



THE WORLD BANK GROUP

THAILAND

ASSESSMENT OF OBSERVANCE OF THE IOSCO OBJECTIVES AND PRINCIPLES OF SECURITIES REGULATION

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This Detailed Assessment Report was prepared in the context of a joint IMF-World Bank Financial Sector Assessment Program (FSAP) mission in Thailand during November 2018, led by Brett Coleman, World Bank, and Alejandro Lopez Mejia, IMF and overseen by the Finance, Competitiveness, and Innovation Global Practice, World Bank Group, and the Monetary and Capital Markets Department, IMF. Further information on the FSAP program can be found at www.worldbank.org/fsap.

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GLOSSARY

AI	Accredited Investor Mutual Fund
AIMC	Association of Investment Management Companies
AMC	Asset Management Company
AML/CFT	Anti-Money Laundering and Countering the Financing of Terrorism
AMLO	Anti-Money Laundering Office
ASCO	Association of Thai Securities Companies
AUM	Asset Under Management
BOT	Bank of Thailand
CMSB	Capital Market Supervisory Board
CIS	Collective Investment Schemes
COI	Conflicts of Interest
CRA	Credit Rating Agencies
DA	Derivatives Act
DMI	Derivatives Market Intermediary
IFAC	International Federation of Accountants
IFRS	International Financial Reporting Standards
ISQC1	International Standard on Quality Control
IAS	International Audit Standards
KYC/CDD	Know Your Customer / Customer Due Diligence
FAP	Federation of Accounting Profession
FSAP	Financial Sector Assessment Program
MMoU	Multilateral Memorandum of Understanding
MOF	Ministry of Finance
NCR	Net Capital Rule
OTC	Over the Counter
PCA	Public Limited Companies Act
SEA	Securities and Exchange Act
SEC	Securities and Exchange Commission
SECB	Securities and Exchange Commission Board
SET	Stock Exchange of Thailand
SET Portal	SET Community Portal System
SOE	State Owned Enterprises
SRO	Self-Regulatory Organizations
TBMA	Thai Bond Market Association
THB	Thai Baht
TCH	Thailand Clearing House
TFRS	Thai Financial Reporting Standards
TFEX	Thailand Futures Exchange
TSA	Thai Standards of Auditing
TSD	Thai Securities Depository
UI	Ultra-High net worth Accredited Investor

I. SUMMARY, KEY FINDINGS AND RECOMMENDATIONS

1. **The SEC has significantly improved its level of implementation of the IOSCO Objectives and Principles of Securities Regulation.**

Amendments to the Securities and Exchange Act (SEA) (i) empowered the SEC to bring and enforce civil actions for violations, (ii) improved the rights of minority shareholders, (iii) strengthened protection of investor assets, and (iv) provided SEC with greater authority to cooperate with foreign regulators. Moreover, as a result of a recent decision by the Thai Office of Auditor General, State Owned enterprises (SOEs) listed on the SET will be audited by licensed auditors rather than by the Thai Office of the Auditor General, enhancing the credibility of such audits. Following a recent SEA amendment that provides the SEC with expanded authority, SEC should undertake a comprehensive review of SET rules. The SEA should be further amended to enable the SEC to institute civil proceedings for any violation of the SEA or SEC regulations and to enhance the SEC's operational independence. The SEC should also direct the Thai Bond Market Association (TBMA) to revise its rules on pre-trade quotes and require same-day indicative quotes, and the authorities should develop a roadmap to implement mandatory centralized clearing of OTC derivatives contracts.

2. **This is an assessment of the Securities and Exchange Commission of Thailand (SEC) and, secondarily, of certain self-regulatory organizations (SRO) that participate in the regulation of the capital markets of Thailand.**

This assessment was conducted in February, 2019 as part of the Financial Sector Assessment Program (FSAP) conducted jointly by the International Monetary Fund (IMF) and the World Bank. The assessment was prepared by Vicente Lazen and Jonathan Katz, technical advisors to the World Bank. Mr. Lazen was formerly a senior staff member of the Superintendencia de Valores y Seguros of Chile. Mr. Katz was formerly the Secretary of the U.S. Securities and Exchange Commission.

3. **This assessment applies the current IOSCO Objectives and Principles of Securities Regulation, as adopted by IOSCO in 2010.**

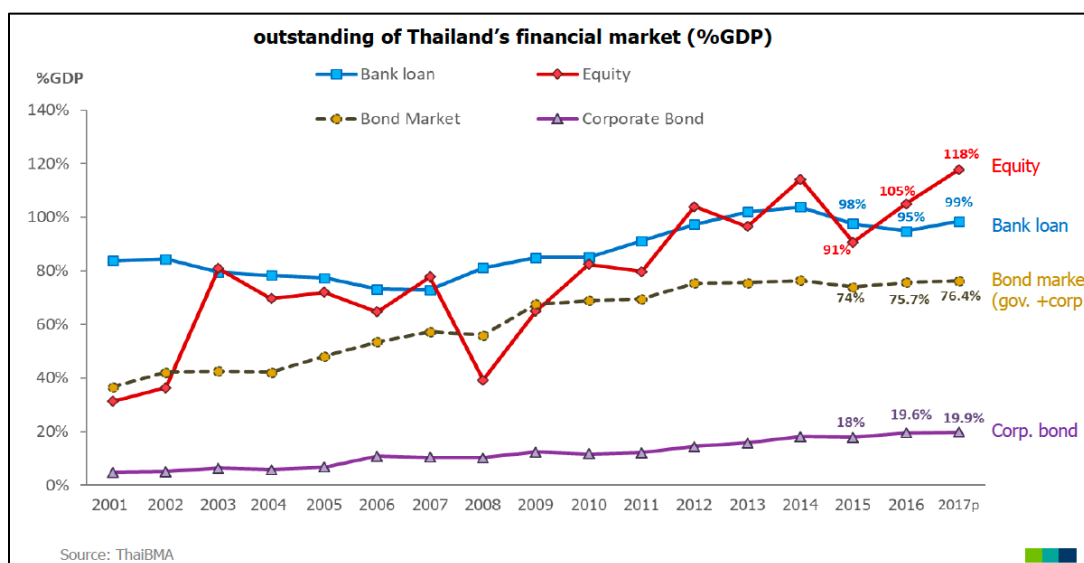
The *IOSCO Methodology for Assessing Implementation of the IOSCO Objectives and Principles*, dated May 2017, was used as a benchmark reference for assessing implementation. This assessment utilized the detailed self-assessment prepared by the SEC, and the extensive supporting documents voluntarily provided by the SEC. The assessors also examined in detail applicable Thai law. This includes the Securities Exchange Act of 1992, as amended ("SEA"), the Derivatives Act of 2003 ("DA"), the Trust for Transactions in Capital Market Act ("Trust Act"), the Public Companies Act ("PCA") and several government-wide laws that govern aspects of the SEC processes. The assessors also examined several Thai Royal Decrees, and numerous regulations, guidelines and interpretive statements issued by the SEC.

4. **This was supplemented and greatly enhanced by detailed meetings with the SEC staff to discuss each principle, to clarify information contained in the self-assessment and to examine in greater depth important questions identified in the IOSCO Methodology.**

The assessors also met with staff from the Bank of Thailand, the Fiscal Policy Office of the Ministry of Finance and senior executives of the Stock Exchange of Thailand (SET), including representatives of its subsidiaries, the Thailand Futures Exchange (TFEX) and the Thailand Securities Depository (TSD). The assessors also benefitted greatly from an extensive series of meetings with representatives of every sector of the Thailand capital market.

5. The assessors wish to thank the staff of the SEC who prepared the well-written and thorough self-assessment and supplementary exhibits. The quality of these materials was outstanding, and, in general, the assistance of the SEC was a key factor in the success of this initiative.

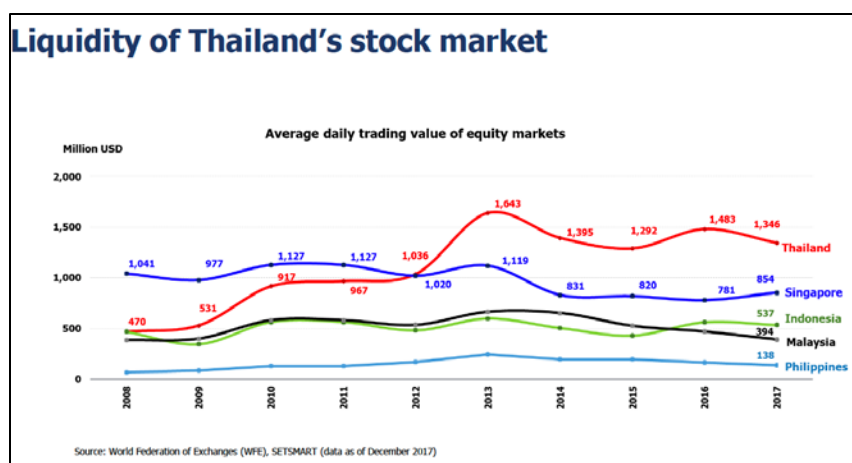
6. The financial sector of Thailand shows strong growth and is dominated by banks, which are a major force in other components of the financial sector through separately licensed subsidiaries. The financial system's assets are equal to 259 percent of GDP (February 2018), with Thailand's 30 commercial banks (including 15 foreign branches or subsidiaries) holding 46% of financial sector assets and eight specialized (state-owned) financial institutions (SFIs) holding 15%. The three largest commercial banks account for 46% of banking sector assets, lower than that of its peer comparators. Banking sector growth, however, has been stagnant, growing to 156% of GDP (2018) from 153% (2012). Other segments of the financial sector have experienced higher growth in recent years. The market capitalization of the SET has grown to 104% of GDP (up from 67% of GDP in 2005, and from 37% of GDP in 2008). Insurance sector assets have grown from 10% of GDP in 2006 to over 22% of GDP in 2016.



7. The SET Group operates all of the organized trading platforms and provides post trade services. The group's core entity is the Stock Exchange of Thailand (SET), a special juristic person under the SEA governed by a board of directors elected by member brokers or appointed by the SEC. The SET has two boards: SET and mai (which focuses on smaller, fast-growing companies with minimum paid-up capital of THB 50 million¹). It owns also the Thailand Futures Exchange (TFEX), the Thailand Securities Depository (TSD), and the Thailand Clearing House (TCH), which provides clearing service to securities and derivatives traded in the exchanges.

8. There are 704 companies listed on the SET, including 545 on the main board and 159 on the mai (2018). The total market cap of SET-listed companies was USD 544 billion (2018). The SET has the highest daily trading value of ASEAN markets, USD 57.7 million (2018). 35 SET listed companies are included in the MSCI Standard Index, the largest number of an ASEAN country.

¹ As of February 28th, 2019 the THB/USD exchange rate was 1 THB = 31.25 USD



size of IPO issued in ASEAN exchanges

Country	2013	2014	2015	2016	2017	YTD2018	2013-2018
Singapore	9,239	4,179	1,210	2,532	4,250	166	21,577
Thailand	7,769	4,434	5,293	1,754	4,440	710	24,401
Malaysia	4,699	4,669	2,918	2,868	4,076	517	19,747
Indonesia	4,298	3,129	1,738	1,782	1,154	12	12,113
Philippines	6,807	2,337	1,437	1,751	910	910	14,152

Source: Bloomberg (as of Mar 2018)

9. Initial public offerings have been strong in Thailand for several years when compared with other ASEAN nations. In 2017 there were 22 new SET listings, 17 MAI listing and 6 REITS. New listings in 2018 declined to 8 on the SET, 11 on the MAI and 3 REITS.

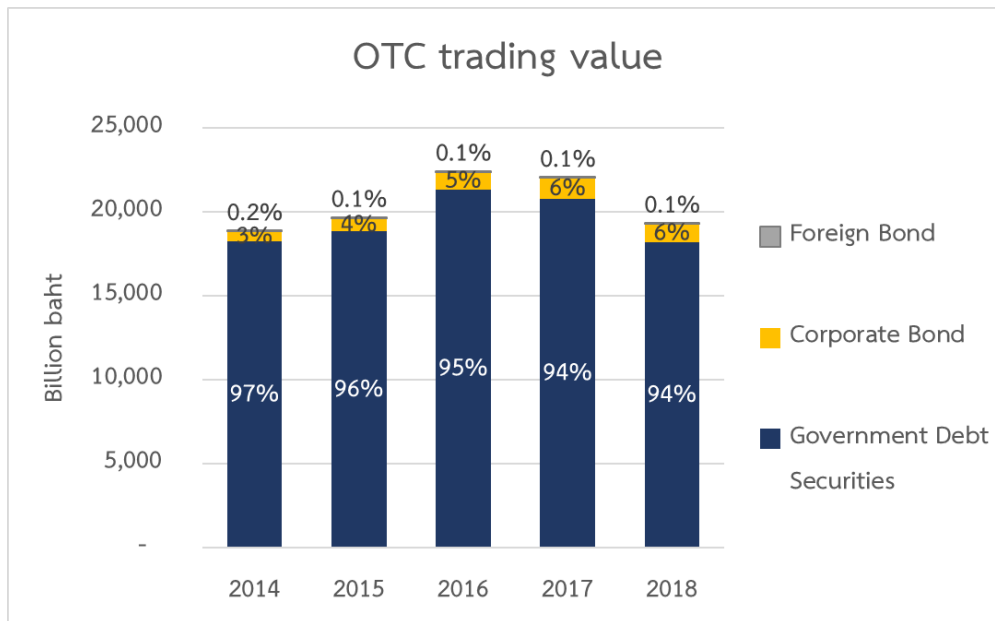
10. The Thailand Futures Exchange's first product, a SET-50 index future, was created in 2006. TFEX has added futures on individual securities, as well as futures on gold, rubber, interest rates and US dollars. It also trades SET-50 index options and sector-index futures. Trading activity on TFEX has grown in recent years, with a 13.7% increase in contracts traded in 2017 over 2016. Specific contract growth occurred in single stock futures (40.4%), Baht gold futures (28.6%) and contracts on the SET50 stock index increasing by 152.3%.²

11. Retail investors engaged in short-term daily trading are responsible for a substantial proportion of SET and TFEX daily trading value. Retail investors are estimated to account for 48% of daily SET trading value and 51% of daily TFEX trading value. While there are 1.5 million registered investor accounts on the SET, it is estimated that approximately 600 investors account for most of the daily retail investor trading. Foreign investors account for approximately 30% of daily trading value and domestic institutional investors for 11%. Proprietary trading by brokers accounts for 10.4%.

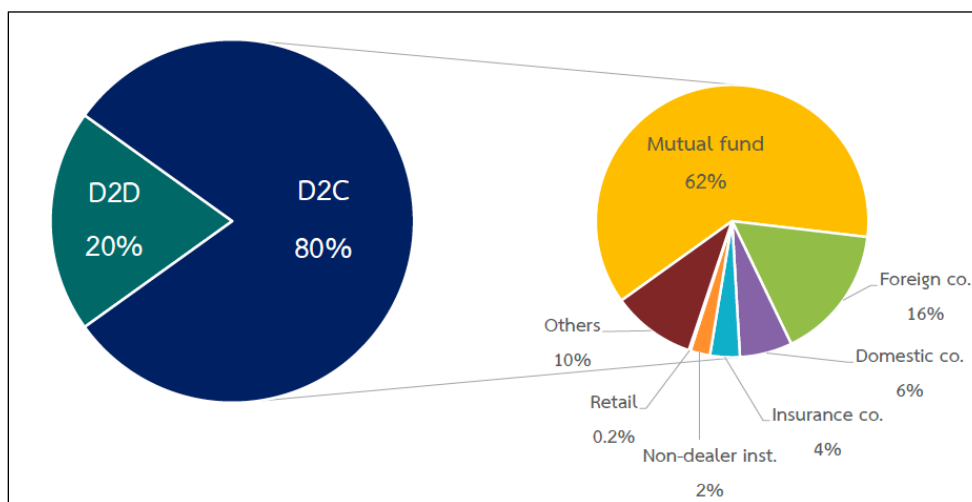
12. The total outstanding value of the Thai bond market at the end of 2018 was THB 13.06 trillion. Government bonds accounted for 37% of total outstanding value, followed by 28% corporate bonds, 26% BOT bonds, 8% SOE bonds and 1% foreign bonds.

² Stock Exchange of Thailand Annual Report for 2017, page 19.

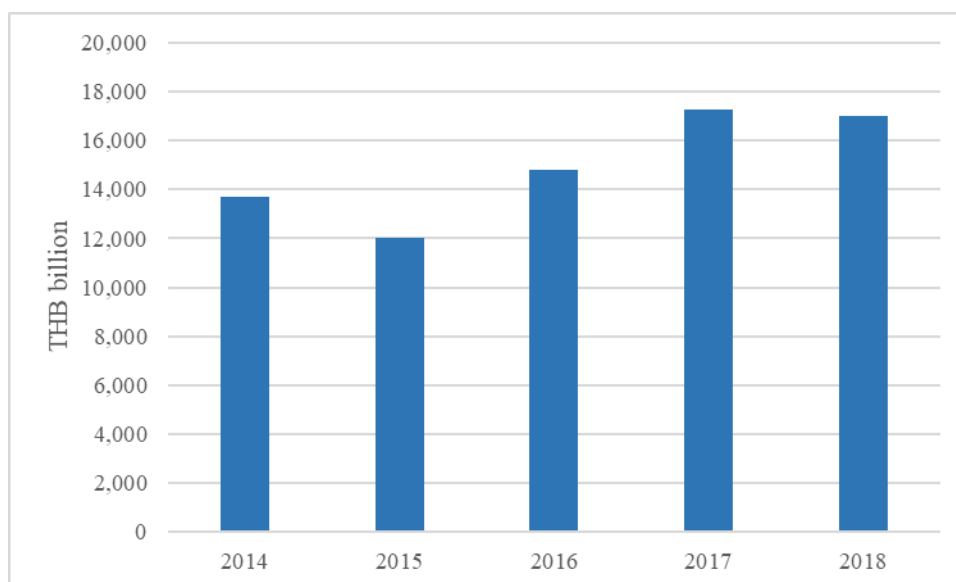
13. Bonds are almost exclusively traded OTC. In the secondary market, around 99% of the THB 19,300 billion traded in bonds are negotiated OTC (not considering financing related transactions, where the remaining trades are performed in the stock exchange (the BEX platform). Although some commercial platforms are used for price discovery purposes, OTC trades are exclusively executed on a bilateral basis. Government bonds dominate trading in the OTC market, with dealer-client trading accounting for over 80% of the trading value, primarily trades between dealers and mutual funds.



