

The business rehabilitation process in Thailand

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Over a year on from the initial outbreak of COVID-19 and declaration of a global pandemic, the economic effects are still being felt across the globe. In Thailand, whilst there are positive signs of recovery in exports, the continued absence of international tourists and outbreak of a 3rd wave of COVID-19 is still weighing heavily on many domestic businesses.

The economic packages provided by the Thai government and continued support from commercial banks has meant that many businesses have been able to continue to operate.

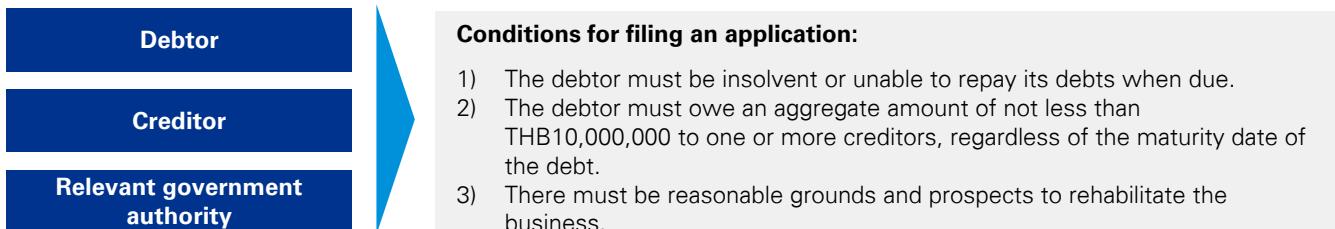
However, with many of the support measures now finished and the need for fresh working capital for businesses to ramp up activity to previous levels we are seeing a liquidity crunch for many. This has led to an increase in the number of rehabilitation applications, with a total of 16 in 2020 compared to seven in 2019, nine in 2018, and already nine in 2021 to date.

Whilst the formal court rehabilitation process is not the only option for companies in distress, it is likely to be a route more businesses consider in the months ahead. We outline below a high-level introduction to the process and key considerations.

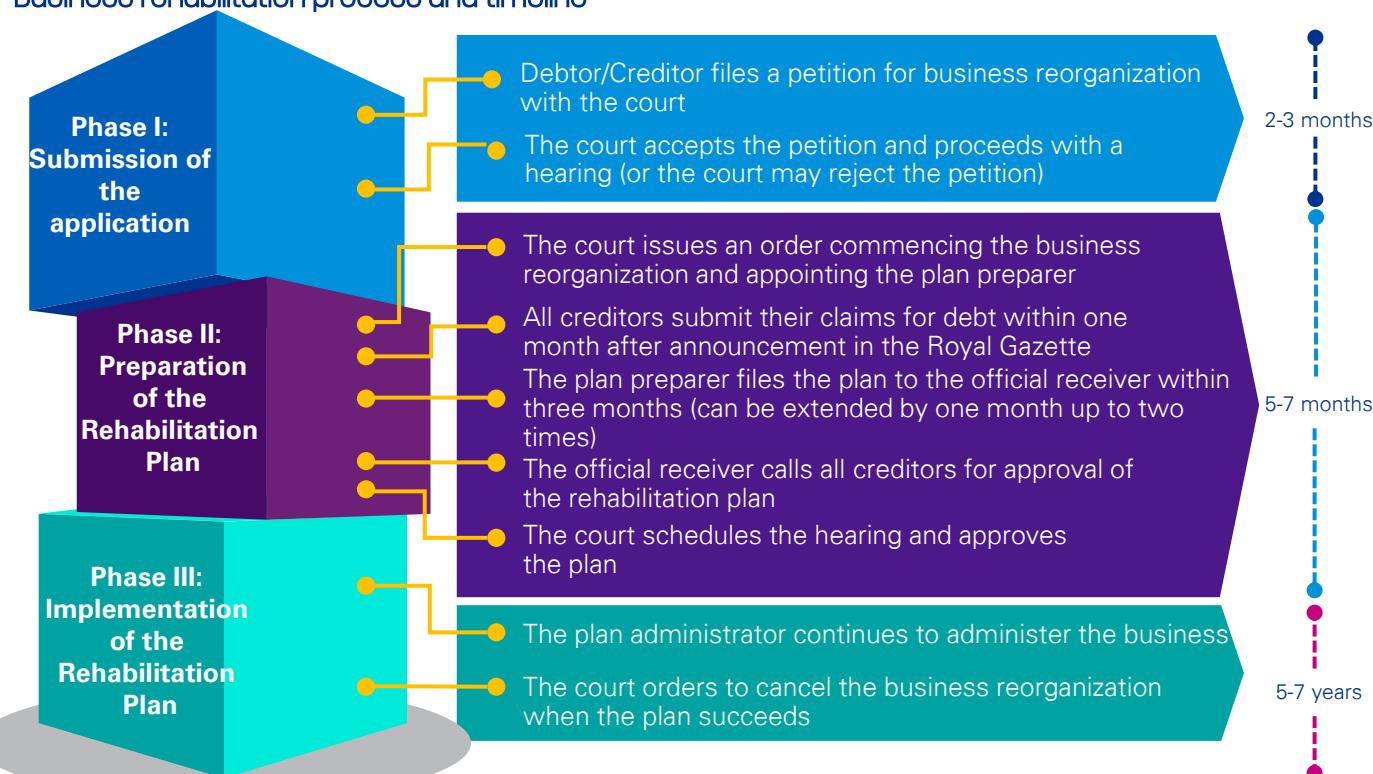
What is business rehabilitation?

