support Deed, governed by English law (the "**IM Deed**" and together with the IM NY Annex, the "**IM Security Documents**");
- (iii) the ISDA Euroclear Security Agreement (the "**Euroclear Security Agreement**");
- (iv) the ISDA Euroclear Collateral Transfer Agreement (NY Law) (the "**Euroclear NY CTA**")
- (v) the ISDA Euroclear Collateral Transfer Agreement (Multi-Regime) (the "**Euroclear Multi-Regime CTA**"; and together with the Euroclear Security Agreement and the Euroclear NY CTA, the "**Euroclear Documents**");
- (vi) the ISDA Clearstream 2016 Security Agreement (the "**Clearstream Security Agreement**");
- (vii) the ISDA Clearstream 2016 Collateral Transfer Agreement (NY Law) (the "**Clearstream NY CTA**"); and
- (viii) the ISDA Clearstream 2016 Collateral Transfer Agreement (Multi-Regime) (the "**Clearstream Multi-Regime CTA**"; and together with the Clearstream Security Agreement and the Clearstream NY CTA, the "**Clearstream Documents**");

- (ix) in each case, when entered into to provide credit support for transactions (“**Transactions**”) entered into pursuant to an ISDA master agreement (the “**Master Agreement**”).¹

Capitalized terms used herein that are not defined herein shall have the meanings ascribed to such terms in the Master Agreement or the relevant IM Security Document, as applicable.

In this memorandum, unless the context requires otherwise:

“**Collateral Provider**” shall refer to the Pledgor (under the IM NY Annex) or the Chargor (under the IM Deed), as context requires, in relation to which “**Collateral Taker**” means the Secured Party.

“**Collateral**”, when used in this memorandum, is meant to refer, in the case of each IM Security Document, to any assets in which a security interest is created by the Collateral Provider in favor of the Collateral Taker as credit support for the obligations of the Collateral Provider under the relevant Master Agreement.

II. ASSUMPTIONS

The issues you have asked us to address are set out in *italics* in Part IV (*Questions relating to the rights of Collateral Provider under the IM Security Documents*), followed in each case by our analysis and conclusions. For the purpose of considering those issues, we make the following assumptions:

- (A) The Collateral Provider has entered into either (i) a Master Agreement governed by New York law, or (ii) a Master Agreement governed by English law and a IM Security Document with the Collateral Taker.
- (B) Each IM Security Document could be entered into in connection with either a New York law or English law governed ISDA Master Agreement and may be subject to a different governing law than the relevant ISDA Master Agreement (depending on whether the parties choose to align the governing law of the IM Security Document to (i) the Location of the relevant Custodial Account; or (ii) the governing law of the ISDA Master Agreement). The IM NY Annex forms a part of the relevant ISDA Master Agreement and therefore, unless revised by the counterparties, is subject to the same governing law as the relevant ISDA Master Agreement. In respect of an IM NY Annex entered into in connection with an English law governed ISDA Master Agreement, the parties will provide in paragraph 13 of the IM NY Annex that the Annex is governed by and construed in accordance with New York law.
- (C) Under the IM Security Documents, both parties will be required to post Collateral to the other (either under the same IM Security Document or under separate IM Security Documents) in an amount that depends on the IM calculation provisions.
- (D) Each party is either (i) a corporation, or (ii) a bank or other similar financial institution that is subject to the requirement to post or collect initial margin with respect to derivatives or swaps. In case the Collateral Taker is Located in Thailand, please see Appendix B for details of the applicable Thai party.

¹ The various master agreements published by ISDA include (i) the 1987 Interest Rate Swap Agreement, (ii) the 1987 Interest Rate and Currency Exchange Agreement, (iii) the 1992 ISDA Master Agreement (Multicurrency – Cross Border) (iv) the 1992 ISDA Master Agreement (Local Currency – Single Jurisdiction) and (v) the 2002 ISDA Master Agreement.

- (E) Each Master Agreement and each IM Security Document is enforceable under the laws of New York or England, as the case may be, and that each party has duly authorized, executed and delivered, and has the capacity to enter into, each document.
- (F) No provision of the Master Agreement and the relevant IM Security Document has been altered in any material respect. The making of any selections contemplated by the Master Agreement or the relevant IM Security Document would not in our view change the substance of this opinion.
- (G) Pursuant to the relevant IM Security Document, the counterparties agree that Eligible Collateral will include cash credited to an account (as opposed to physical notes and coins) and certain types of securities (as further described below) that are located or deemed located either (i) in Thailand, or (ii) outside Thailand.
- (H) Any securities provided as Eligible Collateral are denominated in either Thai baht or any freely convertible currency and consist of (1) corporate debt securities whether or not the issuer is organized or located in Thailand; (2) debt securities issued by the government of Thailand; (3) debt securities issued by the government of a member of the “G-10” group of countries; and (4) corporate equity securities whether or not the issuer is organized or located in Thailand, in the form of intermediated securities.
- (I) Pursuant to the terms and conditions of the Master Agreement, the Collateral Provider enters into a number of Transactions with the Collateral Taker. Such Transactions include any or all of the transactions described in Appendix A. Under the terms of each IM Security Document, the security interest created in the relevant Collateral secures the Obligations of the Collateral Provider arising under the Master Agreement as a whole.
- (J) An Event of Default under Section 5(a)(vii) of the Master Agreement with respect to the Collateral Taker has occurred and a formal bankruptcy, insolvency, liquidation, reorganization, administration or comparable proceeding (collectively, the “insolvency”) has been instituted by or against the Collateral Taker.
- (K) The Collateral provided under the IM Security Document is held in an account (which may hold cash (in a freely convertible currency) and securities) (a “Custodial Account”) with a third party custodian (“Custodian”), with the following characteristics: (x) the Custodian holds the Collateral in the Collateral Provider’s name pursuant to a custodial agreement between the Collateral Provider and custodian; (y) the Custodial Account is used exclusively for the Collateral provided by the Collateral Provider to the relevant Collateral Taker; and (z) the Collateral Provider, the Collateral Taker and the Custodian have entered into an agreement (which may be a separate control agreement or may be part of the custodial agreement) under which the Collateral Taker can take control of the margin under certain circumstances.
- (L) In certain circumstances, “initial margin” Collateral may be held at a central securities depository. In these circumstances, the parties will not enter into an IM Security Document. Instead please assume that (x) the Custodian is a central securities depository and holds the Collateral in the Custodian’s name, acting in its own name but for the account of the Collateral Taker; (y) the parties have entered into securities documents and/or other agreements governing the pledge of the Collateral held by the central securities depository and movement of the Collateral into and out of the Custodial Account; and (z) such securities documents and/or other agreements are enforceable in accordance with their terms under applicable law (which may be different than Thai law).