Bond trading classified by type of investors



14. The market capitalization of the SET grew from THB 13 billion in 2014 to 17 billion in 2018. Growth was partly driven by low interest rates in the banking sector as investors shifted savings to the stock market as well as the world growth and the country's economic recovery. The three top performing sectors have been industrials, service business, and resources.

SET market capitalization

15. There are about 40 licensed financial intermediaries in Thailand. The SEC issues specific licenses for each function performed and most firms are licensed in all functional business (see chart below). Foreign owned subsidiaries dominate the market. Seventeen foreign-owned bank subsidiaries account for 54% of total market share, with the five largest accounting for 19% (primarily offshore clients). Nine firms owned by domestic banks represent 26% of the market share. Twelve independent domestic firms account for the remaining 20% of the market share.

Number of financial intermediaries by type of business

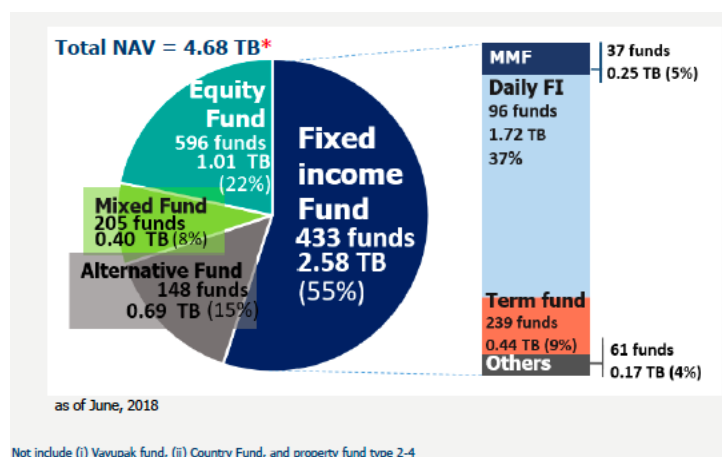
Type of business		2016	2017	2018
Securities business	Brokers	38	39	39
	Dealers	35	35	36
	Underwriters	39	40	41
Derivative business	Investment advisors	40	41	43
	Agents	42	40	39
	Dealers	8	8	9
	Investment advisors	1	1	1

Source: SEC

16. Among the 39 securities companies that perform as securities brokers, they can be classified into 3 types: bank subsidiaries, foreign subsidiaries, and stand-alone. The majority is foreign subsidiaries with a market share of 50%. Also, there is one related organization, the Association of Securities Companies (ASCO), which has been established and registered with the SEC since 1992 with its main purpose to develop the securities industry.

17. Commission fees from clients (retail and institutional) are the primary source of revenue (71% in 2018) for licensed securities companies. Proprietary trading, largely by domestic firms is the second source of revenue (17% in 2018). Securities underwriting is dominated by the banking sector.

18. Asset management is a substantial and growing component of the capital market.³ There are 25 licensed management companies in Thailand, and 71 licensed distributors of collective investment schemes. The six largest asset management companies are all owned by Thai banks. Distributors are a separate category of SEC licensee. They include 19 banks, 30 brokers, 6 fintech companies, 11 insurance companies and 4 other companies. There are 1,382 mutual funds with total assets of THB 4.68 trillion (USD 150 billion) held by 3.11 million unitholder accounts. Total assets represent approximately 34% of GDP.



19. Privately-held pension funds are a significant component of Thai collective investments. There are two categories of non-governmental pension funds, provident funds (collective investment schemes created by companies) and private funds (individual accounts). As of 2017 there were 16 provident fund managers offering 413 funds, with contributions from 18,704 companies and total assets of THB 1.1 trillion (USD 37 billion), or 7% of GDP. There are 24 private pension fund managers of 4,707 private funds holding assets of THB 841 billion (USD 28 billion), or 5.4% of GDP.⁴

20. The SEC is the primary regulator of Thailand's capital market. The SEC was created in 1992 with the enactment of the SEA. The SEA, which has been amended six times, is the organic statute that provides the SEC with comprehensive authority over all segments of the capital markets. The statute focuses on functional areas. As such the SEC has regulatory authority over banks, insurance companies and other companies engaged in securities-related business, such as underwriting, asset management and retail sales. The Derivatives Act of 2003 created

³ Data in this paragraph provided by the SEC.

⁴ EIU Financial Services Report, page 10.

a legal structure for derivatives trading in Thailand under the regulation of the SEC. The BOT has regulatory authority over OTC trading in currency and interest rate contracts. A variety of other laws provide the SEC with ancillary authority. These include The Royal Enactment on Special Purpose Jurisdiction Persons for Securitization B.E. 2540 (1997), the Public Limited Companies Act, B.E. 2535 (1992) and the Licensing Facilitation Act, B.E. 2558 (2015). The SEC is subject to general governmental oversight by the Ministry of Finance, which retains final authority over the issuance and revocation of licenses by the SEC, and the issuance of significant regulations (referred to as Ministerial Regulations).

21. The Stock Exchange of Thailand was authorized by the SEA. Under the SEA, it has broad regulatory authority over companies listed on the SET, licensed securities companies that are SET members, and surveillance and operation of its market, including the authority to suspend trading, delist companies, halt trading in specific stocks or the entire market, and take disciplinary action against member firms and employees. A Memorandum of Understanding between the SEC and SET provides guidance on performance of duties and SEC oversight authority, The DA provides a comparable self-regulatory framework for the TFEX. The SET Group also includes TCH, a wholly-owned subsidiary of SET that performs clearance and settlement functions for the SET and the TFEX; and the TSD, that functions as a securities issuer registry, and as a securities depository providing final settlement of securities traded on the exchange and on the OTC bond market.

22. The Thai Bond Market Association (TBMA) was established in 2005 as a trade association of securities companies under the Trade Association Act and, under the SEA, as an association related to the securities business. The functions of the TBMA, carried out in the over the counter (OTC) bond market, are to supervise its members, provide a database of all trades done by its members, act as a pricing agency in the debt securities market, and serve an industry forum for bond market participants. The SEC has delegated to the TBMA the duties and responsibilities to perform monitoring and surveillance to ensure that all trading activities complied with relevant laws and regulation and to supervise its members. In case of detecting unfair trading practices, TBMA is authorized by the SEC to carry out enforcement procedures.

23. The laws and regulatory structure of Thailand address all general preconditions for effective securities regulation. Thailand has adopted international financial reporting standards (IFRS) and international audit standards (IAS) by incorporation into Thai accounting and auditing standards, although the incorporation of new standards into the Thai system appears to entail significant delay. Thailand is in the process of revising its tax laws applicable to collective investments, which is creating a significant degree of uncertainty for Thai mutual funds.

24. Thailand recently enacted amendments to the SEA which could not be considered in this assessment. As discussed on principles 9, and 33-37, the SEC does not have full regulatory authority over the SET. An amendment to the SEA was passed by the National Legislative Assembly affecting several aspects of the SEA. This amendment, that is not yet effective, incorporates several duties and requirements to the SET, including the obligation to maintain sufficient financial resources, adequate trading systems as well as systems for recording and disseminating price information, for surveillance, and for securities clearing and settlement. The amendment also imposes the obligation to the exchange to issue rules applicable to its members and to the listed issuers. A particularly relevant provision grants the SEC Board powers to instruct the SET to amend, modify or revoke any of the undertakings carried out by the SET to comply with the above-mentioned obligations.

II. MAIN FINDINGS

25. Principles 1-8, Principles relating to the Regulator - The SEC's responsibilities, powers and authorities are clearly defined and objectively set out in Thai law. The SEC has a stable source of funding and appears to have adequate resources. It has comprehensive procedures for promoting regulatory transparency and high professional standards for its staff. It has developed and operationalized internal and cross-agency programs to address issues related to systemic risk, the perimeters of regulation, and conflicts of interest. The potential for political interference in operating decisions continues to exist under Thai law, although there is no indication that this is occurring. Amendment of the SEA to eliminate the possibility of external interference in operating decisions and to enhance SEC enforcement remedies through expansion of the forms of misconduct that can be addressed through civil litigation is recommended.

26. Principle 9, Principle for self-regulation - The SET, TFEX and TBMA have SRO arrangements that cover regulatory practices as well as supervision and disciplinary actions over of their members, which are adequately overseen by the SEC. The arrangements with the SET and TBMA currently rely only on MOU signed with both SROs to exercise its supervisory and regulatory mission. A recent amendment to the SEA will partially remediate this shortcoming. The SEC lacks statutory authority to suspend or terminate the license of the SET or impose monetary penalties for misconduct.

27. Principles 10-12, Principles for the enforcement of securities regulation - The SEC has broad comprehensive authority to conduct inspections and investigations. This includes the authority to obtain books and records or compel testimony from any entity or person, as necessary to conduct inspections or investigations. The 2016 amendments to the SEA authorizing SEC civil actions in specified important areas is a significant improvement in SEC enforcement authority, but expanded authority over all violations of the law is needed. The SEC also lacks the authority to take action against the SET if it violates the SEA. SEC inspections appear to be of high quality. A greater number of periodic on-site securities firm inspections are needed to achieve a full cycle in a reasonable period of time. The number of issuer disclosure reports reviewed under the RBA methodology appears low. The SEC should have real-time surveillance capacity across all financial markets during periods of market turbulence to effectively fulfill its systemic risk responsibilities, to effectively oversee the effectiveness of SRO surveillance activities and to analyze patterns of market misconduct that may cross markets.

28. Principles 13-15, Principles for cooperation in regulation - Issues identified in the previous FSAP have been addressed. The SEC is empowered by the SEA to share public and non-public information with domestic and foreign counterparts and also is authorized by the SEA to establish information sharing mechanisms. It is a signatory of the IOSCO MMoU. The SEA also gives powers to the SEC to provide assistance to domestic and foreign regulators.

29. Principles 16-18, Principles for Issuers - The SEA provides the SEC with ample powers to monitor, oversee and discipline issuers and all entities and persons with responsibilities in public offerings. The SEC has a supervisory program to review financial reporting and material information, although it should analyze more company reports. The SEA, the PCA, SEC rulings and rules provide an appropriate framework for changes of control transactions to be conducted fairly and with full disclosure. While not a requirement under the IOSCO Principles, the SEC should consider requiring public issuers to have internal policies applicable to transactions by

company insiders. In addition, the SEC proxy statement disclosure requirements are not specific on the information to disclose in relation to the matters to be voted in shareholders meetings, for instance information on candidate directors' interests in the issuer, compensation from the issuer or past relationships. Financial statements to be included in the prospectus and in the annual and semi-annual reports are prepared according to TFRS which are fully aligned with IFRS, although IFRS on financial instruments is yet to be adopted. Each new IFRS is issued as a TFRS after a one-year delay, a time window that should be reduced.

30. Principle 19-23, Principles for auditors, credit rating agencies, and other information service providers - Auditors are subject to adequate levels of oversight by the SEC and they are required to follow international standards applicable to auditors and the regulation guarantees adequate independence of audit firms and their personnel. The SEC's approved auditors are required to perform their audit work according to the Thai Standards on Auditing set out by the FAP following the ISA standards. CRAs are licensed and regulated by the SEC and are expressly required to follow the IOSCO CRA Code of Conduct. The SEA, the SEC regulation and the ASCO standards conform a comprehensive regulatory framework applicable to firms providing advice to investors as well as their personnel. Specific standards are applied to sell-side research analysts and their employers.

31. Principles 24-28, Principles for collective investment schemes - There is a comprehensive system for licensing of fund operators and approval of CIS and for continuing oversight of the activities of the fund and its operator, including regular reporting and onsite inspection. The TBMA pricing information is the standard utilized by all mutual funds for illiquid issues of debt securities. The TBMA daily yield curve utilizes non-binding indicative quotes for thinly traded issues of government securities. This is not sound practice as indicative quotes have limited reliability in a secondary market. While the SEC has adopted regulations for hedge funds, hedge funds are created under the general mutual fund licensing and registration regulations as a specialized category of mutual fund: ultra-high net worth accredited investor ("UI") mutual fund.

32. Principles 29-32, Principles for market intermediaries - The SEA and SEC regulations establish licensing requirements applicable to securities intermediaries, such as minimum paid-up capital, sound financial status and policies and measures for internal controls, risk management, dealing with COI, and for preserving confidentiality. They also include requirements for all directors, managers and major shareholders of the firms. Prudential and solvency requirements are regulated by the net capital rule, which takes into account financial risks, liquidity risks and operational risks on a continuous basis. The SEC establishes standards for business conduct of intermediaries undertaking securities and derivatives businesses, in relation to appropriate management and organizational systems, as well as sufficient personnel to be able to operate efficiently and with due care, taking into account the nature and size of the business and associated risks. The SEC has implemented early warning systems and procedures for dealing with failing firms. The SEA does not provide the SEC with authority to appoint or request a competent authority to appoint a temporary receiver for an intermediary that has suffered a major failure.

33. Principles 33-37, Principles for the Secondary Markets - Real-time surveillance of the securities markets is the responsibility of the SRO. The SEC does not have direct real-time access to SRO surveillance systems. It receives a detailed electronic file of all SET and TFEX trading data on a two-month delayed basis. The SET, TFEX and the TBMA provide more rapid trading information when requested by the SEC or when a referral is made to the SEC of suspicious

trading activity. The SET and TFEX Surveillance units operate from the same facility but the two Surveillance functions are separate, with only specified persons in each unit authorized to access the other surveillance system. The SEC should obtain real-time online access to SRO surveillance systems and create its own surveillance program to augment and complement the current SRO programs. Consideration should also be given to merging the SET and TFEX surveillance programs. It is recommended that the TBMA surveillance and enforcement programs should be examined carefully. Daily trading on the SET is largely conducted by retail investors engaging in short-term trading, and licensed intermediaries rely heavily upon client commissions for revenue. Recent amendments to the SEA provide the SEC with legal authority to review and approve all SET trading and operations rules. This may be an appropriate point in time for the SEC to conduct a comprehensive examination of all SET trading rules (e.g. trading restrictions, minimum client commissions, block trading rules) and their interaction and influence on the common trading practices on the SET. The SET, TFEX and TCH monitor the risks of its members (at member level) and have put in place measures to identify, monitor, and evaluate large exposures. The TCH has tools to manage exposures by its members by requiring collateral according to the risk assumed by them. Short-selling is regulated and naked short-selling prohibited. Exchange traded derivatives are cleared through TCH while OTC traded derivatives are not. The authorities have manifested that the size of the OTC market segment is not large enough to make centralized clearing mandatory. However, the SEC and BOT should begin the process of developing a workplan for requiring centralized clearing of OTC derivatives.

Table 1. Summary Implementation of the IOSCO Principles—Detailed Assessments

Principle	Grade	Findings
Principle 1. The responsibilities of the Regulator should be clear and objectively stated.	FI	The law provides a clear statement of the responsibilities of the SEC and generally defines the authority of the SECB to develop policy and regulations and the authority of the staff under the direction of the SG to implement policy and perform all operational responsibilities.
Principle 2. The Regulator should be operationally independent and accountable in the exercise of its functions and powers.	BI	The impact of the MOF having final approval over licensing and revocation decisions continues to be an issue under this principle. While there is no evidence that SEC operational decisions have been affected, the potential continues to exist. A separate issue concerning operational independence is raised by the composition of the Criminal Fining Committee (CFC) and the Civil Sanctions Committee (CSC). While there is no evidence that SEC operational independence on enforcement decisions has been affected, this is a potential problem.
Principle 3. The Regulator should have adequate powers, proper resources and the capacity to perform its functions and exercise its powers.	BI	The SEC legal authority is generally sufficient to perform its functions, with the one limitation being that SEC civil enforcement authority is available only for specified forms of misconduct, including market manipulation, insider trading and making false statements in required report, discussed in principles 11-12. SEC budgetary and staff resources appear to be sufficient for its responsibilities, although consideration should be given to increasing the number of staff assigned to on-site inspections of licensed intermediaries and to the review of periodic reports filed by public companies.
Principle 4. The Regulator should adopt clear and consistent regulatory processes.	FI	The SEC has adopted and implemented a full range of procedures.
Principle 5. The staff of the Regulator should observe the highest professional standards, including appropriate standards of confidentiality.	FI	The annual SEC audit of securities accounts held by the family of SEC staff offsets the lack of regulatory prohibitions on staff family members
Principle 6. The Regulator should have or contribute to a process to monitor, mitigate and manage systemic risk, appropriate to its mandate.	FI	The internal SEC structure is operational and appears to be an effective tool for monitoring systemic risk. The SEC should work with the BOT and OIC on adoption of a routine procedure for sharing information on entities that are related or subject to joint regulation.

Principle 7. The Regulator should have or contribute to a process to review the perimeter of regulation regularly.	FI	The SEC has incorporated assessment of perimeters of regulation into its overall systemic risk assessment program.
Principle 8. The Regulator should seek to ensure that conflicts of interest and misalignment of incentives are avoided, eliminated, disclosed or otherwise managed.	FI	Issues concerning conflicts of interest have been incorporated into the SEC regulatory standards for each category of licensed entity.
Principle 9. Where the regulatory system makes use of Self-Regulatory Organizations (SROs) that exercise some direct oversight responsibility for their respective areas of competence, such SROs should be subject to the oversight of the Regulator and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities.	BI	The SET and TBMA have SRO arrangements that cover regulatory practices as well as supervision and disciplinary actions over of their members. These are adequately overseen by the SEC, which currently relies on MOUs signed with both to exercise its supervisory and regulatory mission. A recent amendment to the SEA will remediate this shortcoming as it pertains to SEC authority to review and approve SET trading and operating rules SET. There is room for improvement in the TBMA oversight practice of the Thai bond market and member compliance with trade reporting requirements.
Principle 10. The Regulator should have comprehensive inspection, investigation and surveillance powers.	FI	The SEC has broad comprehensive authority to conduct inspections of all licensed entities. This includes on-site inspections of the relevant operations of financial sector entities such as bank subsidiaries that have obtained licenses from the SEC to perform regulated activities such as distribution of mutual funds or investment advisory services. The SEC also has broad investigative authority that covers any person or entity suspected of having participated in a violation of the SEA or DA or having provided assistance in violations. The SEC also has broad authority to obtain books and records or compel testimony from any entity or person, as necessary to conduct inspections or investigations.
Principle 11. The Regulator should have comprehensive enforcement powers.	BI	The amendment to the SEA authorizing SEC civil actions in important areas, including market misconduct, insider trading and making false statements in required reports is a significant improvement in SEC enforcement authority, but broader authority is needed so that civil enforcement can be used for all violations of the SEA and DA. The SEC also lacks the authority to take action against the SET if it violates the SEA.

