

SEC public hearing on draft regulation for the collection, disposal, and allocation of Real Estate Investment Trust assets

The Securities and Exchange Commission, Thailand (“SEC”) is seeking public comment on the issuance of draft regulation on the collection, disposal, and allocation of Real Estate Investment Trust (“REIT”) assets. This draft regulation will specify the responsible person and the process of collection, disposal and allocation of REIT which will be used as the common guideline to all REITs.

According to the Section 52 of The Trust for transactions in Capital Market Act B.E. 2550 (“Trust Act”), a trustee shall be a responsible person for collecting, disposing and allocating of property in accordance with Section 53 upon termination of trust, except where dissolution, liquidation or bankruptcy of the trustee causes the termination of trust, a liquidator or an official receiver of the trustee shall perform such duty instead of trustee. In addition, the Section 53 of Trust Act has also empowered the SEC to specify in its notification the rules, conditions and procedures relating to the aforementioned collection, disposal or allocation of the property.

Therefore, in order to provide the REITs with clear and consistent guideline regarding the collection, disposal or allocation of REIT assets, the SEC has desired to issue a notification to prescribe such rules, conditions and procedure. For the collection, disposal, and allocation processes, trustee needs to officially inform the termination of trust to the SEC, while gathering the accounting records, audited financial statement and other evidenced documents from REIT manager. Then, trustee needs to collect REIT’s assets, dispose of the assets, pay debts and expenses, allocate the net assets to the unit holders, deposit the unpaid liabilities and outstanding check with deposit office.

Furthermore, trustee needs to send the document, showing the net assets that will be allocated to the unit holders and send audited financial statement to the unit holders or publish the financial statement on trustee company’s website within 45 days since distributed the net asset to the unit holders. In this regard, the allocation of net assets, the distribution and the publication of those documents should be completed within 90 days since the termination date.

When the processes are completed, trustee needs to inform and provide a collection, disposal, and allocation report to the SEC within 30 days. After informing about the completion of

collection, disposal, and allocation, trustee needs to collect and retain the informed evidence and other relevant documents of the REIT at least 10 years since the SEC notified the completion.

For more details of this public hearing, please visit www.sec.or.th/hearing or contact Corporate Finance Department 3 at Tel: 0-2033-9570 / 0-2263-6073 or E-mail kanapart@sec.or.th / pornkamola@sec.or.th The consultation period ends on 21 October 2022.