- (M) The parties may enter into more than one IM Security Document, including multiple IM Security Documents each subject to different governing laws, and may enter into arrangements described in assumption (L) instead of enter into an IM Security Document.
- (N) Upon occurrence of an Event of Default under Section 5(a)(vii) of the Master Agreement with respect to the Collateral Taker, the Collateral Provider exercises its right to close-out and net all Transactions under the Master Agreement, resulting in one single net sum payable by either the Collateral Taker or Collateral Provider.
- (O) To the extent that any obligation arising under the Master Agreement or IM Security Document falls to be performed in any jurisdiction outside Thailand, its performance will not be illegal or ineffective by virtue of the laws of that jurisdiction.
- (P) Each party (a) is able lawfully to enter into the Master Agreement and the IM Security Document under the laws of its jurisdiction of incorporation and under its relevant constitutional documents, (b) has taken all corporate action necessary to authorize its entry into the Master Agreement and the IM Security Document, and (c) has duly executed and delivered the Master Agreement and the IM Security Document.
- (Q) The Master Agreement would, when duly entered into by each party, constitute legally binding, valid and enforceable obligations of each party under the governing law (other than Thai law in relation to the issues presented hereunder).
- (R) The parties have obtained or will obtain all necessary governmental approvals (if any) in performing their obligations under the Master Agreement and the relevant IM Security Documents.
- (S) Each of the parties is acting as principal and not as agent in relation to its rights and obligations under the Master Agreement and IM Security Document, and no third party has any right to, interest in, or claim on any right or obligation of either party under either document.
- (T) The terms of the Master Agreement, including each Transaction under the Master Agreement, and the IM Security Document are agreed at arms' length by the parties so that no element of gift or undervalue from one party to the other party is involved.
- (U) At the time of entry into the Master Agreement and the IM Security Document, no insolvency or reorganization proceedings have commenced in respect of either party, and neither party is insolvent at the time of entering into the Master Agreement or the IM Security Document or becomes insolvent as a result of entering into either document.
- (V) Each party, when transferring Collateral in the form of securities under the IM Security Document, will have full legal title to such securities at the time of transfer, free and clear of any lien, claim, charge or encumbrance or any other interest of the transferring party or of any third person (other than a lien routinely imposed on all securities in a relevant clearance or settlement system).

III. FACT PATTERNS

We have distinguished between the following three fact patterns when responding to each question:

- I. The Location of the Collateral Taker is in Thailand and the Location of the Collateral is outside Thailand.
- II. The Location of the Collateral Taker is in Thailand and the Location of the Collateral is in Thailand.
- III. The Location of the Collateral Taker is outside Thailand and the Location of the Collateral is in Thailand.

For the foregoing purposes:

- (a) the "**Location**" of the Collateral Taker is in Thailand if it is incorporated or otherwise organized in Thailand and/or if it has a branch or other place of business in Thailand; and
- (b) the "**Location**" of Collateral is the place where an asset of that type is located under the private international law rules of Thailand.

"**Located**" when used below in relation to a Collateral Taker or any Collateral should be construed accordingly.

IV. Questions relating to rights of the Collateral Provider under the IM Security Documents

1. *Would the Collateral Provider be entitled to exercise its contractual rights under the IM Security Documents and the custodial arrangements described in assumption (K) to recover the Collateral held by the Custodian in the Custodial Account?*

Answer

Under the Thai Bankruptcy Act, B.E. 2483, as amended (the "**Bankruptcy Act**"), the Central Bankruptcy Court (referred to as the "**court**") has jurisdiction to hear the bankruptcy and business reorganization cases only over an entity that is domiciled or operates business in Thailand, and is able to enforce only against debtors' assets located in Thailand.²

The Bankruptcy Act is regarded as one of the laws on public order and good morals of the people of Thailand that the parties cannot agree otherwise. For the question as to whether the Collateral Provider can exercise its contractual rights to recover the Collateral held by the Custodian in the Custodial Account upon the occurrence of an Event of Default under Section 5(a)(vii) of the Master Agreement with respect to the Collateral Taker, we have divided our analysis into 3 scenarios, as explained below.

- 1.1 If the Location of the Collateral Taker is **in** Thailand and the Location of the Collateral is **outside** Thailand

Although the title to the Collateral remains with the Collateral Provider and does not pass to the Collateral Taker who is subject to bankruptcy or business reorganization proceeding in Thailand, it can be argued that the security interest over the Collateral Located outside

² Sections 7 and 177 of the Bankruptcy Act.

Thailand is the asset of the Collateral Taker which should be regarded as a part of pool of asset of the bankrupt. However, according to section 177 of the Bankruptcy Act, the receivership order or bankruptcy action under the Bankruptcy Act of the Central Bankruptcy Court of Thailand only impacts assets of a Collateral Taker **in Thailand**.

Therefore, if the Collateral is Located outside Thailand, the jurisdiction of the Central Bankruptcy Court of Thailand would not extend to the security interest over the said Collateral. Consequently, whether the Collateral Provider would be entitled to recover the Collateral held by the Custodian in the Custodial Account in this scenario would be a matter of the relevant foreign laws.

1.2 If the Location of the Collateral Taker is **in** Thailand and the Location of the Collateral is **in** Thailand

1.2.1 Bankruptcy proceeding

If the Collateral Taker is subject to bankruptcy proceedings in Thailand, according to section 19 of the Bankruptcy Act, an order for receivership shall be deemed as a writ of court appointing and directing the official receiver to attach all assets in the possession of the insolvent debtor, or other persons which may be distributable to creditors of the insolvent debtor (the "**Distributable Assets**"). Also, a receivership order will terminate the powers and control of the Collateral Taker over its assets and businesses and the said powers and control shall be vest in an "official receiver". To illustrate, an "official receiver" shall have exclusive control and management of the assets and pending business of the Collateral Taker—which broadly includes collecting money which belongs to the Collateral Taker and pursuing legal actions and civil proceedings relating to such assets.³

Under section 109(3) of the Bankruptcy Act, Distributable Assets include, among others, assets in the **possession or disposition of the debtor** (i.e. the Collateral Taker) in the **course of trade or business** of the debtor by the **consent of the true owner**, under circumstances which **create the impression that the debtor is the owner** at the time of the **filing of application for adjudication of bankruptcy of the debtor**.

Under the IM Security Documents, although the provision that entitles the Collateral Provider to exercise its contractual rights to recover the Collateral held by the Custodian in the Custodial Account will be valid and enforceable under the applicable governing law, if the Collateral that is Located in Thailand constitutes Distributable Assets, the official receiver is empowered to attach the Collateral pursuant to section 19 and section 109 (3) of the Bankruptcy Act, regardless of the Collateral Taker not being a true owner of the Collateral.

However, in accordance with section 158 of the Bankruptcy Act, the Collateral Provider, as owner of the Collateral, can make an objection to the action of the official receiver. When the official receiver has received the objection, he shall investigate the matter and issue an order regarding whether to withdraw the attachment. If the official receiver issues an order refusing to withdraw the attachment, the Collateral Provider is entitled to submit a petition to the Bankruptcy Court within 14 days from the date on which it becomes aware of the order. When the court has received the petition, the court shall give its consideration and issue a final decision in the same manner as for ordinary cases, after summoning the official receiver to defend the action.

