

NEWSLETTER

No. 73 Edition May 2013

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LEGAL UPDATE

1. Amendment to the Consumer Procedural Act, B.E. 2551 to Give More Flexibility in Filing the Consumer's Lawsuit

A class action (also known as a class action lawsuit) is one form of lawsuits under which a group of people is bringing a claim to a court. In Thailand, a representative of consumers is allowed to file a class action (lawsuit) on behalf of a group of consumers against a business operator to the Court. If filing of a class action (lawsuit) becomes more commonplace, it will cause more troubles for corporate Thailand.

Obviously getting sued is not fun, getting sued in a class action (lawsuit) is even worse than getting sued by one person because the amount of claim will be higher. The Consumer Procedural Amendment Act (No. 2), B.E. 2556 (2013) was promulgated to give more flexibility in filing a consumers' class action (lawsuit).

The Amendment to the Consumer Procedural Act, B.E. 2551 (2008) are summarized in the below table.

1

Existing Law	Amendment
1. Only a consumer association recognized by the Consumer Protection Commission is allowed to file a class action (lawsuit) on behalf of the consumers who are its members.	1. A consumer association or a consumer foundation recognized by the Consumer Protection Commission is allowed to file a class action (lawsuit) on behalf of the consumers.
2. When a consumer association files a lawsuit and later loses the recognition by the Consumer Protection Commission, consumers must get into the case by themselves, otherwise the Court has to drop the case.	2. When a consumer association or a consumer foundation files a lawsuit and later loses the recognition by the Consumer Protection Commission, consumers have options of (i) getting into the case by themselves; or (ii) requesting any other consumer association or any other consumer foundation to represent them in Court.

Another disadvantage for a business operator in a lawsuit with a consumer is that, if any business operator happens to lose a case to one consumer, another consumer with a similar claim can file another lawsuit to Court and the Court has the power to treat the facts in the previous case as settled without the need to examine the witnesses in a subsequent case again. This means if a business operator faces similar claims from many consumers, losing one case could result in losing all subsequent cases with a similar claim.

For more information, please contact our lawyers for consultation.

LEGAL UPDATE

2. Amendment to the List of the Restricted Activities Attached to the Foreign Business Act, B.E. 2542

Thailand loosely protects local owned businesses by excluding foreign owned businesses from engaging in the restricted activities in Thailand. The lists of restricted activities are attached to the FBA.

The Royal Decree Re Amendment to the Restricted Activities under the Foreign Business Act, B.E. 2542 (1999) (the "FBA"), B.E. 2556 (2013) was promulgated to exclude trading of the agricultural product future without physical delivery or taking the physical delivery of agricultural products from the list of the restricted activities attached to the FBA.

2

Existing Restricted Activities	New Restricted Activities
Internal trade concerning indigenous agricultural produce or products not prohibited by present law.	Internal trade concerning indigenous agricultural produce or products not prohibited by present law, <u>except the trade of agricultural products future in the Agricultural Exchange of Thailand without physical delivery of or taking up physical delivery of agricultural products in the country.</u>

Under Schedule 3 of the FBA lists the services business except for those listed in the Ministerial Regulations as restricted activities. Up to this point, no Ministerial Regulation has been issued. Thus, all types of the services business are restricted activities. Recently, the Minister of Commerce issues the Ministerial Regulation specifying the types of services business not being treated as restricted activities.

Existing Restricted Activities	New Restricted Activities
Services business.	Services business, <u>except</u> : <ul style="list-style-type: none"><u>(i) securities trading;</u><u>(ii) investment advisory services;</u><u>(iii) securities underwriting;</u><u>(iv) securities borrowing and lending;</u><u>(v) mutual fund management;</u><u>(vi) private fund management;</u><u>(vii) venture capital management;</u><u>(viii) lending for securities business;</u><u>(ix) financial advisor;</u><u>(x) securities registrar;</u><u>(xi) custodian of property of a customer of a securities company or a customer of a future trader;</u><u>(xii) a custodian of property of a private fund;</u><u>(xiii) a trustee of a mutual fund;</u><u>(xiv) a representative of bond holders;</u><u>(xv) a future trader;</u><u>(xvi) future contract advisor;</u><u>(xvii) capital manager of future contract.</u>

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