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Newsletter

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## Digital Asset Advertising in Notification Proposed by the SEC



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Recognizing the unique challenges and risks associated with digital assets, the Office of the Securities and Exchange Commission of Thailand (“SEC”) has been proactive in establishing guidelines to govern the advertising practices of digital asset businesses.

The current regulations, as outlined in the SEC’s Notification No. GorThor. 19/2561 (“Notification”), set out guidelines for digital asset businesses to ensure that their advertisements are accurate, not misleading in any way, and include appropriate risk warnings. These guidelines were designed to prevent advertisements containing false, exaggerated, distorted, or misleading information, and to ensure that they do not pressure customers into making hasty decisions. Additionally, advertisements must not guarantee returns and must include warnings about the risks involved.

However, the SEC has identified several areas where these guidelines could be more flexible and better aligned with the operational realities of digital asset businesses. The SEC’s follow-up Notification No. SorThor. 22/2565, issued on 23 August 2022, provided more detailed criteria for advertising and promotional activities. Despite these efforts, feedback from the industry and ongoing monitoring have revealed that certain aspects of the guidelines, particularly those related to the format and presentation of risk warnings, may not be sufficiently flexible for the diverse nature of digital asset businesses. This has prompted the SEC to propose further refinements to ensure that the guidelines are both effective and practical.

The information provided in this bulletin is summary in nature and does not purport to be comprehensive or to render legal advice.

Please contact our lawyers if you would like to obtain advice about specific situations.

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This initiative seeks to encourage responsible advertising practices and ensure that investors are well-informed about the risks associated with digital assets.

The SEC has invited public feedback on its website until 29 January 2025 as part of its ongoing efforts to adapt regulatory frameworks to the evolving digital asset market, ensuring that advertising practices remain transparent, fair, and aligned with investor protection goals, as well as to simplify compliance by providing clear, standardized requirements that align with industry practices.

The key regulatory proposals and their potential impact on digital asset operators in Thailand are as follows:

## Key Proposed Changes

Description	Existing requirements under the Notification	Proposed Changes
<b>Text Size and Visibility of Risk Warnings</b>	Risk warnings must occupy at least 20% of the advertising space.	The font size of the warning text should be no smaller than that of the majority of the text in the advertisement. This aims to ensure that investors can easily see and understand the risk warnings.
<b>Continuous Display of Risk Warnings</b>	Risk warnings must be displayed continuously throughout the advertisement.	This requirement will be removed to align with principle-based guidelines and securities regulations.
<b>Standardized Risk Warning Text</b>	Different risk warnings are required for different products.	A single, comprehensive risk warning will be used for all digital asset products. For Thai language advertisements, the warning will state: “คริปโทเคอร์เรนซี และโทเคนดิจิทัลมีความเสี่ยงสูง ท่านอาจสูญเสียเงินลงทุนได้ทั้งจํานวน โปรตุคศึกษา และลงทุนให้เหมาะสมกับระดับความเสี่ยงที่ยอมรับได้” For English language advertisements, the warning will state: “Cryptocurrency and digital tokens involve high risks; investors may lose all the funds invested, and should therefore study the relevant information carefully and make investments according to own risk profile.”
<b>Social Media Advertisements</b>	Not specified.	Digital asset businesses must include risk warnings in the captions or descriptions in social media posts, ensuring consistency with the new guidelines.

## Impact on Digital Asset Operators

Even though digital asset operators can continue using advertisements that comply with the current Notification until the new notification comes into effect, they should take the proactive steps to prepare for the proposed changes set out in the latest digital asset advertising notification to ensure a smooth transition to the new advertising standards and continue to promote their services responsibly.

Chandler Mori Hamada will closely monitor these legal developments and keep you updated once they are enacted. If you have any questions in relation to the topic raised in this briefing, please contact the authors listed above.