³ Section 22 of the Bankruptcy Act.

In this case, it is likely that the court will **not** deem that the Collateral (i.e. initial margin held by the Custodian in the Custodial Account) is in the possession or disposition of the Collateral Taker in the course of trade or business of the Collateral Taker by the consent of the Collateral Provider, being the true owner, under circumstances which create the impression that the Collateral Taker is the owner, and therefore the Collateral **should not** be deemed as one of the Distributable Assets to be shared among the creditors of the Collateral Taker. This is because not only is the arrangement under the IM Security Document intended to create a security interest (as opposed to title transfer), but also that the Custodian will hold the Collateral in the Collateral Provider's name or its own name (as opposed to the Collateral Taker's name). It is therefore obvious that the true owner of the Collateral is the Collateral Provider.

To answer the question, if the Collateral is not regarded as a Distributable Asset of the Collateral Taker, whether the Collateral Provider can exercise its contractual rights under the IM Security Documents and the custodial arrangement to recover the Collateral held by the Custodian in the Custodial Account can be considered by analogy to the Supreme Court decision below.

In Supreme Court Decision No. 19804/2557, an insolvent debtor entered into the construction agreement with a claimant. Clause 25(2) and 25(3) of the construction agreement provide that the construction agreement shall be **automatically terminated** if a debtor is subject to an insolvency proceeding. The Supreme Court ruled that this provision is valid and enforceable, and that the claimant is no longer obligated to make payment to the debtor under the construction agreement.

From the above Supreme Court decision, the court upheld the agreement between the parties to automatically terminate the transaction before a bankruptcy proceeding was instituted against the debtor and does not deem such agreement as a way to circumvent section 109(3) of the Bankruptcy Act though it may result in depriving the debtor of certain assets. In our scenario, the Collateral is only held as security interest and does not constitute Distributable Assets. We therefore believe that, by analogy to the above Supreme Court decision, the agreement entitling the Collateral Provider to recover the Collateral upon the occurrence of an Event of Default under section 5(a)(vii) of the Master Agreement (i.e. Bankruptcy) with respect to the Collateral Taker should be upheld by the court and not be regarded as in conflict with the provisions in the Bankruptcy Act.

Nevertheless, the Collateral Provider in exercising its contractual rights to recover the Collateral, if certain action to release the Collateral is required to be made by the Collateral Taker being the debtor, according to section 22 of the Bankruptcy Act, the official receiver will have exclusive control over the assets of the Collateral Taker and also over the said required action. The term "any assets payable to the Collateral Taker or any assets that the Collateral Taker is entitled to receive from others" under section 22(2) of the Bankruptcy Act can be interpreted to cover the security interest the Collateral Taker holds over the Collateral belonging to the Collateral Provider under the IM Security Documents. It is therefore arguable whether the official receiver will be inclined to take any action to release the security interest even though the Collateral is not regarded as Distributable Assets of the Collateral Taker. From a practical standpoint, we view that if the Collateral Provider has an outstanding obligation to the Collateral Taker under the Master Agreement, though the Collateral held in the Custodial Account would not constitute Distributable Assets that the official receiver can attach and have control over (as explained above), it is likely that the official receiver will invoke its power under section 22 of the Bankruptcy Act claiming that it is required to collect any assets payable to the Collateral Taker or any assets the Collateral Taker is entitled to

receive from others, including to retain the Collateral held by the Custodian in the Custodial Account **in Thailand** by not taking any action to release the Collateral to the Collateral Provider as detailed in our memorandum of law for the International Swaps and Derivatives Association, Inc. on validity and enforceability under the laws of Thailand of Collateral Arrangements under the ISDA Credit Support Documents, dated 7 April 2016 (the "**Collateral Opinion**").

On the other hand, if the Collateral Provider does not have any outstanding obligation to the Collateral Taker, as the Collateral would not constitute Distributable Assets, the risk that the official receiver will refuse to take any action to release the Collateral to the Collateral Provider as set out in the Collateral Opinion should be lower. In any case, as the Collateral should not be deemed Distributable Assets, the court should uphold the parties' agreement with respect to this, and the Collateral Provider should be able to make an objection to the action of the official receiver to the court pursuant to section 158 of the Bankruptcy Act.

1.2.2 Business rehabilitation proceeding

Under the Bankruptcy Act, once the court permits the business rehabilitation, the debtor may no longer manage its business and properties. The court shall appoint (i) an interim manager, which may be the management of the debtor's operations, to temporarily manage the business and assets of the debtors until a "planner" is appointed; or (ii) the planner, if there is no proposal of competing planner. Once appointed, the powers to manage the debtor's business will be vested in the interim manager or the planner (as the case may be).

Under section 90/12(8) of the Bankruptcy Act, from the day on which the Bankruptcy Court makes an order accepting the petition for business rehabilitation until the expiration of the period for implementation of the business rehabilitation plan, or the date on which the plan is accomplished, or the date on which the court dismisses the petition, disposes of the case, repeals the order for a business rehabilitation or places the debtor under absolute receivership order (the "**Automatic Stay Period**"), **an owner of the asset which is essential for the business operation of the debtor under any agreement in which there is a condition or a time clause for transferring the ownership shall not pursue and repossess the said asset which is in the possession of the debtor or other person who relies on the rights of the debtor.** Also, under section 90/12(9), the debtor **cannot pay its debts except where such act is essential so that the debtor may carry on his business as normal**, unless otherwise ordered by the court in which the petition for business rehabilitation is filed. If the debtor performs any act in violation of this section 90/12, such act will be void.

According to section 90/13 of the Bankruptcy Act, creditors and any person whose rights have been subjected to limitations (i.e. an automatic stay) pursuant to section 90/12 may submit an application to the court for an order amending, modifying or annulling limitations on their rights under section 90/12 if such limitations are not necessary for the business rehabilitation proceeding.⁴ Upon the receipt of the application, the court shall consider the matter urgently, and if it appears that such limitation is not necessary for the business rehabilitation proceeding, the court shall issue an order as it deems appropriate to protect the benefits of the applicant.

In case the Collateral Taker is subject to business rehabilitation proceedings, in our opinion, the Collateral should not be regarded as assets essential for business operation of the Collateral Taker. Consequently, the Collateral Provider should still be able to exercise its contractual rights to recover the Collateral upon the insolvency of the Collateral Taker.

⁴ Section 90/13(1) of the Bankruptcy Act.

Nevertheless, if certain action to release the Collateral is required to be taken by the Collateral Taker being the debtor in the business rehabilitation proceeding, there is a risk that the Collateral Provider would not actually be able to recover the Collateral held by the Custodian in the Custodial Account in a timely manner as the act of the Collateral Taker to release the Collateral Located in Thailand may constitute a performance obligation by the debtor which is, pursuant to section 90/12(9), prohibited during the Automatic Stay Period. This is regardless of whether or not the Collateral Provider has an outstanding obligation to the Collateral Taker. Please note however that there is no court precedent interpreting whether a prohibition on a debtor to pay under section 90/12(9) includes a prohibition on both payment and performance obligations, or on payment obligations only. Also, unlike the bankruptcy case, there is no court precedent in Thailand as to whether the automatic early termination provision will be enforceable by the court in the business rehabilitation proceeding.