<p>Principle 12. The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance program.</p>	BI	<p>SEC inspections appear to be of high quality. A greater number of securities firm inspections are needed and the number of cause inspections may be low. The number of issuer disclosure reports reviewed under the RBA methodology appears low. Civil enforcement authority appears to be a useful addition to SEC authority. As there is only 2 years of experience, it is a small sample size. Expansion of civil authority is needed to make up for the difficulty in criminal prosecution.</p>
<p>Principle 13. The Regulator should have authority to share both public and non-public information with domestic and foreign counterparts.</p>	FI	<p>The SEC is empowered by the SEA to share public and non-public information with domestic and foreign counterparts.</p>
<p>Principle 14. Regulators should establish information sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts.</p>	FI	<p>The SEC is authorized to establish information sharing mechanisms and is now a signatory of the IOSCO MMoU.</p>
<p>Principle 15. The regulatory system should allow for assistance to be provided to foreign Regulators who need to make inquiries in the discharge of their functions and exercise of their powers.</p>	FI	<p>The SEA gives powers to the SEC to provide assistance to domestic and foreign regulators. The SEC has provided assistance in a number of opportunities to foreign regulators.</p>
<p>Principle 16. There should be full, accurate and timely disclosure of financial results, risk and other information that is material to investors' decisions.</p>	FI	<p>The SEA provides the SEC with ample powers to monitor, oversee and discipline issuers and all entities and persons with responsibilities in public offerings. The SEC has a supervisory program on financial reporting and material information, although it should analyze more company reports.</p>
<p>Principle 17. Holders of securities in a company should be treated in a fair and equitable manner.</p>	BI	<p>The SEA, the PCA, SEC rulings and rules provide an appropriate framework for changes of control transactions to be conducted fairly and with full disclosure. The SEC proxy statement disclosure requirements are not specific on the information to disclose in relation to the matters to be voted in shareholders meetings, including specific information on candidate directors. While not required by the IOSCO Principles, the SEC should consider requiring public issuers to have internal policies applicable to transactions by company insiders.</p>

Principle 18. Accounting standards used by issuers to prepare financial statements should be of a high and internationally acceptable quality.	BI	Financial statements to be included in the prospectus and in the annual and semi-annual reports must be prepared according to TFRS which are fully aligned with IFRS. Each new IFRS is issued as a TFRS after a one-year delay. IFRS on financial instruments is yet to be adopted. The FAP should consider reducing the length of the mentioned delay.
Principle 19. Auditors should be subject to adequate levels of oversight.	BI	Auditors are subject to adequate levels of oversight by the SEC and they are required to follow international standards applicable to auditors. An exception is the case of listed SOEs, that currently are audited by a government agency, although that situation is expected to change in the near term. The SEC may consider the use of pecuniary actions on auditing firms as an additional disciplinary tool
Principle 20. Auditors should be independent of the issuing entity that they audit.	FI	The regulation guarantees adequate independence of audit firms and their personnel.
Principle 21. Audit standards should be of a high and internationally acceptable quality.	FI	The SEC's approved auditors are required to perform their audit work according to the Thai Standards on Auditing set out by the FAP following the ISA standards.
Principle 22. Credit rating agencies should be subject to adequate levels of oversight. The regulatory system should ensure that credit rating agencies whose ratings are used for regulatory purposes are subject to registration and ongoing supervision.	FI	CRA's are licensed and regulated by the SEC and are expressly required to follow the IOSCO CRA Code of Conduct.
Principle 23. Other entities that offer investors analytical or evaluative services should be subject to oversight and regulation appropriate to the impact their activities have on the market or the degree to which the regulatory system relies on them.	FI	The SEA, the SEC regulation and the ASCO standards define a comprehensive regulatory framework applicable to firms providing advice to investors as well as their personnel. Specific standards are applied to sell-side research analysts and their employers.
Principle 24. The regulatory system should set standards for the eligibility, governance, organization and operational conduct of those who wish to market or operate a collective investment scheme.	FI	There is a comprehensive system for licensing of fund operators and approval of funds and for continuing oversight of the activities of the fund and its operator, including regular reporting and onsite inspection.
Principle 25. The regulatory system should provide for rules governing the legal form and structure of collective investment schemes and the segregation and protection of client assets.	FI	All requirements under this principle are met.

Principle 26. Regulation should require disclosure, as set forth under the principles for issuers, which is necessary to evaluate the suitability of a collective investment scheme for a particular investor and the value of the investor's interest in the scheme.	FI	CIS must provide investors with a detailed summary fact sheet of key information and with a full prospectus.
Principle 27. Regulation should ensure that there is a proper and disclosed basis for asset valuation and the pricing and the redemption of units in a collective investment scheme.	BI	The TBMA pricing information is the standard utilized by all mutual funds for illiquid issues. The TBMA daily yield curve utilizes non-binding indicative quotes for thinly traded issues of government securities. This is not sound practice as indicative quotes have limited reliability in a secondary market.
Principle 28. Regulation should ensure that hedge funds and/or hedge funds managers /advisers are subject to appropriate oversight.	FI	Funds operating that would be considered hedge funds are licensed as mutual funds under a special category open only to institutional investors, and ultra-high net worth accredited investors.
Principle 29. Regulation should provide for minimum entry standards for market intermediaries.	FI	The SEA and SEC regulations establish licensing requirements applicable to securities intermediaries, such as minimum paid-up capital, sound financial status and policies and measures for internal controls, risk management, dealing with COI, and for preserving confidentiality. They also include requirements for all directors, managers and major shareholders of the firms.
Principle 30. There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.	FI	Prudential and solvency requirements are regulated by the net capital rule, which takes into account financial risks, liquidity risks and operational risks on a continuous basis.
Principle 31. Market intermediaries should be required to establish an internal function that delivers compliance with standards for internal organization and operational conduct, with the aim of protecting the interests of clients and their assets and ensuring proper management of risk, through which management of the intermediary accepts primary responsibility for these matters.	FI	The SEC establishes standards for business conduct of intermediaries undertaking securities and derivatives businesses, in relation to appropriate management and organizational systems, as well as sufficient personnel to be able to operate efficiently and with due care, taking into account the nature and size of the business and associated risks.
Principle 32. There should be procedures for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.	PI	The SEC has implemented early warning systems and procedures for dealing with failing firms. The SEC does not have the authority to appoint or request the appointment of a temporary receiver for an intermediary that has had a major failure and it cannot take control of customers' assets before a receiver is appointed or as an emergency action.

<p>Principle 33. The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.</p>	<p>BI</p>	<p>The SET and TFEX have reliable trading arrangements that in practice are overseen by the SEC, although in the case of the SET, the regulator currently relies on an MOU to supplement its statutory authority. A recent amendment to the SEA will remediate this shortcoming. The SEC lacks authority to suspend or revoke the SET license</p>
<p>Principle 34. There should be ongoing regulatory supervision of exchanges and trading systems which should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.</p>	<p>PI</p>	<p>Issues concerning the accuracy of OTC bond reporting in dealer to customer trading should be examined carefully. 80% of daily reported trading is dealer to customer transactions, of which 62% is trading between a dealer and a mutual fund. SEC lacks authority to suspend, fine or revoke the SET license. Recently enacted SEA amendments will provide the SEC with full SET rule review and approval authority. As the new law is not in effect, the change couldn't be incorporated into the rating</p>
<p>Principle 35. Regulation should promote transparency of trading.</p>	<p>BI</p>	<p>Current practice in SET and TFEX provides adequate pre-trade and post-trade transparency. Respecting the OTC bond trading, TBMA ensures appropriate post-trade transparency, but there is no pre-trade transparency in this market segment.</p>
<p>Principle 36. Regulation should be designed to detect and deter manipulation and other unfair trading practices.</p>	<p>BI</p>	<p>As discussed previously, the SEC should obtain real-time online access to existing SRO surveillance systems and develop its own surveillance team to augment and complement the current SRO programs. Consideration should also be given to merging the SET and TFEX surveillance programs. It is recommended that the TBMA surveillance and enforcement programs should be examined carefully. As discussed previously there may be serious validation issues with dealer-customer trade reporting, which accounts for 80% of daily trading. Once the new amendments to the SEA become effective, the SEC will have authority over SET trading rules. Short-term retail investor trading is a substantial portion of SET daily trade volume and licensed intermediaries rely heavily on trade commissions and fees for revenue. This may be an appropriate point in time for the SEC to conduct a comprehensive examination of all SET trading and operating rules and their interaction and influence on the common trading practices on the SET.</p>

<p>Principle 37. Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.</p>	<p>BI</p>	<p>The SET and TFEX, monitor the risks of its members (at member level) and put in place the measures to identify, monitor, and evaluate large exposures. The TCH has tools to manage exposures by its members by requiring collateral according to the risk assumed by them. Short-selling is regulated and naked short-selling prohibited. Exchange traded derivatives are cleared through TCH while OTC traded derivatives are not. The authorities believe that the size of this market segment is not large enough to justify making centralized clearing mandatory. The SEC and BOT should develop a roadmap for mandating central clearing of OTC derivatives. Central clearing addresses the inherent systemic risks arising from bilateral clearing, and is consistent with the IOSCO Principles and international best practices.</p>
<p>Principle 38. Securities settlement systems and central counterparties should be subject to regulatory and supervisory requirements that are designed to ensure that they are fair, effective and efficient and that they reduce systemic risk.</p>		<p>Principle Not assessed</p>
<p>Fully Implemented (FI), Broadly Implemented (BI), Partly Implemented (PI), Not Implemented (NI), Not Applicable (NA)</p>		

III. RECOMMENDED ACTION PLAN AND AUTHORITIES' RESPONSE

A. Recommended action plan

Table 2. Recommended Action Plan to Improve Implementation of the IOSCO Principles

Principle	Recommended Action
Principles 2 and 3	Amend the SEA to transfer final approval on licensing to the SEC. Closely examine operational independence issues raised by composition of Criminal Fining Committee and the Civil Sanction Committee.
Principles 3, 11, and 12	Amend the SEA to authorize the SEC to bring civil enforcement actions for any violation of the SEA and DA.
Principle 4	The SEC should consider expanding its use of interpretive and explanatory guidance and undertake to make public all guidance provided to one or a limited number of persons or entities.
Principle 6	The SEC should work with the BOT and OIC on adoption of a routine procedure for sharing information on entities that are related or subject to joint regulation.
Principles 6, 10, 12, 34, 36	The SEC should have real-time access to SRO surveillance systems providing access across all financial markets during periods of market turbulence to effectively fulfill its systemic risk responsibilities, to effectively oversee the effectiveness of SRO surveillance activities and to analyze patterns of market misconduct that may cross markets.
Principle 9.	The SEC's powers to regulate the SET as an SRO should be expressly stated in the SEA.
Principle 9.	The SEC should be given authority to suspend, fine or revoke the SET license.
Principle 9.	The TBMA policy of not disclosing disciplinary sanctions to its member firms or the public should be examined by the SEC to determine if it is consistent with SEA policy on publication of sanctions and whether it promotes the integrity of OTC trading market.
Principle 10, 12,16.	The SEC should increase the number of company reports analyzed.
Principle 16.	The SEC should consider implementing common processes between areas reviewing qualitative and quantitative aspects of issuer disclosure reports.
Principle 17.	The SEC should be more specific in the regulation of proxy statement disclosures requirements on the information to provide in relation to the matters to be voted in shareholders meetings.
Principle 17.	While not required by the IOSCO Principles, the SEC should consider requiring public companies to establish their own internal policies in relation to trading by insiders, that should include a definition of insiders and the specific events or situations that should prevent these from trading on the company's stocks.
Principle 18.	The time length for the adoption of each new published IFRS should be reduced

Principle	Recommended Action
Principle 18.	The SEC should increase the number of financial reports analyzed.
Principle 19.	Listed SOEs should be audited by SEC-licensed auditors instead of the Thai Office of the Auditor General.
Principle 19.	The SEC may consider giving consideration to the use of pecuniary sanctions (fines) applicable to audit firms for breaches of professional audit standards.
Principle 22.	The SEA should provide the SEC with explicit authority to regulate CRAs.
Principle 27	The TBMA yield curve should not be based in part on non-binding, indicative quotes.
Principle 32.	The SEA should be amended to provide the SEC with authority to appoint or seek the appointment of a temporary receiver for an intermediary that has failed or to take control of customers assets before that appointment or as an emergency action.
Principle 32, 37	The SEC should give consideration to requiring the TCH the individual accounting segregation of collateral from the participants' customers on an individual basis to facilitate portability in case of a participant's failure.
Principle 33.	The SET should consider conducting and disclosing an analysis of the economic rationale behind its fees structure.
Principle 33	The SEA should be amended to enable the SEC to take disciplinary action against the SET, including fines and other remedial actions.
Principle 33, 36	The SEC should undertake a comprehensive review of the SET trading rules, including share pricing and the minimum uptick rule to assess the impact on market trading.
Principle 34, 35	The SEC should require that TBMA revise its rules on pre-trade transparency in the OTC bond market and require same-day quotes on a continuous basis. While not required by these IOSCO Principles, the SEC may consider setting out specific regulations on block trading (Big Lot), such as the minimum size of large trades eligible for block trading, and the price conditions that would guarantee a close alignment with market prices.
Principle 37.	The SEC and the BOT should develop a roadmap for mandatory centralized clearing of OTC derivatives.
Principle 37	The SEC and BOT should consider requiring the complete and irreversible dematerialization of all listed securities.

B. Authorities' response to the assessment

1. The Securities and Exchange Commission of Thailand (SEC) welcomes the assessment as the first jurisdiction under the new IOSCO Methodology for Assessing Implementation of the IOSCO Objectives and Principles of Securities Regulation published in May 2017. The newly updated set of Principles has rigorously enhanced the foundation of effective and stable financial systems, providing guidance and implementation for an essential regulatory framework to cope with significant challenges in globalized, technology-oriented, instability, and integrated financial market environment.

2. The SEC would like to express our gratitude to the FSAP mission team and IOSCO assessors. We sincerely appreciate the dedication, resources, and time of the experienced assessors for the profound review of the legal system, regulatory framework, as well as practices of the Thai capital market. The valuable recommendations will further strengthen the sound framework of securities regulations and high level of implementation of the IOSCO Principles by the SEC.

3. Since Thailand's last FSAP in 2008, the SEC has been prioritizing the recommendations from the assessment with commitment to take steps toward practical implementation and incorporated these measures into Capital Market Development Plan and SEC Strategic Plan. This assessment has provided the authorities with an opportunity to holistically review supervisory and regulatory framework through self-assessment and on-site visits of the assessors. Significant progress has resulted in every area as elaborated in the assessment report, which objectively reflects the present development and continuous improvement of Thai capital market. It acknowledges that the regulatory framework is largely compliant with the IOSCO Principles, recognizes the authorities' efforts to deepen reforms and promotes development of Thai capital market.

4. The SEC believes that recommendations and proposed actions will facilitate future formulations of Capital Market Development Plan as well as strategic plan of the regulator. This will foster consensus among financial regulators, enforcement agencies, legislators, other authorities, and stakeholders to create the positive environment and prospects for the upcoming capital market reforms.

5. While some initiatives have already been embarked during the time of the assessment, we will thoroughly consider these useful observations and recommendations. Our responses to some specific areas and recommendations are detailed as follows:

5.1 Inter-agency cooperation and formalizing arrangements – systemic risks, perimeter review, and managing COI

The SEC has implemented an institutional arrangement with the BOT and OIC to fully exchange information. This existing inter-agency cooperation by tri-partite MoU, is called "Three Regulators Steering Committee", which is a coordinating body for discussing regulatory policies and initiatives. In particular, working groups on financial stability, market conduct, information sharing platform, fintech and

regulatory sandbox, cyber security, and crisis management were established as focused areas.

With regards to the new IOSCO principles, the SEC has continuously developed and put in place formalized process for identifying, managing, and addressing systemic risks, regulatory perimeter, and conflicts of interest for the purpose of capital market risk management and as input for the three-regulators steering committee. These arrangements are recognized as notable success by the assessors under Principles 6-8.

5.2 Oversight and Supervision of Stock Exchange of Thailand (SET)

In the area of overseeing and supervising SET, the SEC has always sought to increase its effectiveness to ensure fair, efficient, and transparent market. The recent amendment of the SEA will enhance SET governance, provide clear expectations for SET to perform as an SRO and secondary market, as well as empower the SEC to approve SET trading rules. The SEC believes that FSAP recommendations will support and provide solid ground for future amendments, especially on empowering the SEC to take escalating disciplinary measures against SET. To bolster the continuing development of the SEC oversight program, full review and consideration will be given to all issues raised, including real-time surveillance data, comprehensive examination of all SET trading rules and practices as well as fee structure, and conditions for block trades transactions.

5.3 Oversight and Supervision of TBMA

The assessors have raised the SEC's awareness of the need to improve transparency of pre-trade information for OTC debt securities. Particular attention will be given to (1) amending relevant regulations to require the same-day report of transactions and trade execution and (2) examining practices in modeling yield curve as pricing of debt securities are widely used by mutual funds and institutional investors. The SEC will ensure adequate supervision of all TBMA's functions on OTC debt securities such as pricing methodologies, trading regulations, and disclosure requirements.

