

2 September 2022

THAILAND

Newsletter

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Thai Securities and Exchange Commission Announced Regulations Tightening Digital Assets Advertisements

Introduction

Following recent violations by numerous digital asset exchange operators (the "**Operators**") and liquidity issues with at least one Operator licensed in Thailand, Thai authorities are introducing new measures to protect retail investors in digital assets, and to align Thailand's regulations with international standards. Following regional trends, on 1 September 2022 Thailand's Securities and Exchange Commission announced notifications introducing new regulations and guidelines on digital asset advertisements (the "**Notifications**") by Operators. The Notifications set important guidelines for Operators and potentially other companies engaging in digital advertising as part of their business marketing or business activities.

This briefing will provide an overview of the Notifications, as well as discuss a few important aspects of the Notifications that businesses conducting operations in Thailand should be aware of.

Overview of the Notifications

The Notifications became effective on 1 September 2022, with a grace period to comply with the requirements under the Notifications of 30 days for advertisements launched before the effective date.

Features of the Notifications include, but are not limited, to the following:

1. Content in advertisements:

- a. Advertisements must not contain false, exaggerated, distorted, concealed, or misleading content; for example, total users of a particular platform must be the number of approved users with actual accounts who are ready to trade; and
- b. Advertisements must feature balanced views, presenting both positive and negative factors, and contain adequate information for investors.



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- 2. Advertisements must only be on official channels:** Advertisements with cryptocurrency content must be launched only on the Operators' official channels (i.e., their own website). This is aimed to limit public's exposure to cryptocurrency content to prevent impulsive buying. Advertisements to promote the Operators themselves are allowed on other public platforms.
- 3. Disclosure to the SEC:** Operators must report required information to the SEC, such as the use of a brand promoter (e.g., blogger or influencer), and expenses.
- 4. Explicit warnings:** Disclaimers and warnings of relevant risks must be explicit and prominent. Operators must use specific wording to warn investors about digital asset investments.
- 5. Applicability:** These Notifications apply to Operators and relevant parties, including other companies within the same group, key personnel appearing in ads, etc.
- 6. Restrictions on introducing broker agents (IBAs):** Operators holding only cryptocurrency related business licenses can no longer use IBAs.

Key takeaways from the Notifications

It is important to understand that there are no clear criteria on how to distinguish between crypto investment content from content that promotes a company, which creates some ambiguity with requirements outlined in point 2 above. In addition, the SEC may not provide leniency to other relevant parties, as discussed in 5 above, to an Operator such as parties that are not directly licensed Operators under Thai law.

Conclusion

Business operators in Thailand should monitor the impact that the Notifications may have on how certain business activities are advertised. Marketing and media companies, as well as Operators, should review their current policies to ensure that they are not violating the new regulations. Penalties for violations of the new requirements under the Notifications may result in criminal penalties and significant fines.

If you have any questions in relation to the topics raised in this briefing, please contact the authors in the left-hand column.

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