If the Collateral Taker refuses to take any action to release the Collateral or the action taken by the Collateral Taker is void, the Collateral Provider as a creditor may submit an application to the court for an order amending, modifying or annulling limitations on its rights under section 90/12 claiming that such limitations are not necessary for the business rehabilitation proceeding.

- 1.3 If the Location of the Collateral Taker is **outside** Thailand and the Location of the Collateral is **in** Thailand.

According to section 177 of the Bankruptcy Act, the receivership order or a bankruptcy action under the laws of other countries has no effect as to the assets of a debtor (i.e. the Collateral Taker) in Thailand. As a result, if the Collateral Taker is subject to an insolvency proceeding outside Thailand, the receivership order or a bankruptcy action of any foreign court will have no effect as to the Collateral Located in Thailand and the Collateral Provider should be entitled to exercise its contractual rights to recover the Collateral Located in Thailand pursuant to the IM Security Documents and the custodial arrangements.

2. *Assuming that the response to question 1 above is yes, are there any requirements that the custodial arrangements described in assumption (K) must satisfy in order to permit the Collateral Provider to exercise such rights?*

Answer

If the Collateral Taker and Collateral are Located in Thailand, as explained above, the official receiver is entitled to attach only the Distributable Assets of the insolvent debtor. So long as the Collateral held by the Custodian under the IM Security Documents and custodial arrangement is not deemed by the official receiver as Distributable Assets pursuant to section 109(3) of the Bankruptcy Act, it would support the Collateral Provider's claim that the Collateral held in the Custodial Account does not belong to the debtor and the Collateral Provider can therefore exercise its rights to recover the Collateral. To minimize the risk that the Collateral be deemed as Distributable Assets of the Collateral Taker, it is advisable that the Collateral be kept in an account opened under the name of the Collateral Provider or Custodian that clearly indicates that the assets are not in the possession and disposition of the Collateral Taker.

If the Collateral is Located in Thailand, regardless of whether the Collateral Taker is Located in or outside Thailand, the creation, perfection and release of security interest shall be governed by Thai law, being the law of the place where the property is situated, *lex situs*,

regardless of the governing law of the IM Security Documents. It is advisable that the IM Security Documents and custodial agreement contain certain provisions, among others, that the security interest over the Collateral shall be automatically terminated and discharged upon the occurrence of an Event of Default under section 5(a)(vii) of the Master Agreement with respect to the Collateral Taker, the Custodian shall take any action as required by the Collateral Provider to return the Collateral to the Collateral Provider and discharge the security interest over the Collateral, and the Collateral Taker and Collateral Provider agree to take any action in order to be in compliance with requisite procedures required for the release and discharge of the security interest and to return the Collateral to the Collateral Provider including but not limited to signing any relevant documents. Nevertheless, notwithstanding the insertion of these provisions, the release of Collateral may still be subject to certain difficulties if any action is required to be made by the Collateral Taker as explained in our response to question 1 above.

3. *In order for the Collateral Provider to exercise its rights under the IM Security Documents and the custodial arrangements described in assumption (K) to recover the Collateral, is there a requirement that the Collateral Provider have no outstanding obligations to the Collateral Taker?*

Answer

As explained in our response to question 1 above, legally speaking, the Collateral held by the Custodian in the Custodial Account would not constitute Distributable Assets. Nevertheless, if the Collateral Provider has outstanding obligations to the Collateral Taker, there is the risk that the official receiver will invoke its power pursuant to section 22 of the Bankruptcy Act to withhold the Collateral held in the Custodial Account and not return the Collateral to the Collateral Provider pending settlement of debts owed by the Collateral Provider to the Collateral Taker if the Collateral Taker and Collateral are Located in Thailand.

4. *Would the Collateral Provider's ability to exercise its contractual rights be subject to any to any stay or freeze or otherwise be affected by commencement of the insolvency of the Collateral Taker?*

Answer

The commencement of the insolvency proceeding i.e. bankruptcy proceeding under the Bankruptcy Act alone will not stay or freeze the Collateral Provider's ability to exercise its contractual right. However, once the Collateral Taker is subject to a receivership order which can be either temporary or absolute, the said order will terminate the powers and control of the debtor (i.e. Collateral Taker) over its assets and businesses. The official receiver will be appointed by the court to take control over the assets and pending businesses of the debtor (i.e. Collateral Taker).⁵

For the business rehabilitation proceeding, the commencement of the same will trigger the "automatic stay" limitation as discussed above⁶ This may effect the Collateral Provider's ability to actually recover the Collateral as explained in response to question 1 above.

⁵ Section 22 of the Bankruptcy Act.

⁶ Section 90/12 of the Bankruptcy Act.

5. *Please explain how your responses to questions 1 through 4 above would change if instead of entering into an IM Security Document and custodial arrangements described in assumption (K), the parties enter into custodial arrangements described in assumption (L)?*

Answer

Our analysis provided in questions 1 through 4 remains the same if the parties enter into custodial arrangements described in assumption (L).

Miscellaneous

6. *Are there any other local law considerations that you would recommend the Collateral Provider to consider in connection with recovering the Collateral?*

Answer

If the Collateral is Located in Thailand, regardless of whether the Collateral Taker is in or outside Thailand, we would recommend that the Collateral Provider consider the procedures for the release of each type of security interest created over the Collateral as set out in the paragraph [7 in the Collateral Opinion.

7. *Are there any other circumstances you can foresee in your jurisdiction that might affect the Collateral Provider's ability to enforce its contractual rights to recover the Collateral?*

Answer

Please refer to our response to question 1 above.

V. GENERAL QUALIFICATIONS

1. Under Thai law, the security interest which may be created under any IM Security Document will be void if the underlying obligation(s) is not a valid obligation.
2. Any judgement or order by a Thai court to enforce an agreement with respect to a payment denominated in a foreign currency may, at the Court's discretion, be expressed either in Thai Baht or in an appropriate foreign currency denomination. Pursuant to Section 196 of the Civil and Commercial Code, where a monetary debt is expressed in a foreign currency, a Thai court may order payment of the debt in Thai currency, applying a conversion rate that is currently in effect at the time of payment. Under Section 98 of the Bankruptcy Act, if the debt claimed for payment is denominated in a currency other than Baht, it shall be calculated at the rate of exchange on the day of the issuance of a final or temporary receiving order.
3. In addition to the general requirements for asserting a claim for payment applicable to all general creditors, under Section 178 of the Bankruptcy Act, a foreign creditor located outside Thailand can assert a claim for payment of debts in a bankruptcy case only when:
 - (a) it can be proven that a creditor in Thailand will similarly be entitled to claim for payment of debts in bankruptcy proceedings under the law and according to the courts of the country where the foreign creditor is located; and
 - (b) it must agree to deliver the property or dividend received from the debtor's property outside Thailand for it to be added to the debtor's property in Thailand.

