Unofficial translation

INSURANCE BUSINESS REGULATION AND PROMOTION COMMITTEE ACT, B.E. 2550 (2007)

BHUMIBOL ADULYADEJ, REX.
Given on the 28th Day of August B.E. 2550;
Being the 62nd Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have a law on insurance business regulation and promotion committee;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly, as follows:

Section 1. This Act is called the "Insurance Business Regulation and Promotion Committee Act, B.E. 2550".

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette[1].

Section 3. The Insurance Act, B.E. 2535, the Life Insurance Act, B.E. 2535 and the Protection of Car Accident Victim Act, B.E. 2535 as amended by the Protection of Car Accident Victim Act (No. 2), B.E. 2535, the Protection of Car Accident Victim Act (No. 3), B.E. 2540 and the Protection of Car Accident Victim Act (No. 4), B.E. 2550 and all Ministerial Regulations, Notifications, Rules, Regulations and Orders issued by virtue of those Acts shall be in force in so far as they are not contrary to or inconsistent with the provisions of this Act.

For the purpose of the enforcement of all Acts, Ministerial Regulations, Notifications, Rules, Regulations and Orders under paragraph one, some terms as prescribed in those Acts, Ministerial Regulations, Notifications, Rules, Regulations and Orders shall be read as follows:

(1) In the Insurance Act, B.E. 2535;

The term "Minister of Commerce" in section 5 shall be read as "Minister of Finance";

The term "Minister" in section 7 paragraph three, section 13, section 16, section 19, section 23, section 24, section 28, section 31, section 32, section 34, section 36, section 52, section 53, section 60, section 62, section 77 and section 88 shall be read as "Insurance Business Regulation and Promotion Committee";

The term "Director of the Insurance Department" in section 4 and section 110 paragraph four shall be read as "Secretary-General of the Insurance Business Regulation and Promotion Committee";

[1] Published in the Government Gazette Vol. 124, Part 49 *Kor*, dated 31st August B.E. 2550 (2007).

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The term “registrar” in section 20, section 21, section 22, section 37, section 38, section 39, section 44, section 46, section 47, section 48, section 49, section 50, section 57, section 63, section 64, section 66, section 68 paragraph two and section 70 shall be read as “Insurance Business Regulation and Promotion Committee”;

The term “Insurance Department” in section 61, section 82, section 109 and section 110 shall be read as “Office of the Insurance Business Regulation and Promotion Committee”;

The term “Board” in section 31 (17) shall be read as “Board of Directors of the Company”;

The term “Committee” in section 111 shall be read as “Settlement Committee”;

(2) In the Life Insurance Act, B.E. 2535;

The term “Minister of Commerce” in section 6 shall be read as “Minister of Finance”;

The term “Minister” in section 8 paragraph three, section 14, section 17, section 20, section 23, section 24, section 28, section 33, section 35, section 37, section 47, section 53, section 54, section 63, section 65, section 67, section 82 and section 93 shall be read as “Insurance Business Regulation and Promotion Committee”;

The term “Director of the Insurance Department” in section 5 and section 116 shall be read as “Secretary-General of the Insurance Business Regulation and Promotion Committee”;

The term “registrar” in section 21, section 22, section 38, section 39, section 40, section 42, section 43, section 44, section 45, section 46, section 47, section 51, section 68, section 69, section 73 paragraph two, section 75 and section 77 shall be read as “Insurance Business Regulation and Promotion Committee”;

The term “Insurance Department” in section 66, section 87, section 115 and section 116 shall be read as “Office of the Insurance Business Regulation and Promotion Committee”;

The term “Board” in section 33 (16) shall be read as “Board of Directors of the Company”;

The term “Committee” in section 57 shall be read as “Company Control Committee”;

The term “Committee” in section 117 shall be read as “Settlement Committee”;

