

Newsletter

THAILAND: ARBITRATION CLASS ACTIONS NOW PERMITTED

Arbitration class actions are now permitted in Thailand. This is good news for claimants as this would reduce the time and cost for the claimants and prevent inconsistent judgements where similar claims are subject to arbitration. This was introduced by the Regulation of the Office of the Judiciary governing Arbitration, Arbitration Institute (No.3) B.E. 2563.

Who can file the class action?

There must be at least 3 persons (claimants) bringing a claim under the same right which is based on the same facts and legal grounds. If the individuals concerned agree (and if the agreements in question allow) those individuals may file their claims as a class action to the arbitration institute. The new regulation also applies when the parties in a civil case agree to transfer their case from a lawsuit in court to arbitration.

Who represents the claimants?

The individual claimants must collectively appoint one representative to handle the procedure on their behalf to ensure smooth administration of the case. Should the representative resign, a new one must be appointed immediately.

Joining an established party

Once the arbitration class action has commenced another claimant may join the class action. This is provided that each claimant to the class action agrees to the new claimant joining. As the class action would have already commenced the new claimant joining the class action would have to accept the appointed arbitrator and the existing agreed procedure for the proceedings.

If one of the claimants in the party bringing the class action resigns, that claimant cannot rejoin the class action. This does not prevent that claimant from bringing an arbitration claim individually outside of the class action.

Benefits of a class action

A class action arbitration may have more credibility and weight than individual actions. Collectively the claimants would have more evidence and be able to present a stronger case against the defendant. Acting collectively would also save a lot of time and cost for the individual claimants as the costs would be shared. It may be the case, for example, that one exhibit from an individual claimant to the party action would have evidence that can settle the case for the whole party. This would benefit potential claimants who may otherwise not seek a remedy as they may not have had the means to do so or have enough evidence.

This new development makes the arbitration process more attractive and may give further reassurance to investors (including foreign investors) that there is an efficient procedure to achieve justice which can help to protect their interests in the event of a dispute.

Should you require any further information on the issues raised in this briefing, please contact the authors listed in the right-hand column.

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