5.4 Enhancement of Enforcement Effectiveness

Since civil sanction was granted by the SEA amendment, the SEC has been effectively utilizing this authority on applicable cases without delay. The SEC pursues to continue and elevate its level of effectiveness whilst seeks to expand authority to bring civil enforcement actions for any violation of the SEA so that the difficulty in criminal prosecution is diminished.

5.5 Shareholders' rights

Given the importance of protecting and expanding shareholders' rights, the SEC is willing to take responsive actions according to the assessors' recommendations on (1) requiring more specific disclosure of directors' interest in proxy statements, (2) allowing shareholders to exert their withdrawal rights to cover other circumstances aside from takeover case, and (3) establishing internal policies in relation to trading by insiders.

5.6 Regulating Market Intermediaries and Dealing with eventuality of failure

SEC has been considering on assessors' comments about Principle 32 focusing on effectiveness of customers' asset management in the case that Market Intermediaries (MI) has a financial difficulty which can cause major effects to clients and the whole system, and deciding that the scope of existing laws can achieve the objective of Principle 32.

1. The rule of SEC is specified that MI shall segregate customer's asset from its own, shall not use its customer's asset for its own or others' benefits except when granting the consent from customers, shall make a complete and correct record of date, numbers and types of assets, shall record the transaction and reason of changes in transaction in every time of making changes before the end of date, and shall submit the report on customer's asset to customer and SEC monthly. (SEA: Section 98 (3)⁵, DA: Section 33).
2. SEC states that MI shall maintain Net Capital and submit the information of Net Capital to SEC daily. For the rules of maintaining Net Capital, assessor decides that they already effectively cover the risks and liability from conducting business for MI. Even MI does not happen to have financial difficulty, if there are any significant changes to the financial data or any information that could provide hints to unusual situations, SEC will have the operation to follow unusual cases by investigating causes of changes, analyzing the effects on their financial conditions, and reporting to executive of SEC to immediately respond if such cases will lead to damage on capital market. (SEA: Section 97, DA: Section 49)
3. If MI cannot maintain Net Capital in according to the Notification of the office of the SEC by the virtue of SEA (Section 141) and DA (Section 50), MI is not allowed to expand business and must submit correction plan to maintain Net Capital to SEC during designated period. In the case that MI has the operation that causes significant risks to customers or systems, for examples, negative Net Capital of MI or default in clearing and settlement process, MI must cease the operation, reduce risks from investment, and transfer customer's asset to other MIs according to the request of the customers.
4. Apart from this, if SEC finds out that MI does not comply with the rules or there is reasonable ground or evidences to believe that any operations of MI may cause damages to investors, SEC or the Capital Market Supervisory Board ("CMSB") shall have the power to order MI to rectify such act, refrain from doing such act or do any act as SEC or CMSB may deem appropriate within a specified period of time (including customer's asset management). (SEA: Section 141-143, DA: Section 50).

⁵ Notification of the Capital Market Supervisory Board No. TorThor. 43/2552 Re: Custody of Clients' Assets by Securities Companies dated 3rd August 2009.

5. If MI is failed to comply with the order of SEC under SEA Section 141-142, SEC has power to order such MI to remove its directors, managers or persons responsible for its operation who have caused such events. In this regard, such MI shall appoint other person whom grants the consent from SEC to replace the person removed (SEA: Section 144).
6. In case that MI fails to remove such person or remove but failed to appoint the person with the consent from SEC within 30 days from the date of removal. SEC, with the approval of the CMSB, has the power to remove such person and appoints other persons to replace the persons removed. The order of the SEC is deemed as a resolution of a shareholders' meeting in accordance with the Civil and Commercial Code or the law relating to public limited companies, as the case maybe. The person so removed shall no longer be involved in or operate, directly or indirectly any affair of that MI, and shall give assistance and provide facts to the persons so appointed. (SEA: Section 145).
7. In case of the situation which required examination on the operation of MI under the order of SEC, SEC has the power to appoint the officer to examine the operation, assets and liability, documents and other information related to MI and order seizure or attachment of the documents for the beneficial examination)SEA: Section 264, DA: Section 103(.
8. If SEC has a reasonable ground to believe that the person would relocate or dispose the assets, SEC, with the approved of SEC Board, shall have the power to order seizure or attachment of such person's assets or the assets for which there is reasonable evidence to believe that they belong to such person by appointing officer to undertake the process (SEA: Section 267, DA: Section 108).
9. If MI is announced bankrupt by the court, there will be the process supported according to Bankruptcy Act B.E. 2483. SEA and DA provide SEC the authority to arrange the customer's asset management in order to avoid loss to customers and the capital market system. SEC could transfer such assets to other MIs according to the request or consent from the customers, close out the customer's unsettled position to the clearing house in the case that MI is unable to transfer the assets (SEA: Section 111/1, DA: Section 43). A person eligible to file the petition of business reorganization with the court must obtain prior consent from SEC whereby such person must comply with the rule of SEC on customer's asset management as specified in 3 (Bankruptcy Act B.E. 2483: Section 90/4).

IV. DETAILED ASSESSMENT

Table 3. Detailed Assessment of Implementation of the IOSCO Principles

Principles Relating to the Regulator	
Principle 1.	The responsibilities of the regulator should be clear and objectively stated.
Description	<p>SEC’s responsibilities, powers and authority</p> <p>The SEC’s responsibilities, powers and authorities are clearly defined and objectively set out in the Securities and Exchange Act (“SEA”), the Derivatives Act (“DA”), the Trust for Transactions in Capital Market (“Trust Act”) and the Public Limited Companies Act of 1992 (“PLCA”). The responsibilities of the SEC are distributed among the Securities and Exchange Commission Board (“SECB”), the Capital Market Supervisory Board (“CMSB”) and the Office of the Securities and Exchange Commission (“SEC”).</p> <p>Under the SEA, DA, and Trust Act, the SECB formulates policies to promote and develop as well as supervise the securities and derivatives markets and the overall capital market of Thailand.</p> <p>This authority includes:</p> <ul style="list-style-type: none"> - issuance of rules, regulations, notification, orders, or direction under these acts: including approval of SET rules and regulations (see Principle 9 on key limitations), and prudential requirement for securities companies; - issuance of internal rules relating to the duties of SECB sub-committees, and employees of the SEC; - fees relating to licensing under these acts (see principle 2 concerning the role of the Minister of Finance); - formulate policies and supervise matters concerning securitization in accordance to the Royal Enactment on Special Purpose Juristic Persons for Securitization; - issuance of guidelines on compliance with the relevant laws pursuant to authority under SEA Section 14(4/1), DA Section 9(4), and Trust Act Section 8(3); and - any other activities necessary to the purpose of the relevant laws. <p>There are 11 members of the SECB:</p> <ol style="list-style-type: none"> 1. the Chairman appointed by the Cabinet upon the Finance Minister’s recommendation 2. the Permanent Secretary of the Minister of Finance 3. the Permanent Secretary of the Minister of Commerce 4. the Governor of the Bank of Thailand 5. at least four but not more than six experts appointed by the Minister of Finance, as proposed by the selection committee 6. the SEC Secretary-General (“S-G”) <p>The S-G of the SEC may not be the Chairman of the SECB. This is to enhance transparency and independence. The Chairman and experts are appointed for four-year terms and can be re-appointed for not more than two consecutive terms. The SEA also provides a long list of</p>

	<p>grounds for removal for good cause (Section 11 SEA). At least half of the members are required for a quorum. In the event of a tie vote, the Chairman of the meeting shall have the deciding vote. To ensure the regulator's independence, any commissioner who has an interest in the matter to be considered is prohibited from participating in that matter. The SECB meets monthly.</p> <p>The CMSB consists of 7 members;</p> <ol style="list-style-type: none"> 1. The SEC Secretary-General who serves as Chairman. 2. The SEC Deputy Secretary General assigned by SEC Secretary General. 3. The Director-General of the Fiscal Policy Office of MOF or a Deputy-General designated by the Director-General. 4. Four experts appointed by the Minister of Finance as proposed by the CMSB Selection Committee (discussed in Principle 2). At least two of the experts must have had experience managing a company listed on the SET or managing a licensed securities company. The expert members are appointed for a term of 4 years and may not serve more than two consecutive terms. <p>The SEA specifies a nominating and appointment process for the CMSB (section 31 /3 of the SEA). A Selection Committee is appointed by the Minister of Finance composed of persons having been in senior positions of government. Selection Committee members shall not be political officials, members of the House of Representatives or members of the Senate and shall not have material benefits or interests in accordance with SEA during their appointment and performance of their duty. (Section 31/3 of the SEA). The Committee must consider candidates from a list proposed jointly by the SECB Chairman and the S-G. The list must contain twice the number of vacancies to be filled. The Selection Committee submits its recommendations to the Minister of Finance for final decision issuance of the order of appointment.</p> <p>SECB members (Section 9(4) of the SEA) and CMSB members (Section 16/2 of the SEA) are prohibited from:</p> <ol style="list-style-type: none"> (1) being an incompetent or quasi-incompetent person; (2) being or having been a bankrupt; (3) having been imprisoned by the judgment of a court which is final, regardless of whether the sentence has been suspended, except for the offences committed through negligence or minor offences; (4) being or having been a political official or holding or having held any position in a political party unless having vacated such position not less than one year; (5) being an officer or an employee of the SEC Office; (6) being a manager or a person with power of management of the operation of securities business, the Securities Exchange, over-the-counter center, organization related to securities business, derivatives business, derivatives trading center, derivatives clearing house, derivatives regulatory association or any other companies which are under the supervision of the SEC, the Capital Market Supervisory Board or the SEC Office.
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SECB members (SEA Section 11) and CMSB members (SEA Section 16/4). may be removed from office for good cause. Good cause is defined as:

- (1) death;
- (2) resignation;
- (3) reaching the age of seventy years;
- (4) having the prohibited characteristics as provided in Section 9;
- (5) termination by the Cabinet's resolution upon recommendation of the Minister in cases of the Chairman or by the Minister's order upon recommendation of the SEC which has passed a resolution with at least two-thirds of all commissioners in cases of a commissioner, provided that the resolution and the order shall state clear reason therefor.

SECB and CMSB members are prohibited from being or having been a political official or holding or having held any position in a political party unless having vacated such position not less than one year. (Section 9(4),16/2 of the SEA). They may be removed from office for good cause (Section 11,16/4 of the SEA). The CMSB meets more frequently than the SECB and the four expert members work several days a week providing expert advice and consultation to the SEC staff.

The CMSB meets more frequently than the SECB and the four expert members work several days a week providing expert advice and consultation to the SEC staff.

Under SEA Section 16/6, the CMSB powers and duties include

- issuance of rules, regulations, notifications, orders or directions on securities business, issuance and offering of securities, Securities Exchange, securities depository center, clearing house, securities registrar, any association related to securities business and the acquisition of securities for business takeovers;
- reporting results of business performance to the SECB;
- any other activities assigned by the SECB

Under the DA, the CMSB has the power and duty to issue rules, regulations, and notifications in accordance with the DA. This includes power to approve, repeal, or amend regulations (Section 63 – 69) issued by TFEX, and to order TFEX (Section 70) and / or the clearing house (Section 79) to take or not take action, when necessary "to maintain the stability of the financial system", Thailand's economy, or the stability of the trading and settlement system of TFEX.

The Secretary-General is appointed by the Cabinet upon the recommendation of the Minister of Finance, with the advice of the SEC. Appointment is for a term of 4 years and may be re-appointed for not more than two consecutive terms. The qualifications of the Secretary-General are;

	<ol style="list-style-type: none"> 1. being able to work full time 2. not being or having been bankrupt 3. not being a political official, an appointed member of district council or district administration, or a member or official of any political party 4. not being a civil servant, or an officer of any state enterprise, government organization or district office 5. not having a position or responsibility or having an interest in a securities company <p>In addition, the Secretary-General may not undertake any business nor work for any entrepreneur, organization, or company or hold a position as specified in the first paragraph of Section 16/2 of the SEA within two years from the date on which he vacates the office.</p> <p>The S-G is in charge of the SEC staff and has the power and duty to</p> <ul style="list-style-type: none"> - perform any act for the implementation of the SEC's resolutions; - supervise compliance and enforcement of the law against any person violating the provisions of the laws administered by the SEC; - determine the fees for filing registration statements, annual registration statements, registration and any other applications; - accepting fees; and - perform any other acts as specified by the provision of this Act or any other laws. <p>The SEA (Section 22) provides that the S-G may be removed from office for the following reasons:</p> <ol style="list-style-type: none"> (1) death; (2) resignation (3) reaching the age of sixty years; (4) lack of qualifications or possession of prohibited characteristics under Section 21; (5) termination by the Cabinet's resolution upon recommendation of the SEC, as advised by the SEC, due to gross incompetence in the performance of duty or due to underperformance, provided that the resolution shall state clear reason therefor. <p>Pursuant to a recent amendment of the SEA (enacted by the General Assembly, not effective at the time of the assessment), the SEC must prepare a 3-year action plan and propose it to the Minister annually. The plan will be published on the SEC website. The plan shall be consistent with the National Economic and Social Development Plan as well as support supervision and development of Thailand's capital markets and be in accordance with the objectives of investor protection, ensuring that markets are fair, efficient, and transparent, and the reduction of systemic risks.</p> <p>Interpretive Authority and Transparency</p> <p>The SECB, CMSB and S-G each have statutory responsibility related to interpreting relevant laws, creating specific compliance requirements, and issuing clarifications and explanatory materials.</p>
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SEA section 14 authorizes the SECB to:

- (1) issuance of rules, regulations, notifications, orders or directions under this Act;
- (4) issuance of rules, orders, and regulations relating to personnel and SEC internal operations;
- (4/1) guidelines for any potential issues arising from the enforcement of the Act

DA section 9 provides the SECB with comparable authority to issue rules, regulations, notifications, orders or directions under the DA.

SEA section 16/6 specifies the interpretive authority of the CMSB, including responsibility for issuance of rules, regulations, notifications, orders or directions on securities business, issuance and offering of securities, Securities Exchange, securities depository center, clearing house, securities registrar, any association related to securities business and the acquisition of securities for business takeovers.

DA section 18 provides the CMSB with authority to issue notifications containing rules for compliance by derivatives businesses. DA section 41 authorizes the CMSB issue notifications extending requirements to other categories of derivatives business operator.

Section 77 of the Thai Constitution requires all laws to be public. All Thai agencies are required to publish its regulations, notifications and other documents containing generally applicable requirements to be published in the Government Gazette. In addition, all SEC regulations, notifications, circulars and other guidance of general applicability are available on the SEC website. Users may search available materials by year, subject, or type of document.

The SECB, CMSB and S-G are limited in the exercise of discretion by the requirements of the applicable laws. Persons adversely affected by any SEC regulations or other form of guidance may be challenged in the Thai Administrative Court. The Administrative Court considers allegations that the SEC acted:

- (a) without authority,
- (b) beyond scope of duties,
- (c) wrongful in accordance to the law,
- (d) in a manner that is inconsistent to forms, processes, procedures, or those that are material to be performed for such act,
- (e) in bad faith,
- (f) in a manner indicating unfair discrimination, or
- (g) causing unnecessary process or excessive burden to the public or amounting to undue exercise of discretion.

The court may reverse an SEC action only if it finds that it exceeded the authority of the SEC or if it finds that the SEC failed to adhere to procedural requirements.

Areas with multiple regulators

The SEA provides the SEC with functional authority over all entities engaged in Thailand's securities markets. The subsidiaries of banks, insurance companies and other financial sector

	<p>businesses involved in activities regulated by the SEC must be licensed by the SEC and subject to its regulation. This includes companies engaged in the underwriting, sale and distribution of securities, acting as securities companies in the secondary market, providing investment management or investment advisory services or serving as custodians or supervisors (a defined term) must obtain licenses from the SEC. They are required to comply with pertinent SEC regulations and are directly supervised in these areas.</p> <p>The SEC shares its supervision with the BOT and the OIC in two areas. Under the DA, the SEC is responsible for regulating the listed derivatives market and the BOT is responsible for regulation of OTC derivatives trading, specifically interest rate and exchange rate swaps. regarding derivatives product is legislatively designed to avoid regulatory differences and gaps. In case of exchange traded derivatives containing an embedded exchange rate, the SEC is required to consult with the Bank of Thailand prior to granting or revoking an approval of such derivatives contract (DA Section 69). Where derivatives product related to foreign exchange rate may affect the stability of the financial system, the economics of the country, or the stability of the trading and settlement system of the derivatives market, the Bank of Thailand may notify CMSB on permitted activities (DA Section 70).</p> <p>Products offered by insurance companies (i.e. Unit Linked Insurance Policy (ULIP)), which combines both insurance and capital market features, are regulated by both the OIC as the lead regulator and the SEC. The OIC has primary responsibility for supervising insurance companies' business conduct, particularly providing suitable advice to clients. The SEC has primary responsibility for supervising asset management companies performing portfolio management activities for the ULIP. The insurance company must obtain a BDLU license from the SEC. This ensures that insurance companies acting as selling agents are covered by SEC requirements.</p> <p>Coordination among regulators</p> <p>In 2017, the SEC, the BOT, and the OIC signed a Memorandum of Understanding ("3-Regulators MOU") to create a framework to set policy, supervise, and resolve any issue faced by the regulated entities. In addition to financial stability and systemic risk activities (discussed in principle 6), the objective of the 3-Regulators MOU is to support supervision of financial sector business, and to resolve any issues that may arise concerning entities performing business across the financial sector. This cooperative framework enables the 3 regulators to align their policy direction consistently, reduce any duplications, and undergo any challenges that may occur in the future.</p> <p>The MOU specifies 4 main areas;</p> <ol style="list-style-type: none"> 1) initiate collaborative policy direction, 2) develop effective institutional arrangements among 3 regulators, 3) supervision and inspection framework, and 4) information sharing mechanisms.
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	<p>The 3-Regulators MOU has also been used in the area of monitoring issues concerning perimeters of regulation (see principle 7), such as new products or activities that require shared supervisory functions among regulators.</p> <p>The 3-Regulators MOU articulates arrangements for cooperation and communication among the 3 regulators:</p> <ul style="list-style-type: none"> • High-level joint meetings (quarterly) setting policy, supervising direction, and resolving interconnected issues. More frequent meetings may be held as needed. • Working-level cooperation to ensure close and continuous cooperation at working level on specific issues. Currently, there are 7 working groups: financial stability, international standards, market conduct, information sharing among 3-regulators, financial technology and regulatory sandbox, crisis management and cybersecurity.
Assessment	Fully Implemented
Comments	<p>The law provides a clear statement of the responsibilities of the SEC and generally defines the authority of the SECB to develop policy and regulations and the authority of the staff under the direction of the SG to implement policy and perform all operational responsibilities. The CMSB's role is a hybrid of policy oversight with decisional responsibility in several areas, primarily under the DA. While there is some level of overlap between the SECB and the CMSB, their respective responsibilities are sufficiently clear that it does not raise an issue under this principle.</p> <p>The SEC has extensive supervisory authority over all distributors of securities products, including banks and insurance companies that act as distributors, because the SEA requires these entities to obtain a limited brokerage license (LBDU). Similarly, banks and insurance companies that create and manage collective investment products are required to obtain an investment adviser license from the SEC and the managed collective investment must obtain a private fund license. This approach enables the SEC to ensure consistent regulation among different entities.</p> <p>The SEA and DA provide the SEC with enforcement powers through a variety of different methods, including criminal prosecution, civil enforcement of specified misconduct, and administrative sanctions that the SEC can impose against regulated entities. While there are practical issues in the use of these powers (discussed in Principles 11 and 12), the combination of remedies is sufficient to meet the clear and objective test under this principle.</p>
Principle 2.	The regulator should be operationally independent and accountable in the exercise of its functions and powers.
Description	<p>Operational independence from political and sectoral interests</p> <p>The S-G is responsible for managing day-to-day operations, with the SECB and CMSB largely responsible for approving major regulatory policies for supervision and development of Thailand's capital market. Under the SEA (Section 262) the Minister of Finance has the power and duty for overall supervision, control, and harmonization of government policies and is responsible for submitting matters for resolution by the Cabinet (e.g. Ministerial Regulations).</p>