(3) In the Protection of Car Accident Victim Act, B.E. 2535 as amended by the Protection of Car Accident Victim Act (No. 2), B.E. 2535, the Protection of Car Accident Victim Act (No. 3), B.E. 2540 and the Protection of Car Accident Victim Act (No. 4), B.E. 2550;

The term “Minister of Commerce” in section 5 shall be read as “Minister of Finance”;

The term “Minister” in section 14, section 19, section 26, section 30 and section 34 shall be read as “Insurance Business Regulation and Promotion Committee”;

The term “Permanent Secretary of the Ministry of Commerce” in section 6 shall be read as “Permanent Secretary of the Ministry of Finance”;

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The term “Director of the Insurance Department” in section 10 *bis* paragraph six shall be read as “Insurance Business Regulation and Promotion Committee”;

The term “Director of the Insurance Department” in section 4, section 6 and section 10 *bis* paragraph three shall be read as “Secretary-General of the Insurance Business Regulation and Promotion Committee”;

The term “Insurance Department” in section 28, section 30, section 33 and section 34 shall be read as “Office of the Insurance Business Regulation and Promotion Committee”;

The term “a representative of the Ministry of Finance” in section 6 shall be read as “a representative of the Ministry of Commerce”.

Section 4. In this Act:

“Committee” means the Insurance Business Regulation and Promotion Committee;

“Member” means a member of the Insurance Business Regulation and Promotion Committee;

“Office” means the Office of the Insurance Business Regulation and Promotion Committee;

“Secretary-General” means the Secretary-General of the Insurance Business Regulation and Promotion Committee;

“Insurance company” means a company under the law on insurance and the law on life insurance;

“Insurance business” means the carrying out of insurance business under the law on insurance, the carrying out of life insurance business under the law on life insurance and the protection of car accident victim under the law on protection of car accident victim;

“Minister” means the Minister having charge and control of the execution of this Act.

Section 5. The Minister of Finance shall have charge and control of the execution of this Act.

Chapter 1
Insurance Business Regulation and Promotion Committee

Section 6. There shall be the Insurance Business Regulation and Promotion Committee consisting of the Permanent Secretary of the Ministry of Finance as Chairperson, the Permanent Secretary of the Ministry of Commerce, the Secretary-General of the Consumer Protection Commission, the Governor of the Bank of Thailand, the Secretary-General of the Securities and Exchange Commission and not less than six but not more than eight qualified persons as appointed by the Minister, with approval of the Council of Ministers, from the specialists in law, accounting, business administration, finance, economics or insurance; not more than two from each field, as members.

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The Secretary-General shall be member and secretary.

The selection of the qualified persons to be appointed as the qualified members under paragraph one shall be in accordance with the rules and procedure as specified by the Council of Ministers and published in the Government Gazette.

Section 7. A qualified member shall be of Thai nationality and shall not have any of the prohibitions as follows:

(1) being bankrupt or having been dishonest bankrupt;

(2) being an incompetent or quasi incompetent;

(3) having been sentenced by a final judgment to imprisonment notwithstanding the suspension of the sentence, except for an offence committed through negligence or a petty offence or where the punishment has undergone or the period for determination or execution of punishment has expired;

(4) being a director, manager or a person in charge of the administration or management of insurance company;

(5) being an official, officer or employee of a government agency or State enterprise or other State agencies or local administration;

(6) being or having been a political official, a person holding political position, member of local assembly or local administrator, except where such person vacates office for not less than one year;

(7) being or having been a director or a person holding any position in a political party or an officer of a political party, except where such person vacates office for not less than one year;

(8) having been expelled, dismissed or removed from the official service, a State agency or a State enterprise on the grounds of dishonest performance of duties or gross misbehaviour.

Section 8. A qualified member shall hold office for a term of three years and may be reappointed, but not more than two consecutive terms.

Section 9. In the case where the qualified members vacate office at the end of the term, the new qualified members shall be appointed within sixty days. If the new qualified members have not been appointed, the qualified members who vacate office shall remain in office to continue their duties until the newly qualified members have been appointed.