4. A certification, termination, discretion, notification or opinion of any party as to any matter provided for in the Master Agreements might not be held by the Courts of Thailand to be conclusive, binding or final unless it could be shown to have good faith, reasonableness, or proof or correctness, and Thai courts and other authorities may require any foreign language document and certain writings delivered in connection therewith to be translated into the Thai language.
5. Approval given by the Bank of Thailand or an authorized agent of the Bank of Thailand, which includes all commercial banks in Thailand, must be obtained immediately prior to each payment of any nature to be made by the party in Thailand except in case of Baht payment made within Thailand between Thailand-based payer and payee. The authorized agent retains the discretion to deny or impose conditions on any approval or remittance and may require relevant documents and evidence to be filed with it in connection with any request for overseas remittance. Any Thai non-bank resident who obtains a foreign currency is required to convert such foreign currency into Thai Baht or deposit such foreign currency into a foreign currency deposit account opened with a commercial bank in Thailand within 360 days from the repatriation date. The transactions contemplated in each of the IM Security Documents may require different authorizations.
6. A waiver of rights or benefits is not effective under the laws of Thailand if contrary to public order or, more specifically, in circumstances where the beneficiary thereof has been grossly negligent or fraudulent.
7. Issuance of an order by the Courts of Thailand requiring a party to perform an obligation under a contract or to refrain from committing a breach of any such obligation is within the discretion of the Courts. Such an order would not necessarily be obtained, and any power or authority expressed to be irrevocable is not by such expression made irrevocable, and any revocation may result only in a claim for damages. The enforceability of an agreement is also subject to public order or good morals of the people of Thailand. The court will not enforce any agreement which is considered to be contrary to the public order or good morals of the people of Thailand.
8. Any judgement or order obtained in a foreign court may, at the discretion of the Courts of Thailand, be admitted as evidence of an obligation in new proceedings instituted in the Courts of Thailand, which would judge the issue on the evidence before it, but such judgement or order would not be enforced as such by the Courts of Thailand. Furthermore, there is no basis under the laws of Thailand for submission to the jurisdiction of a Court outside Thailand. In the recent Supreme Court decision No. 951/2539, the Court held that an agreement for the submission by any person to the non-exclusive jurisdiction of a foreign court does not prevent a Thai court from having jurisdiction over the case by the virtue of the Civil Procedure Code of Thailand.
9. Under the Unfair Contract Act B.E. 2540, any provision in an agreement which gives one party inappropriate advantage over the other party may be regarded by the Court of Thailand to be an unfair provision and may result that only the provisions that are fair and appropriate will be enforceable.
10. Prior Supreme Court decisions, theoretically, are not binding on a Court in a later case, but rather are only an indication, recommendation or guideline for a Court in the later case.
11. We are not giving an opinion on the validity of those underlying Transactions or on the validity or enforceability of any Master Agreement.

This opinion is given for the sole benefit of the International Swaps and Derivatives Association, Inc. and its members. This opinion is not to be disclosed to any other person nor is it to be relied upon by any other person without our prior written consent. This opinion may, however, be shown by an ISDA member to a competent regulatory or supervisory authority or professional advisors for such ISDA member for the purposes of information only, on the basis that we assume no responsibility to such authority or to any person as a result, or otherwise.

Yours sincerely,
Baker & McKenzie

Baker & McKenzie.

Certain transactions under
THE ISDA MASTER AGREEMENTS

Basis Swap. A transaction in which one party pays periodic amounts of a given currency based on a floating rate and the other party pays periodic amounts of the same currency based on another floating rate, with both rates reset periodically; all calculations are based on a notional amount of the given currency.

Bond Forward. A transaction in which one party agrees to pay an agreed price for a specified amount of a bond of an issuer or a basket of bonds of several issuers at a future date and the other party agrees to pay a price for the same amount of the same bond to be set on a specified date in the future. The payment calculation is based on the amount of the bond and can be physically-settled (where delivery occurs in exchange for payment) or cash-settled (where settlement occurs based on the difference between the agreed forward price and the prevailing market price at the time of settlement).

Bond Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to purchase (in the case of a call) or sell (in the case of a put) a specified amount of a bond of an issuer, such as Kingdom of Sweden or Unilever N.V., at a specified strike price. The bond option can be settled by physical delivery of the bonds in exchange for the strike price or may be cash settled based on the difference between the market price of the bonds on the exercise date and the strike price.

Bullion Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to purchase (in the case of a call) or sell (in the case of a put) a specified number of Ounces of Bullion at a specified strike price. The option may be settled by physical delivery of Bullion in exchange for the strike price or may be cash settled based on the difference between the market price of Bullion on the exercise date and the strike price.

Bullion Swap. A transaction in which one party pays periodic amounts of a given currency based on a fixed price or a fixed rate and the other party pays periodic amounts of the same currency or a different currency calculated by reference to a Bullion reference price (for example, Gold-COMEX on the COMEX Division of the New York Mercantile Exchange) or another method specified by the parties. Bullion swaps include cap, collar or floor transactions in respect of Bullion.

Bullion Trade. A transaction in which one party agrees to buy from or sell to the other party a specified number of Ounces of Bullion at a specified price for settlement either on a “spot” or two-day basis or on a specified future date. A Bullion Trade may be settled by physical delivery of Bullion in exchange for a specified price or may be cash settled based on the difference between the market price of Bullion on the settlement date and the specified price.

For purposes of Bullion Trades, Bullion Options and Bullion Swaps, “Bullion” means gold, silver, platinum or palladium and “Ounce” means, in the case of gold, a fine troy ounce, and in the case of silver, platinum and palladium, a troy ounce (or in the case of reference prices not expressed in Ounces, the relevant Units of gold, silver, platinum or palladium).

Buy/Sell-Back Transaction. A transaction in which one party purchases a security (in consideration for a cash payment) and agrees to sell back that security (or in some cases an equivalent security) to the other party (in consideration for the original cash payment plus a premium).

Cap Transaction. A transaction in which one party pays a single or periodic fixed amount and the other party pays periodic amounts of the same currency based on the excess, if any, of a specified floating rate (in the case of an interest rate cap), rate or index (in the case of an economic statistic cap) or commodity price (in the case of a commodity cap) in each case that is reset periodically over a specified per annum rate (in the case of an interest rate cap), rate or index (in the case of an economic statistic cap) or commodity price (in the case of a commodity cap).

Collar Transaction. A collar is a combination of a cap and a floor where one party is the floating rate, floating index or floating commodity price payer on the cap and the other party is the floating rate, floating index or floating commodity price payer on the floor.

Commodity Forward. A transaction in which one party agrees to purchase a specified quantity of a commodity at a future date at an agreed price, and the other party agrees to pay a price for the same quantity to be set on a specified date in the future. A Commodity Forward may be settled by the physical delivery of the commodity in exchange for the specified price or may be cash settled based on the difference between the agreed forward price and the prevailing market price at the time of settlement.