The SECB has decisional authority for major regulatory policies concerning supervision and development of the capital market and securities business as well as derivatives market and derivatives business. Under the SEA, the CMSB makes final decisions on issuance of rules and regulations governing the securities industry and reporting to the SECB. Three of the eleven SECB members are ex officio officers of other government agencies (Ministers of Finance and Commerce and Governor of BOT) and one of the seven members of the CMSB is from MOF (Fiscal Policy Office). This interlocking representation is common among Thai government agencies. In both cases the ex officio members are a distinct minority (3 of 11 and 1 of 7). Other members of both Boards are selected by the Minister of Finance from a list proposed by an independent selection committee (described in Principle 1). SEC Board and the CMSB member are prohibited from being or having been a political official or holding or having held any position in a political party unless having vacated such position not less than one year. (Section 9(4),16/2 of the SEA) More importantly the SECB and the CMSB are charged with policy responsibilities rather than operational, day to day decision making.

The SEC, under the management of the S-G, is responsible for developing policy proposals for consideration by the SECB and/or CMSB, and implementing and enforcing policies and regulations set forth by the SECB and the CMSB. This includes day-to-day regulatory operations such as issuing rules of practice and interpretation, granting or denying permission for any public company to issue and offer securities for sale to the public, granting or denying approval for any individual to associate with a securities entity as a director or senior management, granting or denying approval of mutual fund supervisors, financial advisors, and auditors, conducting investigations into unfair securities trading practices, and enforcing securities laws.

As explained in Principle 1, requirements for appointment to the SECB or CMSB prohibit the appointment of persons with active ties to sectoral interests. The chairman and each commissioner shall not be a manager or a person with a power of management of the operation of a securities business, the Securities Exchange, over the counter center, organization related to securities business, derivatives business, derivative trading center, derivatives clearing house, derivatives regulatory association or any other companies which are under the supervision of the SEC Board, the CMSB or the SEC. Any commissioner who has an interest in a matter to be considered shall declare such interest and shall be prohibited from participating in such consideration. The CMSB board member shall prepare reports to the SEC office on their securities holdings as well as the holdings of securities by his spouse and minor children in accordance with the rules as specified in the an SECB Notification. There is an SECB Code of Governance and an SEC staff code of Ethics that address prohibited conflicts of interest.

Matters Requiring Consultation or Decision making with Other Governmental Authorities

The SEC lacks final authority to approve or revoke licenses for intermediaries (except derivatives intermediary licenses) and asset management companies. These require final approval by the Minister of Finance upon the recommendation of the SECB (sections 4, 14 and 90 of the SEA). The licensing process is specified in Ministerial Regulation Concerning Granting of Approval for

Undertaking Securities Business (B.E. 2551). The final authority of the Minister of Finance in an operational decision (licensing approval and revocation) was discussed in the previous IOSCO assessment. At that time, the MOF was declining to approve any new licenses for intermediaries. This policy was changed. While MOF continues to have final decisional authority, the practice has been for MOF to accept the recommendation of the SECB. According to the SEC, during the past ten years only one application has been rejected and this rejection was recommended by the SEC.

While the practice over the past ten years is consistent with the principle of SEC operational independence, the statutory limitation has not changed. Moreover, the law does not contain standards for when the MOF may act inconsistently with the SECB recommendation. There is also no transparency in this final decisional process. However, any person adversely affected by a final decision may appeal the action to Thailand's Administrative Court.

Two committees with membership outside the SEC play a role in the enforcement process. The Criminal Fining Committee ("CFC") has three members, a representative of the Royal Thai Police ("RTP"), a representative of the BOT, and a representative from the MOF Fiscal Policy Unit. The Civil Sanctions Committee ("CSC") has five members. Section 317/3 specifies the members as the Attorney-General (Chairman), the permanent Secretary of the MOF, the Director-General of the DSI, the Governor of the BOT, and the S-G of the SEC. Both Committees review settlements recommended by the SEC enforcement department and agreed to by the persons or entities charged. The CFC may approve the settlement, or reject the settlement. The CSC may also reject the settlement and direct that it be submitted for criminal investigation and prosecution.

Stable source of funding

The SEC has a stable and sufficient source of funding that are sufficient to cover all regulatory and operational costs. The major source of funding is fee income from regulated entities including offering fees, application fees, registration fees, license fees and annual business undertaking fees. A portion of civil penalties imposed under the SEA and DA may be paid to the SEC as reimbursement for the cost of the underlying investigation. Section 14 of the DA also provides that fines imposed under that act are paid to and retained by the SEC. To date, the amount in fines collected and included in the SEC budget has been extremely small, less than .05% in 2018. The other source of funding is annual contributions from the SET based on a percentage of trading value. In addition, the SEC also has an investment fund derived from the investment of its endowed initial capital. The SECB has final authority to approve the annual budget of the SEC.

SEC Annual Operating Revenue and Expenses (million Baht)			
Year	2018	2017	2016
Total revenues	1,613	1,515	1,780
Total expenses	1,327	1,274	1,124
Net surplus	286	241	468

Governmental accountability

The Minister of Finance has the authority to oversee general implementation of the SEA with a view to ensuring that the overall supervision and control is in harmony with government policy and Cabinet resolutions. The SEC must prepare and submit an annual report on its financial condition and business operations to the Minister within 120 days from the end of fiscal year and also a 3-year operating action plan.

Under the Constitution, the House of Representatives as well as the Senate has the power to require the SEC to submit documents or to testify before them, which is the regular means of ensuring accountability.

The SEC Board has a permanent Audit subcommittee composed of 3-5 independent members and the Thailand Government Audit Office, performs an annual audit of the SEC. Section 31 of the SEA requires the Audit Office to submit a final audit report to the Minister of Finance within 90 days from the end of the fiscal year. The SEC includes this audit report in its public annual report, available on the SEC website.

Section 77 of the Thai Constitution requires the SEC to ensure that the public has convenient access to the laws and are able to understand them easily. The agency must conduct public consultations through its website for at least 15 days (consultation periods are typically 30-60 days). It must analyze any impacts, disclose the results of the consultation and analysis to the public, and take them into consideration at every stage of the legislative process.

As specified by Section 7-9 and 11 of the Official Information Act (OIA), government agencies, including the SEC, have the following responsibilities:

- publish all rules and regulations, orders, circulars, work pattern, policies or interpretations in the Government Gazette
- make available for public inspection in accordance with the rules and procedure.

If any person requests any official information that has not been published in the Government Gazette or already made available for public inspection, the SEC must provide it within a reasonable period.

In addition, the SEC is also required by the OIA to allow public access to information in its possession unless such particular information is statutorily excluded, such as personal information or the disclosure of such information will be against public interest, etc.

All SEC final actions are public. The SEC publishes notices of proposed new rules or amendments to rules and all final rules on its website and in the Government Gazette. Public comment is permitted and occasionally a public hearing will be held. Prior to publication, the relevant industry subcommittee reviews the proposal.

	<p>Independent review of final actions</p> <p>The SEC is required to provide written reasons for any material decision to an affected person for the regulatory actions taken .The written reasons must contain at least the information of 1(material facts, 2 (reference laws, and 3 (reasons and justification supporting the discretion of such decision making (Administrative Procedure Act B.E. 2539 (1996) Section. 37; SEC Notification Kor Khor. 12/2551).</p> <p>Persons affected by an SEC administrative order may challenge the action as follows:</p> <ol style="list-style-type: none"> 1) The affected person may file the appeal with the SECB of an action by the SEC Secretary-General. 2) The SEC Secretary-General must provide a response with reasons for the action to the SECB. <p>Any action taken by the SECB may be challenged in the Administrative Court. The court may reverse an SEC action only if it finds that it exceeded the authority of the SEC or if it finds that the SEC failed to adhere to procedural requirements. The Administrative Court considers allegations that the SEC acted:</p> <ul style="list-style-type: none"> - without authority, - beyond scope of duties, - wrongful in accordance to the law, - in a manner that is inconsistent to forms, processes, procedures, or those that are material to be performed for such act, - in bad faith, - in a manner indicating unfair discrimination, or - causing unnecessary process or excessive burden to the public or amounting to undue exercise of discretion. <p>Litigation immunity</p> <p>SEC officials who act honestly in discharging his/her duties are protected under the Act on Tortious Liability of Officials B.E .2539 (“ATLO”). Under the ATLO, the term officials include all public servants, officers, employees, directors or any other positions in an official agency .The SEC was classified as an official agency under the ATLO by the Second Royal Decree issued in 1999 (B.E. 2542). SEC staff are protected so long as they acted in the bona fide performance of duties and in the absence of gross-negligence.</p> <p>Protection of Confidential or Sensitive Information</p> <p>SEA Section 316 and DA Section 153 prohibit any person acquiring confidential information in the course of performing duties from disclosing this information except for specified lawful purposes. Violation is punishable by imprisonment up to one year and or a fine not exceeding one hundred thousand Baht.</p>
Assessment	Broadly Implemented

Comments	<p>Under the IOSCO Principles Methodology, it is permissible for regulatory functions to be assigned to more than one government entity or to a non-government entity functioning as a Self-Regulatory Organizations (SRO), provided that the process is independent from governmental or commercial interests.</p> <p>The impact of the MOF having final approval over licensing and revocation decisions continues to be an issue under this principle. Since the last assessment, the approval of licenses appears to have become routinized, with the MOF acting in accord with all SEC recommendations on licenses. For this reason, the rating of this principle has been raised from partly to broadly. Notwithstanding the consistent treatment of applications, the legal assignment of decisional authority to the MOF, without an applicable legal standard constraining the exercise of full discretion to deviate from the SEC recommendation, is the basis for a rating of Broadly Implemented. Achieving a Fully Implemented rating will require a reassignment of legal authority. This deviation is consistent with the Methodology guidance that "the assessor should determine whether, practically speaking, the regulator is in fact operationally independent from external political interference." (2017 IOSCO Methodology, page 28)</p> <p>In granting a license, The MOF has typically imposed requirements consistent with other governmental policies, such as requiring mutual fund operators to agree to create provident funds (retirement programs) for its employees. As this process concerns policy setting and requirements such as a mandatory provident fund are applied across sectors and to all similarly situated companies, it is not considered an infringement on operational independence of the regulator.</p> <p>A separate issue concerning operational independence is raised by the composition of the Criminal Fining Committee (CFC) and the Civil Sanctions Committee (CSC). The composition of the two committees raises questions concerning the operational independence of the SEC in its exercise of enforcement authority. Decisions on whether to initiate an enforcement action and whether to accept a specific agreed upon settlement can be highly sensitive decisions that should not be influenced by political consideration. Two of the three members of the CFC are ex officio representatives of the BOT and MOF. These are not law enforcement officers and, as representatives of other agencies, they may not have the appropriate expertise to deliberate on law enforcement questions. They may also be influenced by their agency interests that are not fully aligned with the legal mandate of the SEC. For example, if the SEC staff were to recommend a substantial fine for a bank supervised by the BOT, the BOT representative could object as a substantial fine might adversely affect the financial strength of the bank or provoke bank customers to withdraw deposits, a "run on the bank". If the MOF representative has the same view, this could result in rejection of a recommendation that is appropriate under the SEA investor protection mandate.</p>
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	<p>A mitigating factor in this analysis is the procedural safeguards built into this process, with a record of action and voting kept. Another mitigating factor is the limited discretion provided either Committee. Matters are only submitted after the SEC enforcement department has decided that an action is appropriate and after the parties charged with a violation have agreed to a settlement negotiated with the SEC staff and approved by the internal SEC enforcement committee. The Committees may not revise the proposed settlement. If the Committee does not approve the settlement, the matter must be litigated. Notwithstanding these procedural safeguards, it is strongly recommended that the SEC review this issue and pursue an amendment to the SEA and DA.</p> <p>While the composition of the CSC also raises this issue, its composition is of lesser concern. The two law enforcement representatives and the S-G form a majority of the Committee. For this reason, it appears that the Committee should not be viewed as political involvement in sensitive operating questions. Furthermore, the CSC has a clearly defined process for action, with a record maintained.</p>
Principle 3.	The regulator should have adequate powers, proper resources and the capacity to perform its functions and exercise its powers.
Description	<p>Powers and authority sufficient for the market</p> <p>The SEC has sufficient powers under the SEA and DA to carry out its responsibilities over the securities and derivatives markets, including licensing, supervision, inspection, investigation and enforcement. Section 14 of the SEA and Section 9 of the DA provide broad statements of authority for the SEC to formulate policies to promote and develop the Thai securities and derivatives markets, supervise all securities and derivatives-related activities and market participants, and to prevent unfair securities trading practices. Specifically, these include the issuance of enforceable rules, regulations, notifications, orders or directions under the SEA/DA. Through its three-year operating plan and annual report, the SEC provides its analysis of its accomplishments and its objectives.</p> <p>Funding</p> <p>As discussed in principle 2 above, the SEC has several sources of funding that together provide sufficient and stable resources. To ensure continuity of the SEC's operations and to avoid excessive burden on market participants, the SEC periodically reviews the fee structure and other sources of income every 3 year or as appropriate. Revenues each year have consistently been sufficient to cover the SEC's operating costs, as shown in the table below. At inception, the SEC was granted an initial endowment of approximately THB 1,250 million from the Ministry of Finance and the Bank of Thailand. The SEC has 3 major sources of revenues as follows:</p> <ol style="list-style-type: none"> 1) Fee income – e.g. application fees, registration fees, license fees, business undertaking fees, etc. 2) Annual contributions from the Stock Exchange of Thailand (SET) in accordance to Section 182 of the SEA. At present, this contribution is levied based on a percentage of trading value. 3) Investment income derived from the investment of reserves.

SEC Operating Budget

<i>Unit: THB million</i>	2015	2016	2017
Total revenues	1,413	1,592	1,515
Total expenses	1,129	1,124	1,274
Net surplus	284	468	241

Regulatory allocation of resources among operations

The annual budget for each year is set by the S-G and approved by the SECB, based on estimates of income and expenditures, considering economic forecast, capital market trends and estimates of expected expenditures from each department given the year's strategic action plan .

Funding sufficient to attract and retain staff

SEC strategic workforce planning allocates staff to each department according to workload, complexity, and its 3-year strategic plan. Annually, the Director of each department assesses department's workload for the past 3-5 years as the basis to forecast the number of staff and skills needed for the next 3-5 years, factoring in the developing direction of Thai capital market.

Total Number of Staff by Division –as of Dec 2017

Division /Department	Number of Staff
Top Management	11
Capital Market Policy	45
Intermediaries and Market Supervision	77
Investment Products	65
Corporate Finance	59
Listed Companies Supervision	77
Legal Services	54
Enforcement	68
Organizational Affairs	
– Finance & Administration and HR,	57
– Organizational Development, Corporate Affairs, Investor education	43
IT	28
Internal Audit	14
Total	598

In October 2018, the SEC was restructured, with 2 new division added and a greater number of staff.

Total Number of Staff by Division –as of 1 Oct 2018

Division /Department	Number of Staff
Top Management	11
Capital Market Policy	51
Intermediaries and Market Supervision	80
Investment Products	71
Fund Raising	63
Listed Companies Supervision	40
Accounting and Auditing Supervision	36
Legal Services	55
Enforcement	75
Organizational Affairs	
– Finance & Administration and HR,	58
– Organizational Development, Corporate Affairs, Investor education(44
IT	30
Internal Audit	13
Total	627

Highest degrees as of 1st Oct, 2018	Bachelor's Degree	Master's Degree	Doctoral Degree	Total	%
Accounting	39	75	1	115	19%
Business Administration	26	104	3	133	22%
Economics	7	56	1	64	10%
Finance	14	135	4	153	25%
Law	39	75	1	115	19%
IT / Statistics / Engineer	15	40	-	55	9%
Others	12	15	-	27	4%

* Note: Total = 617 staff with officer position and above

The average years of experience of staff at different levels of the SEC are as follows:

Position	Level	Average years of experience
Deputy Secretary - General	T3	25
Senior Assistant Secretary General	T1-T2	15
Assistant Secretary General		22
Director	D1-D2	20
Senior Assistant Director	M2-M3	20

Assistant Director	M1	15
Senior Officer	P3	15
Officer	P1-P2	3

During 2017, there was an organizational restructuring. Resources were moved to accommodate the SEC's expanded scope of duties to oversee agricultural derivatives, promote financial technology and new business models, as well as information & database management and development to support policy-making and market development.