Section 10. In addition to vacating office at the end of the term, a qualified member vacates office upon:

(1) death;

(2) resignation;

(3) being disqualified or being under any of the prohibitions under section 7;

(4) being dismissed by the Council of Ministers due to negligent or dishonest in the discharge of duty, disgrace behaviour or incapability.

Section 11. In the case where a qualified member vacates office before term or where there is an appointment of additional qualified member while the appointed qualified members still in office, the appointee shall be in office for the unexpired term of office of the appointed qualified members.

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Section 12. The Committee shall have the powers and duties to lay down policy, regulate, promote and develop insurance business, including the powers and duties as follows:

(1) to lay down rules, procedure, conditions and best practices for the carrying out of insurance business for the compliance with international standard;

(2) to determine rules, procedure, conditions and guidelines for the regulation, promotion and development of insurance business;

(3) to give recommendation to the Minister or the Council of Ministers in relation to the issuance and revocation of license and the issuance of Ministerial Regulations and Notifications under the law on insurance, the law on life insurance and the law on protection of car accident victim and other matters as entrusted by the Minister;

(4) to notify, upon the approval of the Minister under section 43, the rate of the counterpart fund to be remitted;

(5) to lay down rules and procedure for the giving of approval to the determination of insurance premium;

(6) to consider appeal on administrative order made by the Secretary-General;

(7) to prepare work plan, strategy and directives for the administration of the affaires of the Office;

(8) to determine rules on the organisation, finance, personnel administration, general administration, procurement, internal audit including aids and welfares of the Office;

(9) to give approval to annual implementation plan, spending plan and annual budgetary appropriation of the Office;

(10) to control the administration and operation of the Office to be in accordance with this Act;

(11) to perform other acts as prescribed by laws to be the powers or duties of the Committee.

The rules under (8) which limit the powers of the Secretary-General to conduct any juristic act with the third person shall be published in the Government Gazette.

Section 13. The Committee shall have the power to appoint a sub-committee to perform any act as entrusted by the Committee.

Section 14. The provisions on administrative order and the committee having duty to conduct administrative procedure under the law on administrative procedure shall apply to the making of administrative order and the meeting of the Committee and sub-committee *mutatis mutandis*.

Section 15. All administrative orders made by the Secretary-General as the registrar under the law on insurance, the law on life insurance and the law on protection of car accident victim shall be appealed to the Committee.

Section 16. The member of the Committee and sub-committee shall be entitled to benefits as determined by the Minister.

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Chapter 2
Office of Insurance Business Regulation and Promotion Committee

Section 17. There shall establish the Office of Insurance Business Regulation and Promotion Committee as a State agency which is not government agency and State enterprise.

The Office shall be a juristic person.

Section 18. The Office shall have head office in Bangkok Metropolitan or its vicinity and the branch office or agency may be established elsewhere.

Section 19. The affaires of the Office shall not be subjected to the law on labour protection, the law on labour relations, the law on social securities and the law on workers' compensation, but the officer and employee of the Office shall be entitled to benefits of not less than the benefits as prescribed in the law on labour protection, the law on social securities and the law on workers' compensation.

Section 20. The Office shall have the powers and duties as follows:

(1) to be responsible for secretariat work of the Committee;

(2) to regulate, promote and develop insurance business according to the policy and resolutions of the Committee as well as rules, procedure, conditions and guidelines as determined by the Committee;

(3) to conduct study, examination, analysis and research for the promotion, development and regulation of insurance business;

(4) to be owner of properties or to have properties in possession and to be entitled to any real right;

(5) to establish any right or to conclude any juristic act in relation to properties;

(6) to conclude any agreement with or to provide cooperation to any organisation or agency, domestic or abroad, in relation to the affaires of the Office;

(7) to prepare and provide fund for the performance of the Office;

(8) to conduct investment in any business other than insurance business according to the rules as determined by the Committee;

(9) to collect and receive the counterpart fund, surcharge, fee, dues, considerations or service charge;

(10) to prepare and submit annual report stating performance and hurdles of the Committee and the Office to the Council of Ministers;

(11) to perform other acts as prescribed by laws to be the powers or duties of the Office.