Business rehabilitation is a court administered process for companies that are unable to repay their debts and need to restructure these financial obligations in order to continue to operate. Under the Thai Bankruptcy Act B.E. 2542, the debtor can continue to operate under an approved plan, which seeks to provide a better return to creditors than liquidation of the business and assets.

Who can file a rehabilitation petition?



Business rehabilitation process and timeline



Key considerations for debtors and creditors

The decision to proceed with a business rehabilitation application should not be taken lightly and should be undertaken after careful assessment of the risks and benefits and, in many cases, after consultation with key creditors who will need to support the application. Advice should be sought from experienced legal and financial advisors who can provide an independent view of the best option available to you.

Reasons for taking this option vary. Taking recent high-profile cases as an example, Thai Airways is a complex case with multiple domestic and international creditors and a need to fundamentally restructure the business operations. The business rehabilitation process has provided structure, and time, to the business to form a plan and communicate with all creditors.

Whilst this is an extreme example, the presence of multiple creditors that need to be renegotiated with for the business to survive is the most common factor for a business to apply for rehabilitation.

Debtors	Creditors
<ul style="list-style-type: none">Major creditors will need to support the application, and subsequent plan, if it is to be approvedCredit lines and access to additional debt may be suspended, so a company needs to ensure sufficient liquidity to continue to operatePotentially adverse reaction from stakeholders including customers, suppliers, creditors and employees	<ul style="list-style-type: none">The level of debt owed relative to the total, and creditor classification, will determine your level of influenceDebtor will be protected from enforcement of security or commencement of any other litigation proceedingsCreditors can nominate another person to act as Plan Preparer instead of debtorProcess aims to treat each class of creditors fairly

How we can help

Key activities	1 Submitting the application	2 Preparation of the Rehabilitation Plan	3 Implement the Rehabilitation Plan
	<ul style="list-style-type: none">✓ Assistance with the preparation and submission of the petition and application✓ Work as advisor to the debtor or appointed planner✓ Review and assess the debt obligations from creditors	<ul style="list-style-type: none">✓ Develop strategy for negotiation with creditors✓ Prepare the plan for business reorganization with the debtor✓ Examine and confirm validity of debt claims by creditors✓ Assist in negotiations with creditors✓ Coordinate with legal advisor and the official will be receiver	<ul style="list-style-type: none">✓ Supervise and monitor the business following guidelines from the plan administrator✓ Support the debtor to comply with the conditions of repayment to creditors✓ Report the results of plan implementation to creditors and the court

Contact us



Sukit Vongthavaravat
Partner
Head of Advisory
sukit@kpmg.co.th
Tel: +66 2677 2350



Ian Thornhill
Partner
Head of Deal Advisory
ithornhill@kpmg.co.th
Tel: +66 2677 2297



Matt Crane
Director
Deal Advisory
Turnaround & Value Creation
mcrane1@kpmg.co.th
Tel: +66 2677 2154



Songpon Kiatlertpongsa
Director
Deal Advisory
songpon@kpmg.co.th
Tel: +66 2677 2772



Jakkra Rattananukit
Manager
Restructuring
jakkra@kpmg.co.th
Tel: +66 2677 2730



Toungrat Pichitdej
Assistant Manager
Restructuring
toungrat@kpmg.co.th
Tel: +66 2677 2793



home.kpmg/th

KPMG in Thailand
48th floor, Empire Tower
1 South Sathorn Road,
Yannawa, Bangkok 10120
T: +662 677 2000

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