Staff turnover rates				
	2018	2017	2016	2015
Turnover rate	2%	6%	6%	5%
New Employees (#)	46	50	77	45

- Staff compensation: The SEC pay structure was overhauled in 2016 to ensure that levels of remuneration are fair and reflects economic and market conditions. In 2017, 15% of staff received promotions. The Human Resource Department (HRD) also conducts a salary survey every three years to ensure that staff's remuneration level remains competitive with other comparative organizations. Apart from the salary survey, the HRD conducted job analysis, job evaluation (Hay Point System), and pay scale by referring to the market price and industry benchmark.
- Staff rotation: The SEC encourages staff to rotate departments to learn and gain new experiences. In 2017, 4% of staff chose to rotate departments. This option allows the SEC to retain skilled staff who feel that they have adequate experiences and prefer to move to other organizations.
- Training and secondment: Secondment and scholarships are provided to staff who meet the SEC's qualification criteria. Currently, there are 5 employees on secondment and 4 on the SEC's scholarship program (as of 12 March 2018).

Policies and governance practices

The SEC Code of Governance, approved by the SEC Board, covers the following areas:

1. Accountability
2. Responsibility
3. Equitable Treatment and Participation
4. Disclosure and Transparency
5. Internal Control and Internal Audit
6. Value Creation by Enhancing Market Competitiveness
7. Code of Conduct and Code of Ethics

The functions and governance of the SEC and CMSB are specified in the SEA: SECB (SEA Sections 8 - 15) and CMSB (SEA Sections 16/1 - 16/8). These statutory governance policies are supplemented by provisions in the SEC Code of Governance that apply to Board members such as code of ethics, conflicts of interest and equitable treatment of stakeholders; and Board

	<p>Practices, such as the setting of directions, policies, goals and strategies, the supervision and monitoring of the SEC's operations, and board-level evaluation. The SEC Board is empowered to appoint the Audit Committee, the Risk Management Sub-Committee and the Remuneration Sub-Committee to reinforce transparency, fairness and accountability of the SEC.</p> <p>At the operational level, the Code specifies requirements on:</p> <ol style="list-style-type: none"> 1. Legal compliance 2. Independence, transparency, fairness and accountability 3. Resource sufficiency 4. Reporting and disclosure of information 5. Standards of practice, internal control and internal audit 6. Risk management 7. Complaint handling 8. Operating guidelines <p>The SEC Code of Ethics provides guidelines for current and former employees. The Code also specifies appropriate conduct on managing conflicts of interest, for example, prohibition of securities trading or acceptance of gifts, assets or other benefits with value exceeding those traditionally acceptable from persons or juristic persons who have stakes in the SEC operation. The SEC Computer, Information and Communication Code of Conduct consists of guidelines for IT security protection, storage and retrieval, prohibition of access to employees' accounts and passwords by other persons, prohibition of social network sign-up or contact via the SEC email addresses without prior approval, etc.</p> <p>The Internal Audit Department is responsible for overseeing internal compliance. The department reports to the Audit Committee and also acts as secretariat for the committee.</p> <p>Investor education</p> <p>As part of the investor education program, the SEC has developed objectives and key messages focused on two target audiences: inexperienced and new investors and experienced investors.</p> <p><u>Key messages for new investors:</u></p> <ul style="list-style-type: none"> • Financial planning and investment management based on personal profiles (risks vs returns concept) <ul style="list-style-type: none"> ○ Understanding investment products and risks involved in consideration of suitability of individuals' risk profiles) ○ Guidelines to choose quality service providers • Tips on how to invest prudently <ul style="list-style-type: none"> ○ Keeping track on investment ○ Techniques to calculate returns and compare with indicators ○ Sources of reliable investment information/advice ○ Techniques to identify and avoid frauds and scams
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	<ul style="list-style-type: none"> ○ Knowing rights and responsibilities as investors ○ What to do when in doubt/trouble <p><u>Key messages for Experienced investors:</u></p> <ul style="list-style-type: none"> • Understanding products with complicated features and the risks involved, e.g. derivatives, OTC leveraged products, infrastructure funds • Exercising investor rights and protecting own benefits • Advice on how to use relevant information e.g. benchmarks, credit ratings, prospectus, fund fact sheets • Alerts on investment frauds and scams • Advice on redress mechanism e.g. arbitration, class action, etc. <p>Since 2015, a number of innovative and highly complex products have been introduced to the Thai capital market, e.g. Fintech products related to ICO, crowdfunding, or OTC leveraged products, etc. The SEC has provided information to educate investors about these innovations and provides advice or educational tools that can help them make appropriate decisions and avoid being defrauded. Also, the SEC has actively promoted retirement saving among certain groups of workers.</p>
Assessment	Broadly Implemented
Comments	<p>The SEC legal authority is generally sufficient to perform its functions, with the one limitation being the lack of broad civil enforcement authority, discussed in principle 11-12.</p> <p>The SEC is well-funded by the various fees it collects and its Reserve Fund. Two aspects of its funding require comment. They are the retention of fines under the DA and the choice of investments for its reserve fund. While neither issue had an effect on the rating for this principle, they are believed to be worthy of consideration by the Regulator.</p> <p>Under the DA, the SEC retains all fines that are imposed. The problem with this is the concern that it can create a public perception that fines are imposed, not as a judgement of the appropriate sanction for a violation, but to generate revenue for SEC operations. If this perception were to become widespread, it could undermine public confidence in the integrity of the SEC. In offering this comment, it should be stressed that the assessors are not aware of any facts or circumstances that suggest that this has happened. To date the fines collected and added to the SEC budget is extremely small, less than 0.05%. Nonetheless this comment is made because the possibility exists that in the future this may be a material source of funding.</p> <p>The second issue is also something that could have an influence on the public perception of the agency and its actions. The SEC Reserve Fund is a substantial amount. The SEC has hired two separate asset managers to each be responsible for investment decisions of a portion of the fund. Both managers are licensed by the SEC and subject to its oversight. The use of managers that it regulates may appear to create a potential conflict of interest that should be closely monitored. It is analogous to an auditor hiring an audit client to invest its employee retirement fund. This would be a disqualifying loss of independence for the auditor. Also, as a significant</p>

	<p>portion of the Reserve Fund assets are invested in securities listed on the SET, some might question whether too represents an appearance of a conflict. The asset managers have sole investment discretion over the Reserve Fund and do not consult with SEC staff on specific investment decisions.</p> <p>Finally, while the budgetary and staffing information on the SEC appear to demonstrate that the SEC is well-funded and adequately staffed, the annual statistics provided on the number of on-site examinations of intermediaries suggest that additional resources may be appropriate. The same question could be asked about the number of staff who are assigned to perform off-site reviews of listed company periodic disclosure reports and financial statements. It is unclear if this reflects a need for more staff and funding, or if it is something that could be addressed by a reallocation of existing staff to these functions.</p>
Principle 4.	The regulator should adopt clear and consistent regulatory processes.
Description	<p>Reasonable procedural rules</p> <p>The SEC has internal processes and procedures applicable to the various functions performed, including licensing, supervision and inspections of securities companies, securities offerings, public hearings, disciplinary actions and enforcement. These are often summarized in the form of flow charts to give a clear picture of the steps to be undertaken, and to ensure fair and consistent application. (The sample flow charts provided for review by the assessor were clear and useful).</p> <p>Apart from the SEA and the DA, the SEC's operations are also subject other procedural rules as follows:</p> <ul style="list-style-type: none"> • The Official Information Act B.E. 2540, as described in Principle 2, sets out the requirements in relation to the disclosure of official information. • The Licensing Facilitation Act B.E. 2558 applies to the processes and procedures relating to granting of permissions, licenses, registrations or notifications. It requires preparation of a manual for each application process consisting of the rules, procedure and conditions associated with the submission of application, the work flow and period of time to be taken in considering the application and the list of documents or evidence required. • The Administrative Procedure Act B.E. 2539 governs the application of administrative actions by the SEC, as well as the appeal process where affected persons are dissatisfied with the SEC's decision or action. <p>Consultation process on rules and policies</p> <p>As discussed above, public consultation is mandatory. The SEC has prepared a Public Hearing Manual to ensure its staff adhere to uniform practices. For each proposal, public hearings should be carried out on the concept and principles of the proposal as well as on the proposed rules or regulations. The consultation period should be no less than 30 days for general matters (a longer minimum period than is required by the APA), and no less than 60 days for new, complex or high impact matters.</p>

	<p>Consultation papers and public hearing documents must be published on the SEC website and may be complemented by other appropriate distribution channels. The documents should contain sufficient information and be presented in a way that is easy to understand. The documents should include background information, the objectives of the proposal, alternative options under consideration, analysis of costs and benefits of options, timeframe, questions for public comment, and draft legal text.</p> <p>As part of the process, a stakeholder analysis is performed to identify relevant and important stakeholder groups to ensure that their views have been heard and taken into consideration. Focus groups are often used for more complex and high impact proposals. A public hearing seminar may also be held to provide explanations on the proposal and to obtain preliminary comments.</p> <p>In most cases, any proposal for policy decisions or new rules would also be consulted with relevant sub-committees in the early stages of consultation.</p> <p>At the end of the hearing period, the result of the consultation, containing background information, views gathered, and final decision with explanation of the decision, is published on the website before new rules or regulations take effect.</p> <p>Public disclosure and explanation of rules and regulatory policies and changes in policy</p> <p>Rules or regulations issued by the SEC under the SEA or the DA must be published in the Government Gazette, in accordance to Section 7 of the Official Information Act. They are also available to the public on the SEC's website. Users may search the list of documents, by subject, by date of issue and by type of document (Ministerial regulation, SEC notification, SEC Circular).</p> <p>In addition to official rules and regulations, the SEC also discloses and explains its rules and policies to the public through other means, such as:</p> <ul style="list-style-type: none"> - Issuance of Notifications or circulars providing explanations and interpretations of regulations as well as guidelines for implementation. - Media releases, policy statements, press conferences, management interviews and public seminars. - The SEC also holds Annual Conferences at the beginning of each year. <p>The SEC estimates that it has issued more than 500 Guidelines and Interpretations. Examples include Notification No. 1/2559 on advice to public not being regarded as engagement in the securities business of investment advisory service. The notification describes the definition of association, government sector, the stock exchange, and institutional investors.</p> <p>Cost of compliance</p> <p>Pursuant to Section 77 of the This Constitution, the SEC must take into account the obstacles and impacts of compliance with its requirements. The SEC's rulemaking process follows an</p>
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internal guidance checklist called "Toolkit+". One of the key steps is to examine the costs, benefits and impact on key stakeholders, including costs of compliance for the entities affected. To date, the SEC has not developed a formal "cost-benefit" analysis process. However, the SEC believes that public hearings allow affected parties to voice their concerns or give feedback regarding the cost burden, among other matters. The SEC is in the process of developing and implementing a regulatory impact analysis and a "Regulatory Guillotine" process to identify outmoded or unnecessary rules. The SEC is also considering adoption of the IFACS Governance Principles on cost benefit analysis yet.

Procedural fairness

Under the Administrative Procedure Act, the SEC is required to provide reasons for its regulatory decisions and actions, as well as the opportunity to be heard before a decision is made. All SEC administrative orders must be made in writing, specifying the date of issuance, issuing official and reasons for the order, which should at least consist of all material facts, legal grounds and justifications for making the decision.

Where any affected party is dissatisfied with the SEC's order or decision, that party may appeal the administrative order by filing the appeal in writing with the SEC within fifteen days after being informed of the order. The SEC will notify the appellant of the result of the appeal within 30 days, after considering both factual and legal issues. If the party remains dissatisfied with the result of the appeal, they may appeal the order to the Administrative Court. To date the SEC has had only one of its regulations challenged in the Administrative Court. As of the date of this assessment, the matter was still under review.

Procedures for making public information on investigations and for protecting confidentiality

Information on cases under investigation is not generally disclosed to the public until a legal proceeding has been initiated or the SEC issues a final order, without objection by the affected party. The SEC publicly discloses the outcome of its cases to the public via its website and press releases immediately. The content of disclosure includes date of complaint, name of alleged persons, relevant sections of the law, and a brief description of offences.

With regard to confidentiality and data protection, SEA Section 316 and DA Section 153 prohibit any person acquiring confidential information in the course of performing duties from disclosing this information except for specified lawful purposes. Violation is punishable by imprisonment up to one year and or a fine not exceeding one hundred thousand Baht. Sections 15 and 24 of the Official Information Act prohibit the SEC from disclosing personal information in its control to other state agencies or any other persons without prior or immediate consent given in writing by the person in question, unless the disclosure is permitted under the law.

	<p>Consistent application of regulatory powers</p> <p>SEA Section 14(4/1) authorizes the SEC to publish guidelines concerning issues about the proper enforcement of the SEA. Guidelines must provide rationales for the interpretations provided. When issuing notifications or providing explanations on any technical matters, the SEC must stay within the limit or scope of its authority. The SEC has established a legal (consulting) sub-committee to examine and give opinions one draft document prior to publication. The sub-committee consists of 5 legal experts including an expert member of the SEC board, Secretary General of the Office of the Council of State, Assistant Governor of the Bank of Thailand, Assistant Secretary General of the SEC Office and a law lecturer. Each SEC Department keeps a file of memoranda and documentation specifying how the legal subcommittee interpreted the authority.</p> <p>Rulemaking</p> <p>When issuing notifications to stipulate rules in details or any technical matters, the prerequisite criteria requires that these notifications must be in the subject areas under the Acts and within the limit or scope of the given authority. They should not be inconsistent, go against and/or beyond or out from scope of power as given by the Acts (ultra vires). Furthermore, a legal (consulting) sub-committee is established with the duties to examine and give opinions on the draft regulations of the SEC and other legal issues. The sub-committee consists of 5 legal experts including an expert member of the SEC board, Secretary General of the Office of the Council of State, Assistant Governor of the Bank of Thailand, Assistant Secretary General of the SEC Office and a law lecturer. It is used as another mechanism to help ensure that the SEC can interpret its authority fairly and consistently. For any rule and regulation stipulated by the SEC, the process generally includes public consultation. In case that there are any potential issues that may arise from the Acts, the SEC Board, the CMSB and the SEC are empowered to prescribe a guideline for consideration of such issues.</p>
Assessment	Fully Implemented
Comments	<p>The SEC provided samples of its workflow charts for a variety of functions. They appear to be clear and useful for maintaining efficiency and uniformity.</p> <p>Several knowledgeable persons interviewed during this assessment suggested that the SEC should provide more interpretive guidance. Also, it was suggested that the SEC should begin making public all interpretive statements provided to specific requestors. Full publication would assist all persons and entities better understand regulatory obligations, and avoid creating a perception that some individuals or entities have received preferential treatment or have greater knowledge of SEC policies.</p> <p>The public release of inspection report summaries and grades is a positive innovation that should benefit investors and promote confidence in the integrity of the SEC inspection program. The SEC should be commended for its efforts leading to the creation of the Investors Association and the Thai Institute of directors.</p>

Principle 5.	The staff of the regulator should observe the highest professional standards, including appropriate standards of confidentiality.
Description	<p>The SEC Board has adopted an employee code of conduct that covers confidentiality of information, personal stock trading by employees, negotiations for future employment and conflicts of interest.</p> <p>In general, the SEC Code of Conduct requires its staff to uphold public and national interest over personal interest, act with integrity, fairness and transparency, avoid conflicts of interest and corruption, discharge duties with utmost devotion, responsibility and competence in the best interest of the SEC, and avoid any conduct that could directly or indirectly damage or risk to SEC's reputation. The SEC prohibits actions that could be deemed as corruption, which may compromise or prejudice impartiality in discharging duties, or which could cause a scandal or impair the credibility of the SEC. To implement those requirements, staff are required to read and acknowledge the revised version of the SEC Code of Conduct annually. All staffs must comply with the Code of conduct by providing their consent through intranet after passing a test regarding the detailed information in the Code.</p> <p>Staff cannot accept any gift or reception related to its duty, unless it is for the purpose fostering an SEC working relationship. The value should not exceed THB 3,000 per person. However, exemption include traditional or customary circumstances, donations or charity, or if it is considered a personal relationship. (i.e. wedding invitation). Staff must report to their Supervisor any Invitation to work from regulated entities under the SEC's supervision.</p> <p>Employees are not permitted to purchase individual company stocks, but they may invest in mutual funds and government debt. All investments must be reported to the SEC within 3 days although there is no routine practice of monitoring compliance. Spouses and minor children are not prohibited from purchasing stocks but these transactions must be reported by the employee.</p> <p>The prohibited lists of securities (Clause 4 & 5 & 7 of SEC Order 11/2552) includes:</p> <ul style="list-style-type: none"> • IPO / PO or equity securities of listed companies • Securities / instruments embedded with rights or have underlying assets as any of equity securities • Equity securities of securities or derivatives companies • Equity securities of the major shareholders of securities or derivatives companies • Derivatives (only underlying asset is a single stock) • Real Estate Investment Trusts • Infrastructure Trust/Fund • Property Fund

