

## Reform regarding Resolving Insolvency

### Reforms regarding laws

- The Order of the Head of the National Council for Peace and Order. No. 26/2560 on Amendments of Laws to Facilitate the Ease of Doing Business

- Bankruptcy Act No. 10 B.E. 2561 (2018)

The Ministry of Justice has proposed draft of Bankruptcy Act (No..) (B.E. ....) to the Secretariat of the Cabinet on 26th November 2016 and was approved on principles on 27th December 2016. The Act is now approved in the meeting of the National Legislative Assembly no. 14/2017 on 27th December 2017 and in the promulgation process. In present, Bankruptcy Act (No.10) B.E. 2561 (2018) was published in the Government Gazette on 2nd March 2018 and become effective on 3rd March 2018. This Act amended the issues as follows;

1. Adjust the provisions to be in accordance with the Business Security Act (definition of creditor to include secured creditor in BSA and the sections that are already amended by NCPO No. 26/2560)

2. The court has a power to exercise discretion to omit the public examination of the debtor in case the court sees unnecessary.

3. Add an alternative commencement criteria (inability to pay) of the business reorganization in Chapter 4/1

4. First ranking priority for creditor who facilitate the ongoing business of the debt in reorganization.

5. One year period of canceling fraudulent transaction counting from the date that the official receiver knows such transaction enhancing the chance of recovery.

6. The person who has control over debtor's properties owe duty to inform of such control to the official receiver within 1 month following the date of receipt of official receiver's order.

7. Advertising court or receiver's order via public electronic media

8. Improving the administration to professionalism and higher ethics.

9. Change from 3 months to 6 months period for resubmitting a proposal for composition after bankruptcy and the official receiver has the power not to suspend the disposition of property during such period.

-Draft of Bankruptcy Act (No..) B.E.... (Cross Border Insolvency)

The Ministry of Justice has proposed draft of Bankruptcy Act (No..) (B.E....) to the Secretariat of the Cabinet on 26th November 2016 and was approved on principles on 27th December 2016. In the meeting of the Council of State, the committee approved in the first reading on 30th March 2017. For thorough consideration, the Council of state

mandated the Office of the Judiciary to convene the joint meeting between 3 agencies: The Office of Judiciary, the Joint Standing Committee on Commerce, Industry, and Banking, and the Legal Execution Department. The Office of Judiciary is the head of the working committee. The first and the second meeting was held during February and March. At present, the next two meetings will be held on 12 April and 14 May 2018.

### **Reforms regarding regulations/ orders/ notifications**

-The order of the LED No. 118/2018 : the panel of the specialist of bankruptcy cases to issue an order in the bankruptcy payment case.

-Circular notice YorTor 05/18/wor 2 at 11th January 2018 : Instruction of the Bankruptcy case.

-The order of the LED No. 10/2018 : The improvement and the specification of the duty of the Official Receiver Division 2.

- Circular notice YorTor 05/18/wor 4 at 14th March 2018 : The guideline for operation under section 14/1 of the Bankruptcy Act B.E. 2561.

### **IT Reforms regarding IT**

- Linkage information and data of bankruptcy cases to various agencies both government and private sector.

The LED signed MOU with additional agencies to link information of bankruptcy cases for example Anti-Money Laundering Office (AMLO), Office of the Higher Education Commission, Department of Industrial Works, Student Loan Fund.

- E-Insolvency Case Management System to arrange Bankruptcy cases which is in the testing process in phase II ( For cases with complicated issues) initiated to launch in phase I on 11th May 2018

- Judicial order Declaration / render a judgment/ a receivership/ a receiver's order by electronic channels according to the LED' order no.201/2560 at 1st May 2018 which came into force as from 12nd May 2018 which issued by the Order of the Head of the National Council for Peace and Order. No. 20/2560 on Amendments of Laws to Facilitate the Ease of Doing Business.

- The LED signed MOU with Office of the Judiciary on 12th December 2018 which plan to discuss with the Central Bankruptcy Court, under the provision of Office of the Judiciary to link information and data of bankruptcy cases electronically.

-E-payment System which is the system enable payment via electronic method which the LED cooperate with the Bank of Thailand to encourage other banks to request for using e-payment system which will shorten process, time and expense of the payment system.

- E-Filing system which is the system provide channel for interested persons to submit documents via electronic method.

- Mobile Application (LED ABC) for inquiring person's insolvency status online at anytime and anywhere. (On Android and IOS until 30th March 2018 the number of downloads is 116)
- The LED made an agreement with the Secretariat of the Cabinet to electronically send 4 categories of the receiver's orders, which are the absolute receivership order, the business reorganization and the plan preparer order, cancellation order of the composition prior to Bankruptcy, and the Court's judgment for the administration of the debtor's estate, to publicize in the Government Gazette faster. As a result, for the business reorganization and the plan preparer order, the publicizing process is reduced to 15 days. For the other orders in bankruptcy cases, the publicizing process are reduced to 30 days.
- The Business Reorganization System which has signed the employment contract and agreed to submit the work into 5 steps and has already submitted the 3rd step which is the system design. The current process is to submit the 4th step which is the system installation and the staff training.
- The Assets Tracking System which can track the debtors' assets effectively. The current process is now designing the system and is expected to be launched within 2018.
- The establishment of Data Center of Assets of Bankrupted Person with the integration and data linkage with 20 government and private sector registrations such as the banking institutions to collect information and data of bankruptcy cases (Big Data) in order that the official receiver can manage and dispose of the debtor's property effectively. The LED discussed with the related agencies on 26th February 2018 on this issue and will held the MOU in the next.

### **Reforms regarding work process**

- The LED order no. 154/2017; Appointed the committee to resolve the law and the Subordinate Legislation to support the work procedure of the official receiver ,operated by private sector and due to the organization restructure from Operator to Regulator according to the 20-year National Strategy. The principle was approved by The National Legislative Assembly (NLA) on 2nd May 2017 and was approved by the cabinet on 27th June 2017.
- Forensic Accounting Program, with the corporation with the World Bank, which will enhance investigation skills to official receiver to track debtor's assets.
- Investigating criminal offenses relating to bankruptcy cases Program, which LED cooperates with the Office of the Attorney General.
- Enhancing asset investigation efficiency of official receiver by establishing asset investigation division.
- The enforcement of bankruptcy cases training for provincial staffs via VDO conference, the debtor's asset investigation, the delivery of writ from central department via electronic method.
- The establishment of professional Institute of Civil judgment and Bankruptcy