

SEC Thailand's public hearing on the proposed regulations on the capital requirement of digital asset business operators ("DA business operators").

The Securities and Exchange Commission, Thailand ("SEC") is seeking public comments on the proposed regulations regarding the capital requirement of DA business operators. The proposed regulations aim to ensure that DA business operators maintain adequate capital in line with the risks associated with the digital asset industry and that they are capable of effectively safeguarding clients' digital asset as well as compensating parties affected by any damages that occur.

The SEC is seeking public comments on the draft regulations on capital requirement and other relevant documents, which encapsulate the following key points:

- (1) **Adjustments to the paid-up registered capital** of digital asset exchanges, digital asset dealers, and digital asset brokers.
- (2) **Revision of the Net Capital ("NC") rules** as follows
 - (a) **Minimum NC requirement** : minimum value of 25 million baht for business operators that hold customer assets and 5 million baht for business operators that do not hold customer assets.
 - (b) **The capital charge rate adjustment** : NC charge of clients' assets stored in hot wallet shall vary based on the proportion stored in hot wallet. NC charge of clients' assets stored in cold wallet shall be based on where assets are stored e.g. business operators' own wallet, domestic or international 3rd party custodians' cold wallet. Furthermore, additional capital charges shall be imposed to support the risks associated with providing digital asset trading services.
- (3) **Amendments to digital assets custody criteria**, allowing business operators holding clients' digital assets of no more than 1,000 million baht to be able to store such assets in hot wallet up to 50 percent
- (4) **Revision of the criteria for digital asset businesses' suspension** : When DA business operators' net capital falls below minimum requirement level, company must submit notification outlining cause and corrective plan to the SEC within 15 days as well as make

necessary corrections within the notified timeframe, not exceeding 45 days, while refrain from performing further actions as directed by the SEC.

If business operators fail to submit such notification or complete the corrections within the specified timeframe, or if the net capital falls below 60 percent of the minimum requirement for five consecutive days, digital asset operations must be suspended. Business operator must notify customers and follow procedures as directed by the SEC to rectify the situation.

(5) **Amendments to other relevant rules and net capital reporting forms** which include

(a) Use of insurance policies or similar type of clients' digital assets to offset net capital

(b) Specified details on use of insurance policies

(c) Revocation of the provision concerning capital requirements for business operators engaged in cosign custody arrangements.**

(d) Lowering the early warning level for business operators

(e) Revision of the net capital reporting forms and submission, aligning with the updated regulations.***

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 welcomed to submit comments and recommendations via the SEC Thailand's website or email : phireeyaphon@sec.or.th or pitchal@sec.or.th

The public hearing ends on 21 March 2024.

Note:

* SEC Thailand's public hearing No. 37/2022 Subject: The proposed principles regarding the capital requirements of digital asset exchanges, digital asset dealers, and digital asset brokers.

** The assets of customers are held in custody but cannot be accessed or transferred unless permission is obtained from the customer on a case-by-case basis.

*** Reporting forms Dor. Jor. 1, Dor. Jor. 1/1, and Dor. Jor. 2, as well as reporting guidelines to align with the aforementioned rules. Reporting form Dor. Jor. 3 which reports shareholders' equity is discontinued.