

(Translation)*



MINISTERIAL REGULATION
PRESCRIBING SECURITIES FOR ACCOUNTING PRACTITIONERS' LIABILITY TO THIRD PERSONS,
B.E. 2553 (2010)**

By virtue of the provisions of section 5 and section 11 (1) of the Accounting Professions Act, B.E. 2547 (2004), which is the law containing certain provisions in relation to the restriction of rights and liberties of persons, in respect of which section 29 in conjunction with section 43 of the Constitution of the Kingdom of Thailand so permits by virtue of provisions of law, the Minister of Commerce issues this Ministerial Regulation, as follows.

Clause 1. In this Ministerial Regulation:

“accounting practitioner” means a juristic person operating the business of providing the auditing service, the bookkeeping service or accounting services in other fields prescribed in the Royal Decree issued under section 9;

“capital” means the registered capital of a limited company, the paid-up capital of a public limited company, the contribution of every partner in a registered partnership or a limited partnership or the money brought by partners or members as the contribution in any other juristic person;

“revenue” means the revenue accruing from the operation of the business of providing the auditing service, the bookkeeping services or accounting services in other fields prescribed in the Royal Decree issued under section 9;

“financial institution” means a financial institution under the law on financial institutions business and banks established by specific laws.

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Clause 2. On the date of submitting an application for registration with the Federation of Accounting Professions, an accounting practitioner must provide any type of securities for liability to third persons in an aggregate amount of not less than three percent of the capital as of the date of submitting the application for registration with the Federation of Accounting Professions and must notify details as to the securities together with the submission of the application for registration with the Federation of Accounting Professions.

Any increase or reduction of the capital of the accounting practitioner during the accounting year has no prejudice to the amount of securities already provided by the accounting practitioner in that accounting year.

Clause 3. Types of securities for liability to third persons are as follows:

(1) a fixed deposit in a domestic financial institution with a fixed period of one year upwards;

(2) a negotiable certificate of deposit issued by a domestic financial institution to the accounting practitioner as evidence of the deposit of money by such accounting practitioner;

(3) a bond issued by the Government of Thailand and sold in the Kingdom;

(4) a bond issued by an organisation or a State enterprise which has a juristic person established by an Act or by a Royal Decree; and

(5) an insurance policy for professional liability of accounting practitioners.

The securities under paragraph one must be free from all encumbrances.

Clause 4. The amount of the securities under Clause 3 (2), (3) and (4) shall be as shown on the face of the instrument in question while the amount of the securities under Clause 3 (5) shall be the face amount indicated in the insurance policy.

Clause 5. An accounting practitioner must maintain the securities for liability to third persons throughout the operation of business.

Clause 6. Within sixty days as from the end of every accounting year, an accounting practitioner shall provide securities in an amount of not less than three percent of the capital as of the end of the preceding accounting year or of the revenues earned in the preceding accounting year, whichever is greater, and notify the Federation of Accounting Professions of the details as to the securities.

In the case of any change in the type of securities during the accounting year, the accounting practitioner shall notify it to the Federation of Accounting Professions within fifteen days as from the date of such change.

Clause 7. The notification of the details as to the securities or of a change in the type of securities under this Ministerial Regulation shall be in accordance with the rules and procedures prescribed in the Notification by the President of the Federation of Accounting Professions.

Clause 8. The accounting practitioner registered with the Federation of Accounting Professions prior to the date of the entry into force of this Ministerial Regulation must provide any type of securities in an aggregate amount of not less than three percent of the capital as of the end of the preceding accounting year or of the revenues earned in the preceding accounting year, whichever is greater, and notify the Federation of Accounting Professions of the details as to the securities within sixty days as from the date of the entry into force of this Ministerial Regulation.

In the case where the accounting practitioner under paragraph one has operated the business for a period of less than one full accounting year, such accounting practitioner must provide securities in an amount of not less than three percent of the capital as of the date of the notification to the Federation of Accounting Professions.

Given on the 30th Day of April 2010.

Porntiwa Nakasai
Minister of Commerce

Note:- The reasons for the promulgation of this Ministerial Regulation is as follows. Whereas section 11 (1) of the Accounting Professions Act, B.E. 2547 (2004) provides that a juristic person which operates the business of providing the auditing service, the bookkeeping service or accounting services in other fields as prescribed in the Royal Decrees under section 9 must provide securities for liability to third persons in accordance with the types, amount, rules and procedures prescribed in the Ministerial Regulation, it is therefore necessary to issue this Ministerial Regulation.

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