Commodity Index Transaction. A transaction, structured in the form of a swap, cap, collar, floor, option or some combination thereof, between two parties in which the underlying value of the transaction is based on a rate or index based on the price of one or more commodities.

Commodity Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to purchase (in the case of a call) or sell (in the case of a put) a specified quantity of a commodity at a specified strike price. The option can be settled either by physically delivering the quantity of the commodity in exchange for the strike price or by cash settling the option, in which case the seller of the option would pay to the buyer the difference between the market price of that quantity of the commodity on the exercise date and the strike price.

Commodity Swap. A transaction in which one party pays periodic amounts of a given currency based on a fixed price and the other party pays periodic amounts of the same currency based on the price of a commodity, such as natural gas or gold, or a futures contract on a commodity (e.g., West Texas Intermediate Light Sweet Crude Oil on the New York Mercantile Exchange); all calculations are based on a notional quantity of the commodity.

Contingent Credit Default Swap. A Credit Default Swap Transaction under which the calculation amounts applicable to one or both parties may vary over time by reference to the mark-to-market value of a hypothetical swap transaction.

Credit Default Swap Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to enter into a Credit Default Swap.

Credit Default Swap. A transaction in which one party pays either a single fixed amount or periodic fixed amounts or floating amounts determined by reference to a specified notional amount, and the other party (the credit protection seller) pays either a fixed amount or an amount determined by reference to the value of one or more loans, debt securities or other financial instruments (each a "Reference Obligation") issued, guaranteed or otherwise entered into by a third party (the "Reference Entity") upon the occurrence of one or more specified credit events with respect to the Reference Entity (for example, bankruptcy or payment default). The amount payable by the credit protection seller is typically determined based upon the market value of one or more debt securities or other debt

instruments issued, guaranteed or otherwise entered into by the Reference Entity. A Credit Default Swap may also be physically settled by payment of a specified fixed amount by one party against delivery of specified obligations (“Deliverable Obligations”) by the other party. A Credit Default Swap may also refer to a “basket” (typically ten or less) or a “portfolio” (eleven or more) of Reference Entities or may be an index transaction consisting of a series of component Credit Default Swaps.

Credit Derivative Transaction on Asset-Backed Securities. A Credit Default Swap for which the Reference Obligation is a cash or synthetic asset-backed security. Such a transaction may, but need not necessarily, include “pay as you go” settlements, meaning that the credit protection seller makes payments relating to interest shortfalls, principal shortfalls and write-downs arising on the Reference Obligation and the credit protection buyer makes additional fixed payments of reimbursements of such shortfalls or write-downs.

Credit Spread Transaction. A transaction involving either a forward or an option where the value of the transaction is calculated based on the credit spread implicit in the price of the underlying instrument.

Cross Currency Rate Swap. A transaction in which one party pays periodic amounts in one currency based on a specified fixed rate (or a floating rate that is reset periodically) and the other party pays periodic amounts in another currency based on a floating rate that is reset periodically. All calculations are determined on predetermined notional amounts of the two currencies; often such swaps will involve initial and or final exchanges of amounts corresponding to the notional amounts.

Currency Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to purchase (in the case of a call) or sell (in the case of a put) a specified amount of a given currency at a specified strike price.

Currency Swap. A transaction in which one party pays fixed periodic amounts of one currency and the other party pays fixed periodic amounts of another currency. Payments are calculated on a notional amount. Such swaps may involve initial and or final payments that correspond to the notional amount.

Economic Statistic Transaction. A transaction in which one party pays an amount or periodic amounts of a given currency by reference to interest rates or other factors and the other party pays or may pay an amount or periodic amounts of a currency based on a specified rate or index pertaining to statistical data on economic conditions, which may include economic growth, retail sales, inflation, consumer prices, consumer sentiment, unemployment and housing.

Emissions Allowance Transaction. A transaction in which one party agrees to buy from or sell to the other party a specified quantity of emissions allowances or reductions at a specified price for settlement either on a “spot” basis or on a specified future date. An Emissions Allowance Transaction may also constitute a swap of emissions allowances or reductions or an option whereby one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to receive a payment equal to the amount by which the specified quantity of emissions allowances or reductions exceeds or is less than a specified strike. An Emissions Allowance Transaction may be physically settled by delivery of emissions allowances or reductions in exchange for a specified price, differing vintage years or differing emissions products or may be cash settled based on the difference between the market price of emissions allowances or reductions on the settlement date and the specified price.

Equity Forward. A transaction in which one party agrees to pay an agreed price for a specified quantity of shares of an issuer, a basket of shares of several issuers or an equity index at a future date

and the other party agrees to pay a price for the same quantity and shares to be set on a specified date in the future. The payment calculation is based on the number of shares and can be physically-settled (where delivery occurs in exchange for payment) or cash-settled (where settlement occurs based on the difference between the agreed forward price and the prevailing market price at the time of settlement).

Equity Index Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to receive a payment equal to the amount by which an equity index either exceeds (in the case of a call) or is less than (in the case of a put) a specified strike price.

Equity Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to purchase (in the case of a call) or sell (in the case of a put) a specified number of shares of an issuer or a basket of shares of several issuers at a specified strike price. The share option may be settled by physical delivery of the shares in exchange for the strike price or may be cash settled based on the difference between the market price of the shares on the exercise date and the strike price.

Equity Swap. A transaction in which one party pays periodic amounts of a given currency based on a fixed price or a fixed or floating rate and the other party pays periodic amounts of the same currency or a different currency based on the performance of a share of an issuer, a basket of shares of several issuers or an equity index, such as the Standard and Poor's 500 Index.

Floor Transaction. A transaction in which one party pays a single or periodic amount and the other party pays periodic amounts of the same currency based on the excess, if any, of a specified per annum rate (in the case of an interest rate floor), rate or index level (in the case of an economic statistic floor) or commodity price (in the case of a commodity floor) over a specified floating rate (in the case of an interest rate floor), rate or index level (in the case of an economic statistic floor) or commodity price (in the case of a commodity floor).

Foreign Exchange Transaction. A deliverable or non-deliverable transaction providing for the purchase of one currency with another currency providing for settlement either on a "spot" or two-day basis or a specified future date.

Forward Rate Transaction. A transaction in which one party agrees to pay a fixed rate for a defined period and the other party agrees to pay a rate to be set on a specified date in the future. The payment calculation is based on a notional amount and is settled based, among other things, on the difference between the agreed forward rate and the prevailing market rate at the time of settlement.

Freight Transaction. A transaction in which one party pays an amount or periodic amounts of a given currency based on a fixed price and the other party pays an amount or periodic amounts of the same currency based on the price of chartering a ship to transport wet or dry freight from one port to another; all calculations are based either on a notional quantity of freight or, in the case of time charter transactions, on a notional number of days.