Section 21. The capital and assets for the performance of the Office are, *viz*.:

(1) transferred money and properties under section 49;

(2) start-up fund from the Government;

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(3) counterpart fund under section 43;
(4) surcharge under section 44;
(5) fee, dues, considerations, service charge or income arising from its performance;
(6) donated money and properties;
(7) fruits of money or income generated from properties of the Office.

Section 22. All incomes obtained by the Office on account of its performance in each year shall vest to the Office so as to be paid for its operation cost and such appropriate charges as maintenance and depreciation, remuneration of the Committee, sub-committee and officers, counterpart fund for aids and welfares and reserve for the expense to be paid on the course of business of the Office or other courses.

Incomes under paragraph one shall not be remitted to the treasury as State fund.

Section 23. All assets of the Office shall not be liable to the execution and no prescription shall be set up against the Office with regard to such assets.

Section 24. There shall be a Secretary-General as appointed by the Minister, with approval of the Council of Ministers, from a person selected by the Committee.

Section 25. A person to be appointed as the Secretary-General shall have the qualifications as follows:
(1) being of Thai nationality;
(2) not more than sixty-five years of age;
(3) being capable to conduct full time work for the Office.

Section 26. A person with any of the following prohibitions shall not be the Secretary-General:
(1) being bankrupt or having been dishonest bankrupt;
(2) being an incompetent or quasi incompetent;
(3) having been sentenced by a final judgment to imprisonment notwithstanding the suspension of the sentence, except for an offence committed through negligence or a petty offence or where the punishment has undergone or the period for determination or execution of punishment has expired;
(4) being a director, manager or a person in charge of the administration or management of insurance company;
(5) being an official, officer or employee of a government agency or State enterprise or other State agencies or local administration;
(6) being or having been a political official, a person holding political position, member of local assembly or local administrator, except where such person vacates office for not less than one year;

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(7) being or having been a director or a person holding any position in a political party or an officer of a political party, except where such person vacates office for not less than one year;

(8) having been expelled, dismissed or removed from the official service, a State agency or a State enterprise on the grounds of dishonest performance of duties or gross misbehaviour.

Section 27. The Committee shall determine salary and other benefits of the Secretary-General with approval of the Minister.

Section 28. The Secretary-General shall hold office for a term of four years.

The Secretary-General who vacates office may be reappointed, but not more that two consecutive terms.

Section 29. In addition to vacating office at the end of the term, the Secretary-General vacates office upon:

(1) death;

(2) resignation;

(3) being disqualified under section 25 or being under any of the prohibitions under section 26;

(4) being an interest person under section 36;

(5) being dismissed by the resolution of the Committee due to negligent or dishonest in the discharge of duty, disgrace behaviour or incapability.

Section 30. The Secretary-General shall be supervisor of all officers and employee and shall be responsible for the administration of the affaires of the Office.

In the administration of the affaires of the Office, the Secretary-General shall be responsible to the Committee.

Section 31. There shall be Deputy Secretary-General in a number as determined by the Committee to assist the Secretary-General, as entrusted, in the performance of his duties.

Section 32. The Secretary-General shall have the powers and duties as follows:

(1) to recruit, appoint, remove, promote, degrade, cut salary or wage, impose disciplinary punishment on officer and employee and dismiss officer and employee from office in accordance with the rules as determined by the Committee, except where that officer holds a position of Deputy Secretary-General, high level administrator and internal auditor, approval of the Committee must be given prior to the so doing;

(2) to lay down the regulations in relation to the performance of the Office which shall not be contrary to or inconsistent with the rules or resolutions of the Committee.

