

SEC Regulations on Digital Assets

To implement the Digital Asset Business Operation Emergency Decree B.E. 2561, the Securities and Exchange Commission (“SEC”) issued 4 notifications on 7th June 2018 and 4 notifications on 3rd July 2018. Some of their major principles are discussed below.

Inclusion of Cryptocurrencies as Digital Tokens

Cryptocurrencies are deemed digital tokens if they are issued for raising funds from the public and if they create one of the following rights to investors (i) rights to jointly invest in any project or activity; or (ii) rights to acquire goods or services or other rights.

ICO of Digital Tokens

Issuer of ICO digital tokens must be a private or public limited company registered in Thailand.

The aggregate investment in ICO digital tokens by individual investors cannot exceed 4 times of the shareholder’s equity of the issuer or 70% of the total value of each ICO issue, whichever is higher. The individual investors for this purpose are individual investors who are not ultra high net worth investors, each with investment value limit of not exceeding THB300,000 per ICO.

The public sale of ICO digital tokens must be completed within 6 months from the SEC approval date, extendable to not more than additional 6 months.

ICO Portal

The ICO portal must be a Thai company with paid-up registered capital of not less than THB5 million.

Capital Fund Maintenance

Digital asset business operators must maintain their capital funds in amounts not less than: THB25 million for digital asset trading center (digital asset exchange), THB12.5 million for digital asset brokerage and THB2.5 million for digital asset trading (dealer). The minimum capital funds to be maintained are lower for digital asset business operators who do not keep assets of customers in custody.

Exclusion of Liabilities

Digital asset business operators and ICO portals cannot agree with investors to exclude or limit their liabilities for damages caused from their failure to comply with the SEC regulations.

Annual Official Fees

The rates of annual official fees for each type of digital asset operation licenses vary according to the type of the licenses, such as for the digital asset dealer at 1% of the capital gain derived from trading of digital assets subject to the minimum of THB100,000 and the maximum of THB5 million per year.



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