Fund Option Transaction: A transaction in which one party grants to the other party (for an agreed payment or other consideration) the right, but not the obligation, to receive a payment based on the redemption value of a specified amount of an interest issued to or held by an investor in a fund, pooled investment vehicle or any other interest identified as such in the relevant Confirmation

(a "Fund Interest"), whether i) a single class of Fund Interest of a Single Reference Fund or ii) a basket of Fund Interests in relation to a specified strike price. The Fund Option Transactions will

generally be cash settled (where settlement occurs based on the excess of such redemption value over such specified strike price (in the case of a call) or the excess of such specified strike price over such redemption value (in the case of a put) as measured on the valuation date or dates relating to the exercise date).

Fund Forward Transaction: A transaction in which one party agrees to pay an agreed price for the redemption value of a specified amount of i) a single class of Fund Interest of a Single Reference Fund or ii) a basket of Fund Interests at a future date and the other party agrees to pay a price for the redemption value of the same amount of the same Fund Interests to be set on a specified date in the future. The payment calculation is based on the amount of the redemption value relating to such Fund Interest and generally cash-settled (where settlement occurs based on the difference between the agreed forward price and the redemption value measured as of the applicable valuation date or dates).

Fund Swap Transaction: A transaction a transaction in which one party pays periodic amounts of a given currency based on a fixed price or a fixed rate and the other party pays periodic amounts of the same currency based on the redemption value of i) a single class of Fund Interest of a Single Reference Fund or ii) a basket of Fund Interests.

Interest Rate Option. A transaction in which one party grants to the other party (in consideration for a premium payment) the right, but not the obligation, to receive a payment equal to the amount by which an interest rate either exceeds (in the case of a call option) or is less than (in the case of a put option) a specified strike rate.

Interest Rate Swap. A transaction in which one party pays periodic amounts of a given currency based on a specified fixed rate and the other party pays periodic amounts of the same currency based on a specified floating rate that is reset periodically, such as the London inter-bank offered rate; all calculations are based on a notional amount of the given currency.

Longevity/Mortality Transaction. (a) A transaction employing a derivative instrument, such as a forward, a swap or an option, that is valued according to expected variation in a reference index of observed demographic trends, as exhibited by a specified population, relating to aging, morbidity, and mortality/longevity, or (b) A transaction that references the payment profile underlying a specific portfolio of longevity- or mortality- contingent obligations, e.g. a pool of pension liabilities or life insurance policies (either the actual claims payments or a synthetic basket referencing the profile of claims payments).

Physical Commodity Transaction. A transaction which provides for the purchase of an amount of a commodity, such as oil including oil products, coal, electricity or gas, at a fixed or floating price for actual delivery on one or more dates.

Property Index Derivative Transaction. A transaction, often structured in the form of a forward, option or total return swap, between two parties in which the underlying value of the transaction is based on a rate or index based on residential or commercial property prices for a specified local, regional or national area.

Repurchase Transaction. A transaction in which one party agrees to sell securities to the other party and such party has the right to repurchase those securities (or in some cases equivalent securities) from such other party at a future date.

Securities Lending Transaction. A transaction in which one party transfers securities to a party acting as the borrower in exchange for a payment or a series of payments from the borrower and the borrower's obligation to replace the securities at a defined date with identical securities.

Swap Deliverable Contingent Credit Default Swap. A Contingent Credit Default Swap under which one of the Deliverable Obligations is a claim against the Reference Entity under an ISDA Master Agreement with respect to which an Early Termination Date (as defined therein) has occurred.

Swap Option. A transaction in which one party grants to the other party the right (in consideration for a premium payment), but not the obligation, to enter into a swap with certain specified terms. In some cases the swap option may be settled with a cash payment equal to the market value of the underlying swap at the time of the exercise.

Total Return Swap. A transaction in which one party pays either a single amount or periodic amounts based on the total return on one or more loans, debt securities or other financial instruments (each a “Reference Obligation”) issued, guaranteed or otherwise entered into by a third party (the “Reference Entity”), calculated by reference to interest, dividend and fee payments and any appreciation in the market value of each Reference Obligation, and the other party pays either a single amount or periodic amounts determined by reference to a specified notional amount and any depreciation in the market value of each Reference Obligation.

A total return swap may (but need not) provide for acceleration of its termination date upon the occurrence of one or more specified events with respect to a Reference Entity or a Reference Obligation with a termination payment made by one party to the other calculated by reference to the value of the Reference Obligation.

Weather Index Transaction. A transaction, structured in the form of a swap, cap, collar, floor, option or some combination thereof, between two parties in which the underlying value of the transaction is based on a rate or index pertaining to weather conditions, which may include measurements of heating, cooling, precipitation and wind.

CERTAIN COUNTERPARTY TYPES⁷

Description	Covered by opinion	Legal form(s)
<p>Bank/Financial Institution. A legal entity, which is organized as a public company limited that conduct:</p> <p>(i) commercial banking activities, that is, whose core business typically involves (a) taking deposits from private individuals and/or corporate entities and (b) making loans to private individual and/or corporate borrowers. This type of entity is sometimes referred to as a “commercial bank”, or</p> <p>(ii) finance business. This type of entity is sometimes referred as a "finance company", or</p> <p>(iii) credit foncier business. This type of entity is sometimes referred as a "credit foncier company".</p> <p>(If the entity <u>only</u> conducts investment banking and trading activities, then it falls within the “Investment Firm/Broker Dealer” category below.) This type of entity is referred to as a “credit institution” in European Community (EC) legislation.</p>	<p>Yes</p> <p>But the Opinion does not cover banks or financial institutions established and organized under special law (e.g. Government Savings Bank, Government Housing Bank).</p>	<p>The mandatory inclusion of the word "Bank", "Finance Company" or "Credit Foncier Company" in the name of the entity in accordance with its license under the Financial Institution Business Act B.E. 2551, as amended.</p>
<p>Central Bank. A legal entity that performs the function of a central bank for a Sovereign or for an area of monetary union (as in the case of the European Central Bank in respect of the euro zone).</p>	<p>No</p>	<p>The mandatory inclusion of the word "the Bank of Thailand" under the Bank of Thailand Act B.E. 2485 (1942), as amended.</p>
<p>Corporation. A legal entity that is organized as a corporation or company rather than a partnership, is engaged in industrial and/or commercial activities and does not fall within one of the other categories in this Appendix B.</p>	<p>Yes</p>	<p>The registered name of a limited company organized under the Thai Civil and Commercial Code must end with the words "Company Limited", "Co., Ltd.", "Corporation Limited" or "Corp., Ltd." and the registered name of a public limited company organized under the Public Limited Company Act (1992), as</p>

⁷ In these definitions, the term “legal entity” means an entity with legal personality other than a private individual.

