

Executive summary

SEC Thailand public hearing on proposed regulations on protection of derivatives business customer assets under the Derivatives Act.

The Securities and Exchange Commission, Thailand (SEC) is seeking public comments on the principles and draft regulations of treatment and protection for customer assets under derivatives brokers to ensure that customer assets are safe and complete, and that the assets are allocated back to customers fairly in the event that derivatives broker becomes a debtor by judgment or a debtor under receivership.

The main focuses of the proposed drafted regulations are as follows:

1. **Where the derivatives broker has advanced its own asset to secure or satisfy the obligations incurred incidental to, or resulted from, a derivatives transaction for the account of a customer,** the derivatives broker shall prepare an account, monthly and when derivatives business operators stop doing businesses or were suspended from operating their businesses.

2. A derivatives broker may become a debtor by judgment or a debtor under receivership. Under such circumstances, in managing assets deemed to be owned by customers, **the customers who are not associated with the derivatives broker in the manner as specified in the notification of the Capital Market Supervisory Board shall be entitled to receive the allocated assets prior to others.** Therefore, the determination of definitions in notifications relating to the referred customers shall at least include the following terms:

(1) Director or executive of the derivatives broker

(2) Major shareholder of the derivatives broker

(3) Controlling person of the derivatives broker

(4) Parent company

(5) Subsidiary

(6) Spouse, cohabiting couple and minor children in accordance with any person under (1) - (3)

(7) A person who has facts or circumstances that allows SEC to consider that he/she is the undisclosed principal, whose name has not been revealed. In addition, be an agent without disclosing name of any person under (1) - (3) in any action related to the derivatives trading account of such person.

For further details of this public hearing, please visit www.sec.or.th/hearing. Stakeholders and interested parties are welcome to submit comments and suggestions through the website or email: corporat@sec.or.th The public hearing ends on 10 October 2023.