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Open Letter

Call to Action for Five Thai Financial Institutions Named in the UN Special Rapporteur's Report on Transactions Linked to the Myanmar Military, in Accordance with United Nations Guiding Principles on Business and Human Rights

Dear Chief Executive Officer, Siam Commercial Bank Public Company Limited
President, Bangkok Bank Public Company Limited
Chief Executive Officer, Krung Thai Bank Public Company Limited
Chief Executive Officer, TMBThanachart Bank Public Company Limited
Chief Executive Officer, Kasikornbank Public Company Limited

References:

1. Report titled "Banking on the Death Trade: How Banks and Governments Enable the Military Junta in Myanmar"¹ by Tom Andrews, UN Special Rapporteur on the situation of human rights in Myanmar, dated June 26, 2024.
2. Statement by the Thai Bankers' Association regarding the above-mentioned report, dated June 28, 2024.²
3. Statement by Siam Commercial Bank regarding financial transactions related to Myanmar, dated July 1, 2024.³

¹ Accessed July 15, 2024, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session56/a-hrc-56-crp-7.pdf>

² Accessed July 15, 2024, <https://www.tba.or.th/สมาคมธนาคารไทยชี้แจง-กร/>

³ Accessed July 15, 2024, <https://investor.scbx.com/th/updates/press-releases/152/siam-commercial-bank-clarifies-financial-transactions-related-to-myanmar>

4. Livestream recording of the meeting of the House of Representatives' National Security and Border Affairs Committee, which invited the Bank of Thailand, the Thai Bankers' Association, the concerned commercial banks, and other relevant agencies to explain the matter, dated July 10, 2024. ⁴

Reference is made to "Banking on the Death Trade: How Banks and Governments Enable the Military Junta in Myanmar" by Tom Andrews, the UN Special Rapporteur on the situation of human rights in Myanmar. This report highlighted that in 2023, Thai banks became the primary financial service providers for the procurement of weapons and related materials for the Myanmar military. These weapons were directly used in the massacre of civilians. We also note subsequent statements from the Thai Bankers' Association, Siam Commercial Bank Public Company Limited, Bank of Thailand, as well as those organizations that participated in the meeting of the House of Representatives' National Security and Border Affairs Committee.

Fair Finance Thailand ("FFT" or "the Coalition") is a coalition of research company and civil society organizations that have been monitoring and advocating for "sustainable banking" in Thailand since 2018, mainly through the annual assessment of the sustainability policies of financial institutions using the Fair Finance Guide International methodology, which include "human rights." FFT wishes to express concerns regarding this matter and make the following three observations:

1. The "Banking on the Death Trade" report and the previous report by the same Special Rapporteur titled "The Billion Dollar Death Trade" ⁵ (May 2023) clearly stated that global sanctions against the Myanmar military government face two significant obstacles. First, governments around the world have not coordinated effectively, creating opportunities to evade sanctions. Second, the governments have not sanctioned several organizations that cause high impact, including international financial institutions that facilitate transactions for Myanmar's military government and Myanmar's financial institutions that facilitate arms procurement. These findings indicate that the mere compliance with UN resolutions, Bank

⁴ Accessed July 15, 2024, <https://www.youtube.com/watch?v=k-IKlKcfzn8>

⁵ Accessed July 15, 2024, <https://www.ohchr.org/sites/default/files/documents/countries/myanmar/crp-sr-myanmar-2023-05-17.pdf>

of Thailand orders, or other legally binding regulations as some banks and government agencies claim, is insufficient to halt transactions that lead to the massacre of civilians in Myanmar.

2. All five Thai banks named in the "Banking on Death Trade" report have endorsed the United Nations Guiding Principles on Business and Human Rights (UNGPs).⁶ Principle 13 explicitly states that business enterprises should avoid causing or contributing to adverse human rights impacts and should address such impacts when they occur. They should also prevent or mitigate adverse human rights impacts directly linked to their business operations. Therefore, the five Thai banks have a responsibility beyond legal obligations. In accordance with the UNGPs, the banks must enhance their customer due diligence processes (Enhanced Due Diligence: EDD) for all transactions related to Myanmar to avoid involvement in the procurement of weapons and related materials for the Myanmar military, which are used in the massacre of innocent civilians—the most severe human rights violation imaginable.
3. The "Banking on Death Trade" report provides clear examples of how banks can improve their EDD processes and collaborate with Special Rapporteurs and other agencies to create positive change. For instance, banks across Singapore have tightened their EDD processes, suspending certain transactions linked to the Myanmar military. Consequently, the value of transactions related to the Myanmar military through Singapore's banking system decreased significantly from USD 260 million in 2022 to only USD 40 million in 2023. Similarly, the value of military procurement transactions through Kasikornbank Public Company Limited dropped from USD 35 million to less than USD 5 million in the same period. Kasikornbank representatives clarified to the UN Special Rapporteur that the USD 35 million transaction occurred between April-June 2023, before the US sanctioned two Myanmar military-controlled banks: Myanmar Foreign Trade Bank (MFTB) and Myanmar Investment and Commercial Bank (MICB). Additionally, Kasikornbank representatives stated at the State Security Committee meeting that the bank relies on the OFAC database, which lists

⁶ Data as of the end of 2023. See more in the "Human Rights" section on the Fair Finance Thailand website, <https://fairfinancethailand.org/bank-guide/topic/human-rights/>

individuals and entities sanctioned by the US and is publicly accessible.⁷ These examples demonstrate that banks can improve their EDD processes related to Myanmar, thus fulfilling their human rights responsibilities according to the UNGPs they have accepted.

From the report "Banking on Death Trade", FFT calls for the following three actions from the five banks named:

1. Publicly declare the bank's commitment and procedures to enhance due diligence for all transactions related to Myanmar, thereby demonstrating accountability in accordance with the UNGPs. This includes checking databases and reports from human rights organizations and being open to receiving information about entities suspected of being involved with the Myanmar military government from stakeholders and relevant agencies through the bank's complaint mechanisms, to improve the bank's Enhanced Due Diligence (EDD) processes.
2. Consider implementing recommendations made in the report by the Special Rapporteur of the United Nations, especially the termination of all transactions and financial relationships with banks controlled by Myanmar's military government, including MFTB, MICB, and Myanmar Economic Bank (MEB), due to the high risk of these transactions being linked to human rights violations in Myanmar. Additionally, the banks can recommend their customers to use other financial institutions in Myanmar besides these state-controlled banks.
3. Announce that the bank would stop executing any transaction where customers or counterparties fail to pass additional EDD as recommended by the Financial Action Task Force (FATF) for Myanmar.⁸

Respectfully Yours,
Fair Finance Thailand

⁷ OFAC Database, <https://sanctionssearch.ofac.treas.gov/>

⁸ Financial Action Task Force, High-Risk Jurisdictions subject to a Call for Action, October 2023, <https://www.fatf-gafi.org/en/publications/High-risk-and-other-monitored-jurisdictions/Call-for-action-october-2023.html>