

SEC Thailand's Public Hearing on Proposed Amendment and Draft Regulation on Qualification of Settlor of Trust and Trustee and Conduct and Duty of Trustee

The SEC Thailand is seeking public comments on proposed amendment to regulations relating to qualification of the settlor of trust and trustee and conduct and duty of trustee. This aims to facilitate the greater use of trust for transactions in Thai capital market that will eventually lead to wider range of fundraising tools for businesses and more investment asset classes for investors.

Under this public hearing, the SEC proposes a standard qualification for the settlor of trust. Under this new standard, either a trustee or a trust manager can be the settlor of any kinds of trust. Regarding the qualification of trustee, the regulation will now allow any Thai limited and public limited companies, aside from financial institutions and their subsidiaries, with a minimum paid-up registered capital requirement of THB 25 million to apply for a trustee license. As a license holder, trustee will further be required to maintain the minimum capital requirement of THB 25 million at all time and must comply with the regulations governing the minimum capital requirement of asset management company.

To ensure that trustee will manage the trust for the best interest of unitholders, the SEC proposes that trustee be required to appoint a custodian or a mutual fund supervisor if trustee chooses to manage the trust itself. In this case, an appointed custodian or mutual fund supervisor must hold a license approved by the SEC. In case trustee chooses not to manage the trust, it can only delegate a trust management duty to (1) a licensed mutual fund or private fund manager (2) a trust manager approved by the SEC or (3) an investment management company regulated by a capital market regulator who is an ordinary member of International Organization of Securities Commission (IOSCO) and scored at least a Broadly Implemented on a Financial Sector Assessment Program (FSAP).

With aforementioned requirement, the SEC believes that it is appropriate not to require a trustee to further obtain a private fund manager license and, thus, to grant a waiver for such rule.

For more details of this public hearing, please visit www.sec.or.th/hearing or contact Corporate Finance Department 3 at [0-2033-9694](tel:0-2033-9694) or nuchanat@sec.or.th. The consultation period will end on July 30, 2021.