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Section 33. In the performance of duties, the Secretary-General may entrust any officer to act on his behalf in accordance with the rules as determined by the Committee.

The entrusted person under paragraph one shall have the same powers and duties as the Secretary-General in relation to the entrusted matter.

Section 34. In relation to external affaires, the Secretary-General shall be representative of the Office. In this case, the Secretary-General may entrust any person to do any act on his behalf in accordance with the rules as determined by the Committee.

Section 35. In the case where there is no Secretary-General or he is unable to perform his duties, the Committee shall appoint any Deputy Secretary-General to be Acting Secretary-General. If there is no Deputy Secretary-General or he is unable to perform his duties, the Committee shall appoint any officer of the Office to be Acting Secretary-General.

The Acting Secretary-General under paragraph one shall have the same powers and duties as the Secretary-General.

Section 36. The Secretary-General shall not be an interested person in any agreement concluded with the Office or in any affaires he has done for the Office whether directly or indirectly, except where he is a shareholder who makes an investment honestly in a limited company or public company limited that having such interests in an amount of not exceeding the rate as determined by the rules of the Committee.

In the case where the ancestors, spouse, descendants or ancestors of the spouse of the Secretary-General act under paragraph one, the Secretary-General shall be deemed to be interested person in the affaires he has done for the Office.

Section 37. Any juristic act done in violation to section 36 is not binding the Office.

Section 38. The Secretary-General who vacates office shall not hold any position in insurance company, except where he vacates office for not less than two years.

Chapter 3
Inspection and Audit

Section 39. The Office shall make and maintain its accounting in accordance with international standard and accounting system of the Ministry of Finance.

Section 40. The Office shall organise internal audit regularly.

The Committee shall appoint not more than three qualified members to be the Audit Committee so as to give recommendation in relation to the result of internal audit to the Committee.

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The Internal Auditor shall, in conducting internal audit, report the result of internal audit directly to the Audit Committee.

The provisions on the committee having duty to conduct administrative procedure under the law on administrative procedure shall apply to the meeting of the Audit Committee *mutatis mutandis*.

Section 41. The Office of the Auditor-General or the independence auditor as approved by the Office of the Auditor-General shall be auditor of the Office.

Section 42. The auditor shall report the result of the audit to the Committee for further submission to the Council of Ministers within one hundred and twenty days as from the ending date of the accounting year, and the Office shall publicise the financial statement as audited by the auditor within fifteen days as from the date the acknowledgement of the Council of Ministers has been given thereto.

Chapter 4
Counterpart Fund

Section 43. The insurance company shall remit the counterpart fund to the Office every three months for the operation expense of the Committee and the Office.

The rate of the counterpart fund to be remitted under paragraph one shall be notified by the Committee with approval of the Minister. In determining such Notification, regard shall be had to appropriate operation cost of the Committee as well as implementation plan, spending plan and annual budgetary appropriation of the Office, but there shall not exceed zero point five per cent of the premium in which the insurance company received from the insured in every three months. The Committee with approval of the Minister may, if it thinks fits, suspend such remittance temporarily.

Section 44. The insurance company failing to remit the counterpart fund or remitting the counterpart fund lower than the amount as prescribed in section 43 shall be liable to surcharge at the rate of two per cent per month of the non-remitted or deficient amount

Chapter 5
Relationship with the Government

Section 45. The Minister shall have the power to supervise the affaires of the Office generally. In this regard, he may order the Office to give statement or opinion or to make a report on any matter and to suspend any act of the Office which is, in his opinion, contrary to the policy of the Government.

In a matter that the Committee or the Office has to submit to the Council of Ministers, the Office shall submit such matter to the Minister for further submission to the Council of Ministers.

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Penalties

Section 46. Whoever violates section 38 shall be liable to a fine of not exceeding one million Baht.

