

New Categories of Security Receivers under the Business Collateral Act of Thailand

On 23rd February 2018, the Ministerial Regulation on Categories of Security Receivers (No. 2) B.E. 2561 (A.D. 2018) (“**Security Receivers Regulation No. 2**”) issued under the Business Collateral Act B.E. 2558 (A.D. 2015) (“**BCA**”) was published in the Royal Gazette and it has become effective since then.

The BCA was enacted on 5th November 2015 and has become effective since 2nd July 2016. Since then, a business collateral becomes a new type of securities in Thailand in addition to guarantee, mortgage and pledge previously allowed under the Civil and Commercial Code (“**CCC**”).

Under the BCA, a security provider can be an individual or juristic entity while a security receiver can be a financial institution or any other person as provided under ministerial regulations.

The first Ministerial Regulation on Categories of Security Receivers was enacted in November 2016 to prescribe security receivers to include special purpose juristic person for securitization, trustee under law of trust for capital market transactions, securities companies, debenture holders, derivative companies, asset management companies and factoring companies.

The Security Receivers Regulation No. 2 sets forth the following four new categories of entities that are now also eligible to act as security receivers under the BCA:-

- the Office of the Permanent Secretary for Industry, specifically in the case of SME Development Fund under Civil State Guidelines;
- foreign banks, specifically in the case of granting loans jointly with Thai financial institutions;
- juristic persons with specific purpose for hire-purchasing and leasing business;
- juristic persons with specific purpose for operating a loan-granting business.

Mrs. Kullanee Issadisai, Director-General of Department of Business Development, Ministry of Commerce, said that adding these four new categories of security receivers under the BCA would expand the scope of implementation and application of business collateral under the BCA and would better help SMEs for accessing source of funds which eventually will be beneficial for the overall economy of the country and increase level of its competitiveness.

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