	<p>The transactions that staff must report (within 15 days) to the SEC;</p> <ul style="list-style-type: none"> • purchases that are permitted by the SEC, • additional purchases from rights owned prior to the SEC employment • purchases from exercising the rights received from securities / instruments / derivatives owned prior to the SEC employment • purchases of debenture, bill of exchange or unit of mutual funds • purchases of derivatives with underlying assets aside from single stock <p>SEC staff can invest, without reporting, in bonds (Thai or foreign government / Bank of Thailand / state-owned enterprise), convertible debentures of foreign juristic person that are sold in Thailand, and equity securities of private companies. However, if any transaction may negatively affect the SEC's reputation or cause a conflict of interest, SEC staff must report the transaction to their superior to monitor it.</p> <p>The immediate family of SEC staff are not subject to staff investment restrictions. Instead SEC staff are required to submit a complete report of all transactions and report all financial accounts of their immediate family no later than 15 days after the date of the transaction or the account opening. Staff are also required to report within 15 days all accounts they open for others as well as all trades. New staff, prior to the SEC employment, are required to disclose their securities accounts and securities holdings within 15 days. These reporting requirements for staff can be done via the SEC intranet system and any violation of these requirements will result in disciplinary proceedings and action.</p> <p>To ensure staff and family compliance, the SEC Internal Audit Department ("IAD") has created an audit program to examine the staff's and the immediate family's accounts and transactions of trading / investment on an annual basis. The main focus of the audit is two-fold: (1) to check whether there are any unreported transactions and (2) to detect unusual trades or abnormal trading behaviors or any insider trading involved. Using a risk-based approach, IAD annually reviews the following employees:</p> <ul style="list-style-type: none"> - 100% of all staff at the assistant director level and above, including secretary-general - 100% of all staff from departments dealing with sensitive information (i.e. Listed Companies Department, Enforcement Department and Accounting Supervision Department) - a random sample of 20% of all staff from the remaining departments that have position below assistant director. <p>IAD submits this list, including the immediate family, to all securities companies (brokerage companies, asset management companies, and limited broker-dealer-underwriter ("LBDU") companies and requests the account status and transaction list for the period of examination. IAD also requests a list of securities that may prone to unusual trades and insider trading from departments with sensitive information (i.e. Listed Companies Department, Enforcement Department and Accounting Supervision Department) (i.e. securities with acquisition / disposal /</p>
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	<p>merger transactions, being investigated by Enforcement Department, having qualified / adverse / disclaimer of opinion from auditors). IAD examines whether staff, and their immediate family report their account status and transactions completely and on a timely basis (i.e. within 15 days from the date of account opening or trading transactions). They also examine transactions on securities received from the above departments and determine whether these transactions are unusual / abnormal, or insider trading.</p> <p>According to IAD's examination results in 2017, no trading transactions were found to be unusual or resulted from use of inside information by the SEC staff and their immediate family. Only delays in reporting were found, all of which were immediately corrected when informed. There have been no cases where the staff and their immediate family have intention to not report their account opening / trading transactions.</p> <p>In addition, under certain circumstances, the HRD can order an employee to delay or restrain from trading certain securities or for a certain period of time to prevent scandal and use of inside information obtained during performance of the staff's duty. This has never happened to date.</p> <p>While SEC employees are immune from personal civil liability for any lawful official actions, the SEC as an entity can be subject to civil liability and the staff can be subject to criminal action brought by a private person. The SEC staff indicated that these law suits are rarely successful.</p> <p>To ensure that the staff effectively operate and make decisions based upon quality information, the SEC issued a Data Governance Policy creating a data governance committee with membership including officers from each department that manages data, to oversee 5 areas: 1) fund raising, 2) investment management, 3) intermediaries and professional, 4) trading activities, and 5) international operations. The department that is the owner of information, controls sources, and rights of access within the SEC and by external parties.</p>
Assessment	Fully Implemented
Comments	<p>Previously this principle was rated broadly implemented. Two areas were identified for improvement, the ability of employee's spouse and minor children to purchase and sell securities without restriction, and the lack of an internal audit and reporting process to monitor compliance.</p> <p>The SEC has addressed the second area. It conducts an annual review of trading in the accounts of spouses and minor children by reviewing statements from the intermediary holding the account.</p> <p>This review substantially addresses the possibility of improper trading by an employee's family. Accordingly, the principle has been raised to fully implemented.</p>

Principle 6.	The Regulator should have or contribute to a process to monitor, mitigate and manage systemic risk, appropriate to its mandate.
Description	<p>Clear Regulatory Responsibilities</p> <p>The SEC developed its agency-wide systemic risk as an implicit component of its broad statutory mandate to develop and regulate the nation's securities markets and all participants (SEA section 14). In 2019, during the FSAP mission, this position was confirmed and made explicit by an amendment to the SEA. Amended Section 31/2 states that "The SEC office, with the approval of the SEC Board, shall prepare and file a three-year operating plan with the Minister annually. The plan shall be published on the SEC office's website. The operating plan under the first paragraph shall be consistent with the National Economic and Social Development Plan. It shall promote and support the supervision and development of the capital market to be in accordance with objectives on investor protection; ensuring fairness, efficiency, growth and transparency of the market; and reducing systemic risk. Where circumstances render it reasonable or necessary, the SEC office may amend the operating plan by which prescribed in the first and second paragraphs. The SEC shall report its operation under the plan to the Minister in the annual report submitted to the Minister under Section 31/1". While it is not possible to rely upon this amendment for purposes of this assessment, its passage supports the SEC view of its implicit authority in this area.</p> <p>The SEC has implemented its program internally by creating an internal systemic risk framework encompassing all operating units within the SEC, coordinated by the Strategy and International Affairs Department (SIAD). Several arrangements have been created to facilitate high-level coordination among domestic supervisory authorities. These are: 1) the Financial Institutions Policy Committee (FIPC); 2) the Monetary Policy Committee (MPC); and 3) the 3-Regulators Steering Committee.</p> <p>The 3-Regulators Steering Committee adopted a definition of systemic risk as "the potential event, action, or series of events or actions that could have serious effect on financial stability. Those risks could affect the functions of financial intermediaries (including non-bank institutions), markets and infrastructures and consequently have negative spillovers to real economy, including disruption in financial service, increased cost of financial service and, and erosion of investor's trust."</p> <p>The SEC has applied this broad definition to capital markets as follows: "the disruption of financial services in the capital market that can has serious impact to the real economy". It has referenced and adopted the FSB and IOSCO 2nd consultative documents standards for identifying NBFII G-SINIs. These entities are 1) The Thailand Clearing House Co. Ltd. (TCH) and 2) asset management companies (mutual funds) owned and distributed by systemically important banks (SIBs).</p>

Internal Arrangements

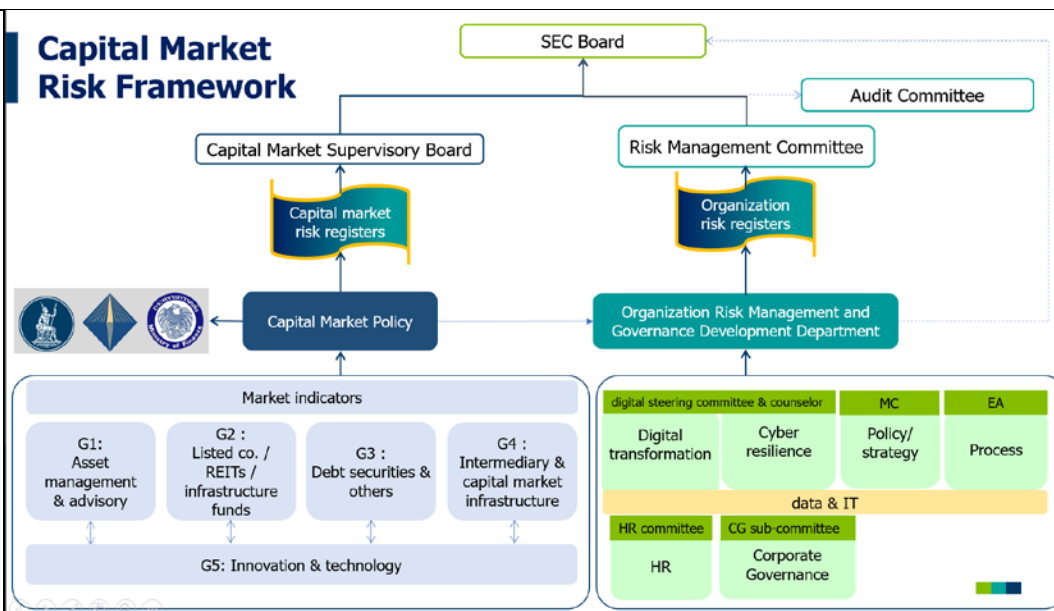
In 2012 the SEC established the capital market risk unit under the Strategy and International Affairs Department. The main functions of the capital market risk unit are:

- 1) to cooperate with other regulatory agencies by exchanging information, jointly conducting risk monitoring, stress test and assessments (explained in answer of Key Question Q1a (2))
- 2) to monitor and identify areas of capital market risks built up on sectoral surveillance conducted by different departments within the SEC.

This unit reports to the Capital Risk Management Committees (CRMC) established under the CMSB. The CRMC is chaired by the Secretary-General. Permanent members include the directors from these departments: Investment Management Supervision, Sales Conduct Supervision, Investment Management Policy, Corporate Finance-Equity and Infrastructure, Corporate Monitoring, Bond, Market Supervision, Intermediaries Policy, Intermediaries Supervision, FinTech and the capital market risk unit within the Strategy and International Affairs Department. The purpose of the CRMC is to enable the SEC's CMSB and executives to have a more holistic and deeper understanding of emerging and systemic risks within the market which are likely to have implications across all regulatory activities.

The SEC has adopted a formal framework for systemic risk monitoring, mitigating and managing that combines continuing bottom-up quantitative and qualitative analysis by SEC departments and internal working groups with a top-down approach centered in the CMSB. The quantitative approach includes off-site review of reports from licensed entities, such as capital adequacy reports from intermediaries and portfolio asset reports and fund flow reports from asset management companies. Consolidated reports are submitted quarterly to the CMSB. Formal meetings chaired by the Secretary-General are held for discussion of potential problems. If the risk findings are substantial, the S-G call an interim meeting to seek advice from the CMSB. A Capital Market Risk Register that identifies significant capital market risks, sources of risks and mitigation plans is submitted to both the CMSB and the SECB. The staff submit semi-annual reports to the SECB and CMSB.

An annual workshop on capital market risk assessment is conducted by the capital market risk unit. The participants include top management and the directors responsible for capital market supervision and development.



Coordinate and contribute to systemic risk processes in other financial markets

Various arrangements have been established to facilitate coordination among the MOF, BOT, SEC and OIC to enhance the efficiency of supervision, risk mitigation and information exchange. Coordination activities are conducted through senior level meetings and more frequent meetings of various working groups that report to the senior-level committees. These activities are described below.

Several arrangements have been created to facilitate high-level coordination among domestic supervisory authorities. These are: 1) the Financial Institutions Policy Committee (FIPC); 2) the Monetary Policy Committee (MPC); and 3) the 3-Regulators Steering Committee. In addition to these Committees, there is the existing interlocking ex officio membership of the Regulatory Heads on other agency policy boards. For example, the Governor of the BOT is a member of the SEC Board and the Secretary-General of the SEC is a board member of the OIC.

The FIPC membership consists of the BOT Governor (as chairman), the BOT Deputy Governors, the Director-General of the Fiscal Policy Office (FPO) under the Ministry of Finance, the Secretary-General of the SEC, the Secretary-General of the OIC and five qualified committee members. The FIPC is charged with coordination and information sharing among key domestic supervisory authorities and is the decision-making body for key policy issues affecting financial institutions, such as prudential regulatory issues, market conduct, financial sector efficiency, licensing and licensing revocation for financial institutions. The FIPC meets monthly.

The MPC and the FIPC meet bi-annually (June and December) concerning macro-financial linkages and financial stability related to internal and external economic conditions, policy, regulations and supervisory practices to ensure the safety and soundness of the financial markets.

The 3-Regulators Steering Committee was established in 2017 and membership includes high-level executives from the BOT, SEC and OIC. The purpose of the Committee is to collectively determine relevant regulatory and supervisory policies, especially on cross-sectoral issues. This committee has created working groups for specific areas, such as financial stability, market conduct, information exchange, financial technology, and cyber security. Topics on the agenda include related policy discussions and oversight of the working groups' directions and action plans. The 3-Regulators Committee meets every 2 months. The Working groups meet more frequently, typically monthly or as needed.

The financial stability working group under the 3-Regulators Steering Committee, holds regular meetings to discuss risks to financial stability. When appropriate, issues may be brought to the Joint Meeting of the MPC and the FIPC or to the 3-Regulators Steering Committee. This process has resulted in a coordinated macro stress test framework, designed to assess the impact of unfavorable conditions on capital adequacy ratio, liquidity, and overall financial stability and the Financial Stability Report (FSR) published annually, that discusses overall economic and financial sector development, potential risks and policy implications for the economic and financial sector.

The 2017 FSR is available on the SEC and BOT websites in Thai, with an English translation. The 2018 FSR has recently been published. The English translation will be available in March 2019.

The Domestic Supervisory College is another vehicle for collaboration among the BOT, SEC, OIC primarily in the area of regulation of financial conglomerates. In 2017, the BOT revised the Domestic Supervisory College Framework to better monitor risks within financial conglomerates. BOT hosted meetings on two conglomerates to discuss issues regarding the business plans organizational structure and governance of the two financial groups, regulatory examination procedures to address issues on cross business and cross selling transactions, market conduct and mis-selling.

Information sharing with other regulators

The SEC can disclose and share information to other regulators and supervisors within the jurisdiction as necessary pursuant to SEA Section 316 and DA Section 153 (Discussed fully under Principle 13).

The revised tripartite MOU between the BOT, SEC, and OIC has enhanced cooperation and increased information sharing and operations among three regulators, especially in area of overseeing financial stability, reducing systemic risk and mitigating regulatory arbitrage. The scope of the new MOU includes:

- (1) jointly set policies, make regulatory decisions and achieve resolutions on the interconnected regulatory issues;
- (2) closely and continually conduct operation at working level in the interconnected areas;

- (3) jointly supervise and examine regulated entities to ensure that regulatory functions are carried out effectively and consistently;
- (4) share information within the regulatory purview, including areas of concerns or observations found from regulatory examination; and
- (5) establish appropriate channel of communication and cooperation (e.g. contact person) to exchange information, recommendation, experience and area of concerns or observations that are useful when regulating interconnected areas.

The SEC is the lead agency of the Data Exchange Platform for Regulatory Bodies Working Group, for the 3-Regulators Steering Committee.

Information sharing with other jurisdictions

SEC has full authority under SEA section 264/1 and DA section 105 to share information with foreign jurisdictions. As a signatory to the IOSCO MMOU, this serves as the primary vehicle for requesting assistance or providing assistance to foreign jurisdictions. Thailand also uses the IMF Article 4 consultation process to coordinate on domestic and international issues with the IMF. The IMF and the SEC meet every 6 months through the Article IV Consultation process to discuss recent development in capital market, regulatory and supervisory framework, and to discuss specific emerging systemic financial stability risks. Procedures for bilateral exchanges with foreign jurisdictions is discussed fully in Principle 14.

Through the three-Regulators Committee the SEC is routinely providing information to the BOT and OIC on data received from securities companies and asset managers on capital adequacy, and fund flow. The SEC is also sharing its inspection reports on bank and insurance subsidiaries registered and regulated by the SEC securities distributors, investment advisers or asset managers. To date the BOT has not adopted a parallel process of routinely providing its internal reports and analyses to the SEC of entities related to SEC licenses. The BOT position is that this sensitive information will be shared when appropriate.

Adequate and appropriate human and technical resources

SEC has created a capital market risk unit in the Strategy and International Affairs Department (SIAD) to centralize and coordinate capital market risk management and systemic risk throughout the SEC. In addition to this group, the departments in charge of supervising market intermediaries and bond market oversight have designated qualified staff who are responsible for risk management and coordination with SIAD. The relevant staff have a balance of appropriate qualifications (e.g. economics, finance, quantitative analysis and risk management). An overview of SEC staff expertise and qualifications is contained in Principle 3 above. The independent expert members of the CMSB also contribute regularly to this process. The SEC reports that relevant departments are currently working to develop their expertise and tools related to capital market risk measurement. As examples they cite

	<ul style="list-style-type: none"> • measurement for market stress condition; Merton model for monitoring probability of credit risk in bond market, as well as the Composite Index for evaluating overheating in equity market were developed; • stress testing methodology for market intermediaries and the clearinghouse; • improvement of crisis management procedure; reviewing the business continuity management under market stress event.
Assessment	Fully Implemented
Comments	<p>The assessors were provided with a sample of SEC systemic risk monitoring reports, special event email notifications and the BOT 2017 Financial Stability Report. The samples demonstrate that the internal SEC structure is operational and appears to be an effective tool for monitoring systemic risk.</p> <p>The 2017 BOT Financial Stability Report is a well-written and thorough analysis of a broad range of issues and events. The description of the "unrated" bond problem in Thailand was an interesting case study.</p> <p>The SEC should work with the BOT and OIC on adoption of a routine procedure for sharing information on entities that are related or subject to joint regulation. The following example is provided to demonstrate the need for this. Consider a parent bank regulated by BOT that has a wholly-owned subsidiary securities company regulated by the SEC. If the bank experiences capital reserve weakness, it may decide to transfer excess capital from its broker subsidiary. The SEC may identify a decline in net capital, still above regulatory minimums, in net capital reports filed by the broker. Without knowledge of the parent bank's capital weakness, it would not fully understand the meaning of the change. Similarly, the BOT may not be aware of the source of capital infusions to the parent bank. Both regulators would not be able to see the overall capital strength of the conglomerate. Effective systemic risk regulation benefits from full coordination among regulators.</p> <p>Also, the SEC should have routine access to BOT inspection reports pertaining to matters relevant to SEC. This includes business conduct regulation and bank distribution of asset management companies.</p> <p>An essential component of an effective systemic risk program is the regulator's capacity to surveil all secondary markets in real-time. In the event of a market-wide crisis, the SEC must be able to use its own "eyes and ears" to monitor its markets. The current system of real-time surveillance by 3 SROs, each focused on its own market may not be sufficient in the event of a financial crisis.</p>