Description	Covered by opinion	Legal form(s)
		amended, must end with the words "Public Company Limited" or "PCL".
<p><u>Hedge Fund/Proprietary Trader.</u> A legal entity, which is organized as a mutual fund, the principal business of which is to deal in and/or manage securities and/or other financial instruments and/or otherwise to carry on an investment business predominantly or exclusively as principal for its own account.</p>	<p>No</p> <p>The Opinion does not cover hedge funds which, in Thailand, cannot be set up in the form of a partnership, limited company or public limited company but a mutual fund.</p>	
<p><u>Insurance Company.</u> A legal entity, which may be organised as a company, that is licensed to carry on insurance business, and is typically subject to a special regulatory regime and a special insolvency regime in order to protect the interests of policyholders.</p>	<p>No</p> <p>In Thailand, an insurance company can be set up as either a limited company or public limited company or a branch of a foreign incorporated insurance company.</p>	<p>The inclusion of "Insurance Company" in the name of the entity pursuant to the Life and Non-Life Insurance Acts B.E. 2535, as amended.</p>
<p><u>International Organization.</u> An organization of Sovereigns established by treaty entered into between the Sovereigns, including the International Bank for Reconstruction and Development (the World Bank), regional development banks and similar organizations established by treaty.</p>	<p>No</p>	
<p><u>Investment Firm/Broker Dealer.</u> A legal entity, which may be organized as a limited company or public limited company, that does not conduct commercial banking activities but deals in and/or manages securities and/or other financial instruments as an agent for third parties. It may also conduct such activities as principal (but if it does so exclusively as principal, then it</p>	<p>Yes</p> <p>In Thailand, a securities company can only be set up in a form of a limited company or public limited</p>	<p>The mandatory inclusion of "Securities Company" in the name of the entity in accordance with the Securities and Exchange Act B.E. 2535 (as amended).</p>

Description	Covered by opinion	Legal form(s)
<p>most likely falls within the “Hedge Fund/Proprietary Trader” category above.) Its business normally includes holding securities and/or other financial instruments for third parties and operating related cash accounts. This type of entity is referred to as a “broker-dealer” in US legislation and as an “investment firm” in EC legislation.</p>	<p>company but not a partnership.</p>	
<p><u>Investment Fund.</u> A legal entity or an arrangement without legal personality (for example, a common law trust) established to provide investors with a share in profits or income arising from property acquired, held, managed or disposed of by the manager(s) of the legal entity or arrangement or a right to payment determined by reference to such profits or income. This type of entity or arrangement is referred to as a “collective investment scheme” in EC legislation. It may be regulated or unregulated. It is typically administered by one or more persons (who may be private individuals and/or corporate entities) who have various rights and obligations governed by general law and/or, typically in the case of regulated Investment Funds, financial services legislation. Where the arrangement does not have separate legal personality, one or more representatives of the Investment Fund (for example, a trustee of a unit trust) contract on behalf of the Investment Fund, are owed the rights and owe the obligations provided for in the contract and are entitled to be indemnified out of the assets comprised in the arrangement.</p>	<p>No</p>	
<p><u>Local Authority.</u> A legal entity established to administer the functions of local government in a particular region within a Sovereign or State of a Federal Sovereign, for example, a city, county, borough or similar area.</p>	<p>No</p>	

Description	Covered by opinion	Legal form(s)
<p><u>Partnership.</u> A legal entity or form of arrangement without legal personality that is (a) organised as a general, limited or some other form of partnership and (b) does not fall within one of the other categories in this Appendix B. If it does not have legal personality, it may nonetheless be treated as though it were a legal person for certain purposes (for example, for insolvency purposes) and not for other purposes (for example, tax or personal liability).</p>	No	
<p><u>Pension Fund.</u> A legal entity or an arrangement without legal personality (for example, a common law trust) established to provide pension benefits to a specific class of beneficiaries, normally sponsored by an employer or group of employers. It is typically administered by one or more persons (who may be private individuals and/or corporate entities) who have various rights and obligations governed by pensions legislation. Where the arrangement does not have separate legal personality, one or more representatives of the Pension Fund (for example, a trustee of a pension scheme in the form of a common law trust) contract on behalf of the Pension Fund and are owed the rights and owe the obligations provided for in the contract and are entitled to be indemnified out of the assets comprised in the arrangement.</p>	No	
<p><u>Sovereign.</u> A sovereign nation state recognized internationally as such, typically acting through a direct agency or instrumentality of the central government without separate legal personality, for example, the ministry of finance, treasury or national debt office. This category does not include a State of a Federal Sovereign or other political sub-division of a sovereign nation state if the sub-division has separate legal personality (for example, a Local Authority) and it does not include</p>	No	

Description	Covered by opinion	Legal form(s)
any legal entity owned by a sovereign nation state (see “Sovereign-owned Entity”).		
<u>Sovereign Wealth Fund.</u> A legal entity, often created by a special statute and normally wholly owned by a Sovereign, established to manage assets of or on behalf of the Sovereign, which may or may not hold those assets in its own name. Such an entity is often referred to as an “investment authority”. For certain Sovereigns, this function is performed by the Central Bank, however for purposes of this Appendix B the term “Sovereign Wealth Fund” excludes a Central Bank.	No	
<u>Sovereign-Owned Entity.</u> A legal entity wholly or majority-owned by a Sovereign, other than a Central Bank, or by a State of a Federal Sovereign, which may or may not benefit from any immunity enjoyed by the Sovereign or State of a Federal Sovereign from legal proceedings or execution against its assets. This category may include entities active entirely in the private sector without any specific public duties or public sector mission as well as statutory bodies with public duties (for example, a statutory body charged with regulatory responsibility over a sector of the domestic economy). This category does not include local governmental authorities (see “Local Authority”).	No However, the Opinion applies to "Sovereign-Owned Entity" to the extent that each such entity is a company incorporated and organized in the form of a limited company or public limited company and is not governed by or established under any special law in addition to or other than the Thai Civil and Commercial Code or the Public Limited Company Act (1992).	
<u>Sovereign-Owned Entity.</u> A legal entity wholly or majority-owned by a Sovereign, other than a Central Bank, or by a State of a Federal Sovereign, which may or may not benefit from any immunity enjoyed by the Sovereign or State of a Federal Sovereign	No However, the Opinion applies to "Sovereign-Owned Entity" to	

Description	Covered by opinion	Legal form(s)
<p>from legal proceedings or execution against its assets. This category may include entities active entirely in the private sector without any specific public duties or public sector mission as well as statutory bodies with public duties (for example, a statutory body charged with regulatory responsibility over a sector of the domestic economy). This category does not include local governmental authorities (see “Local Authority”).</p>	<p>the extent that each such entity is a company incorporated and organized in the form of a limited company or public limited company and is not governed by or established under any special law in addition to or other than the Thai Civil and Commercial Code or the Public Limited Company Act (1992).</p>	
<p><u>State of a Federal Sovereign.</u> The principal political sub-division of a federal Sovereign, such as Australia (for example, Queensland), Canada (for example, Ontario), Germany (for example, Nordrhein-Westfalen) or the United States of America (for example, Pennsylvania). This category does not include a Local Authority.</p>	<p>No</p>	
<p><u>State of a Federal Sovereign.</u> The principal political sub-division of a federal Sovereign, such as Australia (for example, Queensland), Canada (for example, Ontario), Germany (for example, Nordrhein-Westfalen) or the United States of America (for example, Pennsylvania). This category does not include a Local Authority.</p>	<p>No</p>	