

(Translation)

Ministerial Regulation

**Regarding the Registration and the Stipulation of Qualifications of the Plan Preparer
and the Plan Administrator (No.2)**

B.E. 2558 (A.D. 2015)

By virtue of Section 5 paragraph 1 of Bankruptcy Act B.E. 2483 (A.D. 1940) and Section 90/16 of Bankruptcy Act B.E. 2483 (A.D. 1940) that were amended by Bankruptcy Act B.E. 2541 (A.D. 1998), the Minister of Justice hereby issues Ministerial Regulation as follows:

Clause 1 The provisions of paragraph two of Clause 8 of Ministerial Regulation Regarding the Registration and Stipulation of Qualifications of the Plan Preparer and the Plan Administrator B.E. 2545 (A.D. 2002) shall be repealed and replaced as follows:

“If a consideration has been postponed due to lack of quorum and the committee initiates another meeting in the same consideration within fourteen days from the last meeting and the committee attends the meeting not less than one-third of the whole committee, it is deemed as a quorum.”

Clause 2 The provisions of (1) and (2) of Clause 13 of Ministerial Regulation Regarding the Registration and Stipulation of Qualifications of the Plan Preparer and the Plan Administrator B.E. 2545 (A.D. 2002) shall be repealed and replaced as follows:

“(1) Thai nationality or a foreigner who obtains work permit or obtains foreign business license as stipulated in Foreign Business Act

(2) Not less than thirty-years of age on the day of filing the registration petition”

Clause 3 Clause 14 of Ministerial Regulation Regarding the Registration and Stipulation of Qualifications of the Plan Preparer and the Plan Administrator B.E. 2545 (A.D. 2002) shall be repealed and replaced as follows:

“**Clause 14** A juristic person that will be a plan preparer must have qualification and must not have adverse characteristics as following:

- (1) Operating business of managing business and assets of others.
- (2) The authorized capital is not less than Baht five million and shares are fully paid-up.
- (3) Having the objective to operate the business as a consultant in financial, accounting or law.
- (4) Having the working line responsible for works and duties of a plan preparer and maintaining full-time workers of no less than three persons at least half of which has to be of Thai nationality. All of these workers have to graduate at least at least

bachelor degree with experience as in (3) no less than three years and at least one of the workers has to have knowledge relating to finance or accounting.

- (5) The executive of the juristic person has ethics and competency or experience in business that he or she will administer, honesty, no records of being dismissed, discharged, or accused of or due to bad faith, operating duties in dishonest manners, or managing operation or committing any act that leads to an illegal act or is considered fatal misconduct which can be indicated as lack of responsibilities or prudence in work administration, and is not under receivership.
- (6) Having concise and reliable rules and guidelines in operational process.
- (7) Not being under a receivership order.”

Clause 4 The provisions of (1) and (2) of Clause 15 of Ministerial Regulation Regarding the Registration and Stipulation of Qualifications of the Plan Preparer and the Plan Administrator B.E. 2545 (A.D. 2002) shall be repealed and replaced as follows:

“(1) Thai nationality or a foreigner who obtains work permit or obtains foreign business license as stipulates in Foreign Business Act

(2) Not less than thirty-year of age on the day of filing the registration petition”

Clause 5 Clause 16 of Ministerial Regulation Regarding the Registration and Stipulation of Qualifications of the Plan Preparer and the Plan Administrator B.E. 2545 (A.D. 2002) shall be repealed and replaced as follows:

“**Clause 16** A juristic person that will be a plan administrator must have qualification and must not have adverse characteristics as following:

- (1) Operating business of managing business and assets of others.
- (2) Authorized capital is not less than Baht five million and shares are fully paid-up.
- (3) Having the objective to operate the business as a consultant in management.
- (4) Having the working line responsible for business administration and maintaining full-time workers not less than three persons at least half of which has to be of Thai nationality. All of these workers have to graduate at least bachelor degree with experiences as in (3) no less than three years and at least one of workers has to have knowledge relating to business administration.
- (5) The executive of the juristic person has ethics and competency or experience in business that he or she will administer, honesty, no records of being dismissed, discharged, or accused of or due to bad faith, operating duties in dishonest manners, or managing operation or committing any act that leads to an illegal act or is considered fatal misconduct which can be indicated as lack of responsibilities or prudence in work administration, and is not under receivership.
- (6) Having concise and reliable rules and guidelines in operational process.
- (7) Not being under a receivership order.”

Clause 6 Clause 20 of Ministerial Regulation Regarding the Registration and Stipulation of Qualifications of the Plan Preparer and the Plan Administrator B.E. 2545 (A.D. 2002) shall be repealed and replaced as follows:

“**Clause 20A** plan preparer and a plan administrator shall give general securities valued not less than Baht five hundred thousand on the day of filing the registration petition.

In case where a plan preparer and a plan administrator will give consent to be a plan preparer or a plan administrator in each case, the particular case securities shall be paid as stipulated in Table 1 of the Ministerial Regulation within fifteen days from the day of giving such consent but before the judge has order him or her as a plan preparer or a plan administrator. After giving securities in a particular case, the office will issue the proof of giving of such securities to propose to the court. In case the amount disputed is reduced which leads the securities on particular case to reduce, the office shall return the excess amount of such securities to the plan preparer or the plan administrator within thirty days from the day of receipt of petition.

If the court has already made an order and the plan preparer or the plan administrator has not yet given the securities specified in paragraph two, the office shall demand to do so within fifteen days.”

Clause 7 Clause 23 of Ministerial Regulation Regarding the Registration and Stipulation of Qualifications of the Plan Preparer and the Plan Administrator B.E. 2545 shall be repealed and replaced as follows:

“**Clause 23** The plan preparer or the plan administrator might be removed from the register under the following circumstances:

- (1) The plan preparer or the plan administrator die.
- (2) The license expires.
- (3) The plan preparer or the plan administrator is under receivership.
- (4) The juristic person that is a plan preparer or the plan administrator dissolves or merges with other juristic persons.
- (5) The plan preparer or the plan administrator files a petition to be relieved from the register.
- (6) The committee has considered the plan preparer or plan administrator lacks the qualifications or has the adverse characteristics specified in Clause 13, 14, 15, or 16.
- (7) Being sentenced pursuant to a final judgment in a case where the committee considered bringing disgrace to the honor of the profession.
- (8) The plan preparer or the plan administrator has not comply with the order of the office demanding the securities specified in Clause 20 paragraph two.

Cases under (4), (5), (6), (7), and (8) shall be in effect once the committee order to withdraw the license of the plan preparer or plan administrator.”

Clause 8 The plan preparer or the plan administrator who has obtained the license before this ministerial regulation is in effect is allowed to use such license until expiration.

Given on the 12th day of July B.E. 2558 (A.D. 2015)

General Paiboon Koomchaya

Minister of Justice

Unofficial Translation

Remarks: Reasons for the promulgation of this Ministerial Regulation are as follows: Since the stipulation of qualifications, the giving of securities, and the removal of the plan preparer and the plan administrator from the register according to the Ministerial Regulation Regarding the Registration and Stipulation of Qualifications of the Plan Preparer and the Plan Administrator B.E. 2545 (A.D. 2002) are not in accordance with the current condition of the economy and the society. It is therefore desirable to revise and amend the stipulation of qualifications, the giving of securities, and the removal of the plan preparer and the plan administrator from the register in order to assure creditors and debtors and makes the reorganization proceedings efficient. It is thus necessary to issue this Ministerial Regulation.