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Public Hearing No. 39/2569 on the Provident Fund Act B.E. 2530

This legal insight examines the proposed Ministerial Regulation under the Provident Fund Act B.E. 2530 (1987) (the "PVD Act"), as detailed in the Securities and Exchange Commission ("SEC")'s public hearing document No. 39/2569 published on 7 July 2026. The draft aims to modernize fund governance and enhance member protection by standardizing mandatory items in a fund's articles of association.

1. Legal Basis and Regulatory Authority

SEC is exercising its authority under Section 9(11) of the PVD Act which allows for the prescription of additional mandatory items in the articles of association beyond standard requirements. This move shifts the regulatory landscape toward a more active oversight model to ensure fund rules effectively protect member interests and support retirement planning.

2. Enhanced Fiduciary Duty and Data Management

A primary driver for this regulation is the issue of unclaimed funds which reached approximately 915 million Baht at the end of 2025.

- Mandatory Data Provision: The regulation requires articles to include provisions for members to provide essential identification and contact data, such as ID numbers, addresses, and emails, to Asset Management Companies ("AMCs").
- Legal Purpose: This ensures AMCs have sufficient data to fulfill their fiduciary duty to track and pay members upon membership termination.
- Consent Mechanism: Legally, the collection of this data must be conducted through specified channels and requires the explicit consent of the members.

3. Protection Against Significant Impact Amendments

The draft introduces a critical safeguard regarding amendments that significantly affect the rights of members or employers.

- Defined Significant Changes: The regulation identifies specific actions as having a significant impact, including changing employer contribution rates, altering benefit payment conditions (e.g., for serious misconduct) or changing management of unpaid contributions.

- Special Resolution Requirement: To protect member interests, such amendments will require a "Special Resolution" from the general meeting of members, defined as at least three-quarters of the votes of members present and eligible to vote.

- Employer Consent: In cases where an amendment affects a specific employer, that employer's explicit consent must be obtained.

4. Administrative Oversight and Registration

The regulation reinforces the role of the Registrar under Section 8 of the PVD Act to ensure that fund articles remain fair and transparent.

- Registration Deadline: Any approved amendments must be submitted for registration within 15 days of the resolution.

- Discretionary Power: The Registrar maintains the authority to refuse registration if the articles are inconsistent with the law or the fund's objectives.

- No Criminal Penalties: The SEC has opted for a system of administrative oversight and licensing rather than imposing criminal penalties for non-compliance with these specific article requirements.

5. Implementation and Compliance Timeline

The legal transition for existing funds is structured to provide stability for all stakeholders involved.

- Effective Date: The regulation is expected to become effective in quarter 4 of 2027.

- Transitional Period: Existing funds that have already registered their articles will have one year from the effective date to update and register their revised articles with the SEC.

In summary, this regulation represents a significant legal evolution in the Thai retirement system, moving toward greater transparency and higher governance standards by codifying member rights and data-sharing obligations directly into the fund's foundational legal documents.

Should you have any question, please do not hesitate to contact us via info@bgloballaw.com