

SEC Thailand’s public hearing on the proposed the Draft Digital Asset Businesses Act amending the Emergency Decree on Digital Asset Businesses B.E. 2561 (A.D. 2018)

The Securities and Exchange Commission, Thailand (“SEC”) is seeking public comments on the proposed the Draft Digital Asset Businesses Act amending the Emergency Decree on Digital Asset Businesses B.E. 2561 (A.D. 2018) (“Emergency Decree”) after proposing the amending principles in 2023. The amendments to the Emergency Decree aim to supervise digital assets that are appropriate in accordance with the characteristics and risks of each type of digital asset based on the ‘same activity, same risk, same regulatory outcome’ principle, and to comply with international regulatory standards.

Under this proposal, the principal’s points are as follows:

1. The amendment to the definition of “digital asset” by reducing the scope of digital asset from being an electronic data unit created in any electronic system to include only “crypto asset” with 4 key elements* and in addition, it must have economic value and a tech-neutral characteristic. Additionally, the SEC board will be empowered to prescribe the list of digital assets that fall under the supervision (positively listed).
2. The amendments to the regulatory principles for the issuance and offering of digital assets in the primary market. Under the proposed principles related to the primary market, the issuer must file the registration statement and draft prospectus, including other required documents with the SEC on a disclosure-based basis instead of being approved by the SEC, and the requirement of offering that must be done through the ICO portal will be removed. However, regarding the supervision of digital asset business operators, the SEC remains in accordance with the principles set forth in the Emergency Decree by regulating through the granting of licenses and prescribing business conduct rules.
3. The amendment of the provision of the DA business operator such as amending the supervision of major shareholders, amending the supervision of persons who are not a director or do not have executive positions but have managing power in business operator, including prohibiting digital asset business operators from using digital assets as a medium of payment for goods and services (means of payment).
4. The amendment of other related provisions for example the criminal penalties for offences related to the issuance and offering of crypto asset to the public to be

consistent with such amendment of the provision and improve the rate of criminal penalties and change the original criminal penalties in some aspects to regulatory fine. For further details of this public hearing, please visit www.sec.or.th/hearing or <https://law.go.th/>. Stakeholders and interested parties are also welcome to submit comments and recommendations via the SEC Thailand's website or email: pinyapat@sec.or.th or dpsec@sec.or.th The public hearing ends on 15 August 2024.

* 4 key elements are (1) issued & represented in digital form (2) intangible asset (3) right to control and (4) transferable.