Section 47. An insurance company which fails to remit the counterpart fund or remitting the counterpart fund lower than the notified amount shall be liable to a fine from one hundred thousand Baht to one million Baht. If there is a consecutive offense, an insurance company shall be liable to a daily fine in an amount of one hundred thousand Baht a day through the period of the commission of that offense.

Section 48. The offenses under this Act may be settled by the Settlement Committee as appointed by the Minister.

The Settlement Committee as appointed by the Minister under paragraph one shall consist of three members whereby one of which shall be the inquiry official under the Criminal Procedure Code.

When the Settlement Committee has settled the case and the accused pay the fine in an amount as settled within thirty days, the case is deemed to be settled under the Criminal Procedure Code.

Transitory Provisions

Section 49. All affairs, powers and duties, properties, budget, money of the Insurance Development Fund, money of the Life Insurance Development Fund, money of the Compensation for Car Accident Victim Fund, obligations, rights and charges of the Insurance Department, Ministry of Commerce, in relation to insurance, life insurance and protection of car accident victim on the date this Act comes into force shall be those of the Office, provided that the litigation and disciplinary proceedings in concerning with the official or employee and budget relating to salaries and wages and other benefits to be paid altogether with salaries of the occupied positions shall be transferred to the Office of the Permanent Secretary, Ministry of Commerce.

Section 50. When this Act comes into force, at the initial stage, the Committee shall consist of the Permanent Secretary of the Ministry of Finance as Chairperson, the Permanent Secretary of the Ministry of Commerce, the Secretary-General of the Consumer Protection Commission, the Governor of the Bank of Thailand and the Secretary-General of the Securities and Exchange Commission as members, and the person acting as the Director-General of the Insurance Department shall be member and secretary.

The Committee under paragraph one and the person acting as the Director-General of the Insurance Department shall perform the powers and duties of the Committee and Secretary-General under this Act temporarily until the appointment of the Committee or Secretary-General under this Act which shall not exceed ninety days as from the date this Act comes into force.

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Section 51. Subject to section 52, all officials and employees of the Insurance Department, Ministry of Commerce, holding office on the date this Act comes into force shall be officials and employees of the Office of the Permanent Secretary, Ministry of Commerce, and shall perform their duties for the Office. In this regard, it shall be deemed that such performance is made for the Office of the Permanent Secretary, Ministry of Commerce.

All officials and employees who perform their duties for the Office under paragraph one shall be entitled to salaries or wages as well as other rights and benefits equal to the amount they have received until being recruited and appointed to hold positions in the Office. The appointment of those persons to the positions with lower salaries or wages shall not be made.

Section 52. An official and employee under section 51 who desires to transfers to be the officer or employee of the Office shall submit his written intention to his superintendent within sixty days as from the date this Act comes into force. Whoever failing to submit his written intention within the aforesaid period shall get back to work at the Office of the Permanent Secretary, Ministry of Commerce.

The recruitment and appointment of the official and employee under paragraph one to any position of the Office shall be in accordance with the manpower plan, qualifications and rate of salary or wage as determined by the Office, but the recruitment and appointment of official or employee who is under litigation or disciplinary proceeding shall be made upon the termination of the litigation or disciplinary proceeding.

The budget relating to salaries and wages and other benefits to be paid altogether with salaries of the official and employee of the Office of the Permanent Secretary, Ministry of Commerce, who is recruited and appointed to be the officer or employee of the Office under paragraph two shall be transferred to the Office on the recruitment and appointment date.

The official recruited and appointed under this section is deemed to be retired from government service because the government terminates or dissolves his position in accordance with the law on gratuities and pensions of government official or the law on government official's pension fund, as the case may be.

The employee recruited and appointed under this section is deemed to be retired because the government terminates or dissolves his position without fault and shall be entitled to receive gratuities in accordance with the Regulation of the Ministry of Finance on employee's gratuities.

Countersigned by:
General Surayud Chulanont
Prime Minister

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