

SECTION KK - FRAUD

This section deals with fraud by owners/directors of corporate debtors. It may be “hard” fraud (for example, transfer of assets of the corporate debtor, illegal transfer of money) or “soft” fraud (for example, false accounting).

a) Are there instances of fraud in relation to a corporate debtor in this economy?

Yes, there are.

b) If so, is it usual that instances of such fraud will be revealed when a corporate debtor is in financial difficulty or becomes insolvent?

In Thai insolvency law fixed that when a corporate debtor was sued in insolvent case, they have to reveal in their assets, accounting, financial situation and so on for protection themselves from insolvent.

c) What is the attitude that is normally taken to such fraud in this economy?

The attitude that is normally taken to such fraud is make false accounting for attracting any investors or buyers.

d) Is it the case, for example, that “soft” fraud may be overlooked (or not pursued) and “hard” fraud may more likely be pursued in this economy?

It will be the case not only hard fraud be pursued but also soft fraud likely be also pursued.

If there have been instances of fraud:

(i) does the insolvency law (or other civil law) provide for possible recovery of the proceeds of (or damage caused by) the fraud;

In accounting act fixed in the punishment of false accounting that anyone who make false accounting be punished for fixed not more than Baht 30,000.

(ii) does the criminal law provide for possible sanctions;

For criminal sanction, accounting act fixed that anyone who make false accounting be punished for imprisonment not more than 3 years.

(iii) how effective is the application of these laws in practice?

If we both use civil, and criminal sanction, it will effect to the control of corporate debtor because the corporate debtor will not make false accounting and creditor can easy check for accounting, assets of Debtor' s corporate.

e) Would it be common or usual that instances of fraud would:

(i) be largely ignored;

(ii) settled by negotiation and compromise; or

(iii) pursued through either civil or criminal law sanctions?

It would be common or usual that instances of fraud would pursued through both civil and criminal law sanctions.