



SEC Thailand implements stricter rules for digital assets

The Securities and Exchange Commission of Thailand (the “SEC”) is monitoring new potential risks, improving regulations to be more effective in supervising the digital assets industry, and leveraging investor protection in areas such as digital assets advertisement, investors’ asset protection etc. to be in line of the digital-asset- related regulations with other foreign countries.

For examples, in the US, the digital assets regulators have enforced disclosure requirements to tackle illegal acts involving deceiving digital assets advertisement while in the UK, Singapore, and Japan, the regulators have announced the application of the Distributed Ledger Technology (DLT) or Blockchain in recording the digital asset transactions and its details, aiming to create a highly secure and reliable platform for transferring assets and performing business transactions.

The most recent requirements set by the SEC are specifically in 3 areas as follows:

1. Prevention of the Deceptive Advertisement on the Cryptocurrency

In these days, most digital asset advertisements around the world contain misleading information without disclosing the information required by the domestic laws. Without complying with the regulations, such advertisements present only positive side of the investment in which it excludes appropriate warning regarding the investment risk, even though the fluctuation rate of the cryptocurrency is significantly high. In addition, lately various digital asset business providers start to hire celebrities and influencers to promote the digital assets investment. However, they do not entirely disclose the information in their advertisements as required to inform the investors. Consequently, this inappropriate advertising of digital assets leads to high investment risks for investors.

In addressing aforementioned issue, the SEC have amended the requirements for advertising of the digital asset business providers to enhance the investor protection, and create the consistency with international standards, which came into effect on 1st September 2022 . The requirements have their essences as follows:

- The advertisement of the cryptocurrency shall not be false, exaggerating, distorting, concealing, or misleading in its significance;

- the digital asset business providers, intending to do advertising, shall inform the SEC regarding details and expenses of advertising, including details of hiring bloggers, influencers, according to the criteria, methods, conditions, and time is of the essence, as prescribed by the requirements;
- the advertisement shall include the investment risk warning. The form of such advertisement must be clear, noticeable, and completely provides useful information for making investment decisions. Moreover, if the positive information, or an opportunity to receive benefits is presented, the negative information or the investment risk shall also be presented to create a balanced view;
- the advertisements of cryptocurrency can merely be presented on the official channel of the digital asset business providers. This is to prevent the cryptocurrency advertisement that having high fluctuation rate, to approach the public at large, and prevent the impulsive buying. Meanwhile, the advertisement related to services of the digital asset business providers can still be presented to the public and on other channels;
- the digital asset business providers shall monitor the advertisers, or advertising promoters, including affiliated companies, business-related person(s), and the main characters appearing in the advertisements to comply with the requirements; and
- the assignment of the introduction of the broker agent (IBA) of the digital asset business providers of the cryptocurrency is cancelled , while in the digital token service, the IBA assignment is still allowed.

However, the new requirements are retroactive to the advertisements that had been launched before its effective date. Therefore, the digital asset business providers shall improve or amend their advertisements within 30 days from the effective date of the requirements to create compliance of the advertisements with the new requirements.

2. **Prohibit the use of Digital Assets as a means of payment**

Nowadays, some digital asset business providers run their businesses in a way of facilitating the payment made by using digital assets. The use of digital assets as a means of payment for goods and services potentially affects financial and economic stability as a whole, causing risks to investors and businesses, such as loss of value due to the fluctuation in cost, cybercrimes, leakage of personal data , and money laundering.

The SEC has therefore implemented the requirements , which came into effect on 1st April B.E. 2565 (2022), as an instruction for the digital asset business providers, including trading centers, brokers, traders, consultants, and fund managers, to prohibit the use of digital assets as a means of payment, having its cores as follows:

- The digital asset business providers shall not provide service or take action which can be considered as a support or encouragement of the payment made by the digital assets as follows:
 - Advertising, convincing, or presenting that the digital asset business providers shall accept the payment made by the digital assets;

- Preparing system or amenities to facilitate the payment made by the digital assets;
 - Providing digital assets wallet service to support the payment made by digital assets;
 - Providing Thai-Baht money transfer service from the customers' account to others' account, regardless whether the receiving account is derived from the trade of digital assets, or is a Thai-Baht account;
 - Providing digital assets transfer service from the customers' account to other accounts, not the customers' account, for the purpose of using the digital assets as a means of payment; and
 - Other services considered as a potential support of goods and services payment made by the digital assets.
- In the event that the digital asset business providers inspect the customers using the account opened for digital asset trading to make goods and services payment, the digital asset business providers shall warn the customers concerning misuse of the account, and shall implement the temporary suspension, cancellation of the services, or accordingly, take any other actions.

However, the new requirements are retroactive to the digital asset business providers who have operated their businesses prior to, or on the effective date of the new requirements, thus the digital asset business providers shall comply with the new requirements within 30 days from the effective date of these new requirements.

3. Distributed Ledger Technology (DLT) or Blockchain

In Thailand, the regulator set up a working committee consisting of relevant government agencies and private sector representatives to do research and suggest ways to improve the laws to adapt to the changing environment and growing risks of the digital assets. Amid the recommendations is the use of Distributed Ledger Technology (DLT) in the business sector.

However, although there are recommendations to apply the DLT in Thailand, which consist of the feature of data centralization storage, increasing difficulty for data to be tempered with and the ecosystem of the digital assets, the DLT is still in the progress of improving in order to give the most efficient implementation to the digital infrastructure.

Should you have any question, please do not hesitate to contact us via info@bgloballaw.com

