

13 February 2024

# THAILAND

## Newsletter

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## Thailand: A Look Back Over 2023 and Looking Ahead to 2024 - Restructuring Disputes and Trends to Monitor

2023 was a year of political and economic uncertainty in Thailand, especially for the Thai stock market, when a number of companies in financial distress aggressively sought rescue by engaging in a formal court-supervised restructuring process (known as "Rehabilitation Proceedings"). This trend is expected to continue in 2024.

### 2023 Key Takeaways

- 1. Number of Restructuring Disputes at its highest in a decade.** In 2023, there were a record-breaking number of distressed businesses seeking rescue via rehabilitation proceedings. According to the public database of the Central Bankruptcy Court (the "**Court**"), as of the end of 2023, more than 30 companies (five of them listed companies) had filed for rehabilitation proceedings with the Court to restructure debts of more than THB 100,000 million (or approximately USD 3,000 million) in total. This was the highest number of rehabilitation proceedings even when compared to those that occurred during the COVID-19 pandemic era.
- 2. Hospitality, Real Estate and Manufacturing Took a Brutal Hit.** According to Court data, around 50 % of rehabilitation proceedings in 2023 were filed by debtors from these three sectors, with most proceedings remaining ongoing. Hospitality and tourism businesses remain at risk; despite being heavily promoted by the government, tourist numbers are still lower than expected post-pandemic, exacerbating the situation of many businesses that have already suffered due to the closure of borders during COVID-19. The real estate sector also took a big hit, particularly developers and contractors, as property prices outpaced Thai income growth, and the supply for this sector greatly outweighed demand. The situation was also partly attributed to the Chinese property crisis, which slowed down the investment in Thai real estate from major Chinese real estate developers and decreased the purchasing power of the Chinese. Manufacturing,

another key driver of the Thai economy, continued to decline due to inflation and the geopolitical economic crisis. These factors have led to businesses seeking recourse through rehabilitation proceedings to attempt to rescue their businesses.

- 3. Companies with Cash Flow Problems Seek Rescue.** Simultaneously companies with immediate debt maturities increasingly faced financial difficulties and started to default, as evidenced by the increase in corporate bonds defaulted on in 2023. This in turn led to companies turning to rehabilitation proceedings for rescue, contributing to an all-time high in the number of restructuring disputes in 2023.
- 4. Viewpoint of the Court.** In recent years, notably in 2023, the Court appears to have adopted a more conservative approach, raising the levels of scrutiny, especially at the first stage of acceptance of the application for rehabilitation, in which an "automatic stay" will kick in. During 2022 and 2023, more than 20 applications were rejected and dismissed by the Court. This shift has made resolving insolvency issues via rehabilitation proceedings more challenging, even though the relevant legislation has not changed.

## What to expect in 2024?

- 1. Continued Uptrend.** A solid uptrend in rehabilitation proceedings in 2023 indicates that a substantial increase in 2024 is inevitable. According to the public database of the Court, several rehabilitation proceedings filed in 2022 and 2023 still remain unresolved and are set to be heard in 2024. In addition, the pressures of the ongoing global economic crisis have exposed what has been happening in some companies (including fraud, misappropriation of funds, financial misconduct, and mismanagement) and this could lead to more litigation and rescue sought via rehabilitation proceedings to protect the interests of innocent stakeholders as a whole. In addition, based on news and draft regulations dealing primarily with securities offerings by debtors currently undergoing rehabilitation, proposed by the Securities and Exchange Commission (SEC) that are presently at the public hearing stage, we can expect a surge in the number of listed companies that will need to enter into rehabilitation proceedings.
- 2. Increased Out-of-Court Restructuring.** Out-of-court workouts are also expected to increase, due to the stricter levels of scrutiny applied by the Court to applications for rescue through rehabilitation proceedings in 2023, which have led to businesses shifting their focus to a more informal approach by seeking resolution outside of the courtroom.
- 3. Legal Reform on the Horizon.** In 2023, the government attempted to overhaul insolvency legislation, focusing on relaxing the restrictions under the current framework and establishing a precise mechanism for the expedited process (pre-package scheme) to merge out-of-court workouts and reduce the risks and uncertainties involved (click [HERE](#) for more information). However, these plans were postponed due to the Thai elections and the dissolution of Parliament in 2023. Looking ahead, it is anticipated that the government will resume this proactive push for reform in 2024, in order to equip businesses with crucial tools to battle the potential surge of insolvencies due to the current market conditions.

- 4. Final Thoughts.** According to the World Bank, the level of economic activity in the Asia Pacific region, including Thailand, is expected to recover in 2024 - despite still being lower than pre-pandemic levels. However, such prediction has not quite materialized, and the data still suggests that the Thai economic crisis will remain and potentially lead to an increase in restructuring disputes. Since the beginning of the pandemic, rehabilitation proceedings have been actively deployed by distressed businesses to resolve their financial issues and restructure their debts. Contrary to the expected drop in popularity once the pandemic improved, records indicate that this matter remains a hot topic and continues to demand our attention. In light of the current circumstances, all eyes are on the policies of the Thai authorities, e.g., the Board of Investment (BOI) and the Bank of Thailand (BOT) to see how they will defuse the situation. The big question is whether they can attract foreign investment, particularly US and Chinese investors, to revive the sluggish Thai economy. If they are successful in doing so, this would significantly improve the situation of many businesses in Thailand that are under threat of insolvency.

To discuss the legal topics included in this briefing in further detail, please contact the authors listed in the left-hand column.

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