

Public Hearing on Regulatory Approach for Initial Coin Offering (ICO)

Currently Thailand does not have a specific law on initial coin offering (ICO). On 14th September 2017, the Securities and Exchange Commission (SEC) announced that ICO of digital coins (tokens) could represent rights and obligations that may result in digital coins fall within the Securities and Exchange Act B.E. 2535 (SEC Act).

On 27th October 2017, the SEC issued its online Public Hearing Document No. AorTorNgor. 34/2560 re: Regulatory Approach on ICO. The deadline for the public to comment on the document was from 26th November 2017 but it has been extended to 22nd January 2018.

The major regulatory approaches proposed by the SEC include:-

1. An “Investment Participation” may be defined as a new type of securities re refers to instruments representing rights divided into units with standardized terms and conditions for each unit. Such instruments are issued for raising funds from the public and granting rights to the token holders to participate in pooled benefits from pooled investment in assets or operations, which such holders do not take part in any management, administration or control over day-to-day operation. But the investment participation does not include the existing types of securities under the SEC Act and the instruments representing rights under an agreement or contract with the major objective in grating rights for consumption or usage of assets or services.
2. An “ICO” may be defined to mean the offering process of digital tokens, where rights of the token holders are specified in a digital form with automatic enforcement of contract, and the registration of token holder is done digitally.
3. An ICO for an investment participation may be initially allowed for institutional investors, venture capital funds, private equity funds, ultra high net worth investors and retail investors. But the retail investors will be subject to the investment limit of not exceeding THB300,000 for ICO of each project.
4. An ICO must be offered through an ICO portal registered in Thailand with registered capital of at least THB5 million and recognized by the SEC.
5. Approval and exemption of ICO by the SEC and its exemptions.
6. If the digital tokens issued under an ICO fall under the definition of securities, the parties engaging in activities related to the ICO other than the issuer must obtain a license, be registered with or obtain exemption from the SEC.

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