Principle 7.	The Regulator should have or contribute to a process to review the perimeter of regulation regularly.
Description	<p>Processes to Identify and Assess Whether Regulatory Framework Addresses New Risks</p> <p>The SEC strategy for examining perimeters of regulation is integrated into the approach used to monitor and assess systemic risk. This process is discussed above in Principle 6. Within the SEC, there are regular coordinating and monitoring meetings of staff representing the relevant departments within the SEC. The 3 Regulators Steering Committee is the primary forum for coordination among the regulators, with regulatory perimeter issues assigned to the Financial Stability Working Group.</p> <p>Reviewing Changing Circumstances and Taking Action</p> <p>In 2017 the SEC created a Fintech Department that has primary responsibility for monitoring new trends in financial products and services. The Fintech Department serves as an in-house resource for other departments of the SEC. The Fintech Department is also actively reaching out to the private sector. It has created the FinTech Challenge program, an annual competition to showcase innovative ideas. Through its "Regulatory Sandbox" the SEC is encouraging the private sector to work with the SEC. Through these efforts it believes that it will be able to stay abreast of financial services and products that may be outside the existing regulatory perimeter.</p> <p>In December 2017, the SEC established the Digital Strategy Committee, comprising experts in the FinTech industry, chair of ASCO, executives of SET, and director of the BOT's FinTech Department. The Digital Strategy Committee's responsibilities include identifying and developing a digital strategy, and screening potential risks from technology and innovation. The Digital Strategy Committee meets at least quarterly and more frequently as needed.</p> <p>The process has been used effectively in the emerging area of initial coin offerings (ICO) and digital currency, a subject of great interest globally. The dramatic growth of a new form of capital raising that at first glance might appear to be outside of existing regulations, combined with a lack of in-depth knowledge of the offering processes provided an interesting case study for a perimeter of regulation analysis. Furthermore, there were opportunities for regulatory arbitrage given the lack of clarity. After internal analysis of the ICO process and an assessment of how the existing regulatory structure applied, the SEC published a public consultation document on possible approaches to regulating ICOs to seek public comment. In addition, the SEC hosted a focus group with experts in the ICO industry, startups, representatives of the financial sector, experienced ICO investors, and other policymakers. The Consultation document was revised and the time for comments was extended.</p> <p>The SEC is in the process of developing and implementing a regulatory impact analysis and a "Regulatory Guillotine" process to identify outmoded or unnecessary rules.</p>

	<p>Participation with Other Financial Regulators</p> <p>The SEC project on international coin offerings and digital currency also demonstrated the effective coordination among financial regulators in Thailand on addressing issues concerning the perimeters of regulation. Following publication of the SEC public consultation document, the MOF hosted a formal meeting of regulators to discuss all aspects of digital currency and its uses in ICOs. In April 2018, a draft Royal Decree on Digital Asset Businesses was completed and it became effective in May 2018. Under the royal Decree, the SEC regulates both the activities related to ICO and the secondary market for digital assets. The SEC issued notifications exempting specific forms of digital token offering from provisions relating to approval and clearly defining specific activities in which operators are not required to obtain a license, which become effective in June 2018. In May 2018, the SEC published a public consultation on the offering of digital tokens and digital asset intermediaries. The regulations became effective in July 2018. The rapidity of the SEC approach to digital currency and ICOs is a useful case study of the implementation of a program to monitor perimeters of regulation.</p> <p>Seeking legislative or other changes in policy</p> <p>The prompt response of the SEC to a serious problem in the sale of unrated bonds through a special "light touch" regulatory process for private placements to a small number of accredited investor purchasers also illustrates the effectiveness of the SEC approach. In this case the SEC adopted significant revisions to its existing private placement regulations to address the problems identified.</p>
Assessment	Fully Implemented
Comments	No comments
Principle 8.	The Regulator should seek to ensure that conflicts of interest and misalignment of incentives are avoided, eliminated, disclosed or otherwise managed.
Description	<p>In Thailand more than 50% of all regulated entities are part of a financial conglomerate. As such, the SEC has undertaken to integrate the assessment and analysis of conflict of interest issues into all aspects of its regulatory program. The application of this process to specific categories of regulated entities is discussed in the following Principles:</p> <ul style="list-style-type: none"> - SROs – Principle 9 - Securities Offering – Principle 16 & 17 - Auditors – Principle 20 - CRAs – Principle 22 - Sell-side Analyst – Principle 23 - CIS management – Principle 24 and 28 - Market Intermediaries – Principle 29 and 31 <p>In addition to this "bottom up" approach of integrating the analysis into each regulatory program, the SEC has created a complementary "top down" approach. The Strategy and International Affairs Department and Research Department are responsible for monitoring the entire regulated sector to identify conflicts and alert SEC management to consider whether a</p>

deeper analysis is warranted. In addition, regular meetings of senior management consider emerging issues that cut across departments.

The SEC highlighted the BOT and SEC Joint Policy Statement: Consolidated Supervision of Financial Groups that Operate Fund Management Businesses as an example of effective regulatory coordination.

Recently the SEC launched a theme review to rationalize and update pertinent regulations on COI in the product offerings process. Experts were hired to assist the SEC in identifying and evaluating COI and make recommendations on how to manage specific COI. The SEC review identified a number of examples of a COI that needed to be addressed:

- (1) IPO process of Equity and Debt
 - COIs when bank acts as lender and financial advisor (FA) to issuer
 - Underwriter may allocate IPO shares to institutional clients of the same group at the expense of other clients
 - FA fees depend on success of security offerings
- (2) Offering process and ongoing operation of real estate investment trusts ("REIT") and infrastructure funds
 - Improving performance of REIT trustees in monitoring REIT managers to ensure they operate in the best interests of the unitholders such as through requiring REIT manager to put in place policies and procedures to manage COI.
 - REIT may acquire asset at higher price than valuation report or appraised value
 - REIT managers may operate in the interest of sponsor and not unitholders
- (3) Fund management business
 - Churning
 - Transactions between asset management companies and connected persons
 - Trading of securities between funds under the same management

SEC staff are engaged in developing recommendations in the areas identified. Going forward, the SEC will seek to develop and strengthen the identification, evaluation, and assessment process on COI and make it an integral component of its regulatory analysis.

Regulatory steps to address identified conflicts

The SEC has identified a range of approaches it has taken to addressing COI in regulated entities. The approaches are grouped according to the nature of conduct giving rise to the COI. For example, when the COI results in misconduct, enforcement action or regulatory prohibitions would be appropriate. Where the COI may be addressed through effective management, adoption of codes of conduct, internal control and compliance requirements, supervised through regular inspections, will be the preferred strategy. Effective disclosure requirements may be utilized in circumstances where an investor or other stakeholder can be expected to consider the circumstances and implications.

	<p>Publicly accessible disclosure as a regulatory response to a conflict of interest</p> <p>When public disclosure is the appropriate response, the SEC promotes public access through its website, which contains public reports and documents filed by regulated entities. It also mandates Know your customer disclosure statements by regulated intermediaries. Asset managers offering mutual funds are required to provide investors with a structured fact sheet designed by the SEC that addresses key material information.</p> <p>Misalignment of incentives in securitization</p> <p>From 2007-2017, securitization bonds have never been more than 1% of total bond issuances per year, with no more than 3 issues per year. The SEC expects this to continue. Since 2007, there has only been one publicly offered securitization. All others were offered for sale to institutional investors, high net-worth investors, and in limited offerings (i.e. PP-10). Because of the small size of the securitization segment, the SEC has determined that it is not to adopt mandatory retention requirements for the creators of these offerings. Nevertheless, the SEC has recognized the issue of misalignment of incentives in securitization market as a result from the Global Financial Crisis in 2008 and has put in place an ongoing monitoring process.</p>
Assessment	Fully Implemented
Comments	No comments
Principles for Self-Regulation	
Principle 9.	Where the regulatory system makes use of Self-Regulatory Organizations (SROs) that exercise some direct oversight responsibility for their respective areas of competence, such SROs should be subject to the oversight of the Regulator and should observe standards of fairness and confidentiality when exercising powers and delegated responsibilities.
Description	<p>There are three SROs in the Thai capital market: The Thai Bond Market Association (TBMA) and the Securities Exchange of Thailand (SET) and its subsidiary, the Thailand Futures Exchange (TFEX).</p> <p><u>I. The Thai Bond Market Association (TBMA)</u></p> <p>The TBMA is a juristic person established in 2005 as an “association related to securities business” a legal figure stated in the SEA Section 230. Under this provision, securities companies may jointly establish an association related to securities business with an object of promoting, without seeking profit or sharing income among themselves, securities business, only by virtue of the SEA. The functions of the TBMA are carried out in the over the counter (OTC) bond market, and statutorily set by an MOU between the TBMA and the SEC, are to supervise its members, provide a database of all trades done by its members, act as a pricing agency in the debt securities market, and serve an industry forum for bond market participants.</p> <p>The SEA recognizes the “association related to securities business” as a “trade association” a legal figure which is regulated under the Trade Association Act. As such, the SEA Section 237 states that the relevant provisions in the law relating to trade associations (in reference to the Trade Association Act) concerning the operation, control, dissolution and the related penalty</p>

	<p>provisions shall apply mutatis mutandis, therefore making all provisions of such law applicable to the TBMA.</p> <p>An MOU between TBMA and the SEC states that in its self-regulatory role the TBMA must oversee and monitor the conduct of its members including securities companies which obtain securities business license in the category of securities dealing of debt securities (“Dealer”) and Inter Dealer-Brokerage (“IDB”) overseen by the SEC.</p> <p>TBMA derive its income mainly (about 80%) from the registration fee of debt securities and data charges. The average net income from operations for the past 3 years was THB 64.3 million per year and retained earnings at the end of 2017 were THB 488 million. In addition, the total investing assets owned by the TBMA reached approximately THB 690 million. According to the Trade Associations Act, TBMA must not distribute profits or revenues amongst its members (a provision similar to that of Section 230 of the SEA), therefore it operates as a non-for profit organization.</p> <p><i>Governance</i></p> <p>The SEC, through the MOU, requires the TBMA to establish a selection process of directors <i>“in line with good corporate governance principles and focus on stakeholders' participation and appropriate proportion of independent directors as well as acceptable knowledge and experience in debt instruments, securities or financial markets of the Board of Directors”</i>. The Board of Directors consists of not more than 11 directors elected by the ordinary and extraordinary members (dealers and interdealers brokers, respectively), of whom not less than 3 directors shall be independent directors, meaning not being an executive, director, managing director, person having day-to-day managerial powers, personnel, employee or major shareholder of the ordinary or extraordinary members. Under these criteria, currently 4 directors are considered independent.</p> <p>Conditions of Authorization</p> <p><i>Capacity and delegation and division of responsibilities</i></p> <p>The SEC has delegated to the TBMA the duties and responsibilities to perform market monitoring and surveillance to ensure that all trading activities complied with relevant laws and regulation and to supervise its members. In case of detecting unfair trading practices, the TBMA is authorized by the SEC to carry out enforcement procedures.</p> <p>The MOU clarifies the role and responsibilities of the TBMA within the scope of the SEC mandate as well as the expectation of the SEC towards the TBMA and the avoidance of task duplication in certain cases. The delegated function as specified in the MOU includes:</p>
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1. Member supervision

- Securities companies: TBMA must define rules applicable to the securities companies, in order to set out requirements and procedures for their control, operation, existence of a code of conduct and expected ethical standards. Additionally, TBMA must supervise and monitor its members to be in compliance with its rules;
- Personnel: TBMA must register and supervise that personnel are competent in debt securities trading.

2. Debt securities trading supervision (in the OTC environment)

- TBMA must monitor and supervise the debt securities trading of members;
- TBMA must have efficient measures and systems in place to deal effectively with activities that may violate the TBMA rules.

In addition, the MOU authorizes additional activities not strictly related to self-regulatory functions:

3. Bond Information Center and pricing agency

- TBMA is authorized to arrange a system of information disclosure in both the primary and secondary markets, and this activity should guarantee that investors can easily access this information;
- Set up system, method and personnel that specializes in bond pricing calculation;
- Provide yields on debt securities information for setting the price of debt securities consistently, transparently and trustworthy

Members

Only debt instrument dealers and interdealer brokers are eligible to be members of the TBMA. The SEA Section 234(4)(5), establishes the obligation applicable to associations related to securities business in order to establish rules relating to procedures for admission, rights and duties of members. According to the MOU, the TBMA must have rules for the admission of members which are fair, clear, and consistent and shall take into account the fit and proper status of the applicants.

TBMA rules specify the eligibility criteria for membership that members must be securities companies licensed to engage in the trading of debt instruments or licensed to be interdealer broker, no requiring any additional condition. The TBMA rules don't provide specific criteria for membership approval or rejection and leaves to the Board of Directors the approval in a case by case basis, although in practice all dealers and interdealer brokers are presently members. Over the last 3 years, the TBMA accepted 3 new members applying for membership. It currently has 53 members

	<p>In case of a material breach or a non-compliance with the obligations of the member prescribed, a resolution for the termination of the membership can be adopted by a vote of not less than three-fourth of the number of all directors. This situation has never occurred.</p> <p><i>Rules to set of standards of behavior and promote investor confidence</i></p> <p>According to the MOU, the SEC requires TBMA to issue its Code of Conduct regulating members with respect to performance standards and code of conduct. Under the same MOU the SEC also has the authority to oversee the TBMA to perform its assigned functions in accordance with its objectives including related rules, regulations and notifications.</p> <p>The TBMA has set guidelines for its members to follow key principles regarding the preparation and documentation of bond trading information, unlawful behavior of members, registered debt instrument dealers, punishment measures of members relating to debt instrument trading report.</p> <p><i>Review and/or approval of rules by the regulator</i></p> <p>In accordance to the above-mentioned provision and the MOU (annex 5), the SEC requires the TBMA to discuss the principle or substance of the pending regulations with the SEC to provide a common understanding and exchange opinions among themselves before submitting the SEC amendments for approval. The MOU states that in granting approval for the rules and regulations that the TBMA issues or amends, the SEC will take into consideration the investor protection, orderliness, fairness, transparency, efficiency and avoidance of anticompetitive situations.</p> <p>The SEC may request a revision of the rules if the content is contrary to the objectives of the TBMA or laws since Section 29 of the Trade Association Act, states "if the Registrar considers that such alteration of or addition to the regulations is contrary to the objects of the trade association or contrary to the law, the Registrar shall not effect the registration of such alteration of or addition to the regulations".</p> <p><i>Cooperation with the SEC</i></p> <p>An MOU between the SEC and the TBMA is established in order to set the expectations of the SEC and to clarify the role of the TBMA under the scope of authority delegated by the SEC including "to oversee the debt instrument market" (being the "debt instrument market" a concept utilized in the MOU to refer to the OTC bond trades carried out by their members). In addition, it provides coordination guidelines between both entities. The delegated functions as specified in the MOU includes i) member supervision; ii) debt securities trading supervision, and iii) bond information center and pricing agency.</p>
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According to the MOU, when the TBMA finds any suspicious act or events that may violate the regulation under the authority of the SEC, it must submit the matter to the SEC for further legal action. The TBMA will submit monthly trading monitoring on the secondary market reports that describe members' misbehavior including volume manipulation, markup markdown, improper bid offer and cornering, as well as report the punishment of the offense related to the illegal behavior transactions to the SEC. The TBMA will report the punishment results of its offending members to the SEC.

If the TBMA has verified that violators may be subject to serious offenses under the SEA, the TBMA will gather preliminary evidence and report to the SEC without delay for further investigation in the next step.

Conditions of the SRO

Formal recognition

The TBMA is a juristic person established in 2005 as an "association related to securities business" under the SEA Section 230. The functions of the TBMA, are statutorily set by an MOU between the TBMA and the SEC. In addition, the SEA recognizes the "association related to securities business" as a "trade association" (a legal figure which is regulated under the Trade Association Act).

MOU with the regulator to secure cooperation

The MOU between the SEC and the TBMA is established in order to clarify the role of the TBMA and requirements of the SEC under the scope of authority delegated by the SEC (including to oversee the debt instrument market). In addition, it enhances the effective coordination between the authorities.

Own enforceable rules and oversight

The TBMA determines the members' penalties in its regulations. When allegations or presumptions that the TBMA rules and regulations are breached by a member, the managing director will proceed as follows:

- 1) If the managing director deems that there is reasonable ground to sustain the charge, she will gather and collect relevant evidence and prepare her opinion with the supporting argumentation and the relevant and applicable laws to the Disciplinary Committee and will notify the charge to the accused in writing.
- 2) If the managing director deems it groundless, she will order to stop the consideration and will report to the Disciplinary Committee. If the Disciplinary Committee does not agree with the decision, it may order to continue the consideration in accordance with 1).

After the Disciplinary Committee has meted out the punishment and the accused has not appealed, the managing director will notify the accused in writing, the Board and the SEC of the decision. The punished member may appeal against the decision to an Appeal Committee.

The disciplinary actions that can be applicable to TBMA members are i) warning; ii) probation; iii) fines; iv) barring from any rights conferred to members, and v) revocation of membership

The Trade Association Act authorizes these entities to impose regulations and conditions to their members. If the TBMA issues or amends its regulations, it must register with the SEC, acting the latter as a Registrar (a figure of the Trade Association Act that is replaced by the SEC under the SEA).

When the members breach or fail to comply with its obligations as prescribed by the TBMA, the board may resolve to take any disciplinary actions against the member; warning, probation, fine, barring from any rights conferred to members, revocation of membership.

The statistics of sanctions on members are the following:

1. Sanctions related to misconduct trading
Between the years 2015 to 2018, the TBMA detected one non-compliance related to trading in debt securities, violating the TBMA's regulations.

2. Sanctions related to information reporting

2.1 Onsite inspections

	2014	2015	2016	2017	2018 (June)
Late Reporting					
Transactions	-	128	12	14	-
Fines (THB)	-	3,840	360	420	-
Error Reporting					
Transactions	3	28	8	23	1
Fines (THB)	300	2,800	800	2,300	100
Non-Reporting					
Transactions	1	5	-	4	-
Fines (THB)	3,000	900	-	12,000	-
Total					
Transactions	4	161	20	41	1
Fines (THB)	3,300	7,540	1,160	14,720	100

2.2 Offsite surveillance

	2014	2015	2016	2017	2018 (June)
Late Reporting					
Transactions	186	146	12	2	23
Fines (THB)	5,580	3,165	360	60	690
Error Reporting					
Transactions	468	347	260	195	84
Fines (THB)	46,400	33,700	25,850	18,900	8,150
Non-Reporting					
Transactions	47	22	16	26	17
Fines (THB)	37,550	5,950	6,500	18,050	19,050
Total					
Transactions	701	515	288	223	124
Fines (THB)	89,530	42,815	32,710	37,010	27,890

It should be considered that, in order to verify the accuracy of trade information reported, or what TBMA defines as "error reporting", TBMA carries out periodic off-site inspections using reporting samples that are compared with market conditions at the moment of the reported trade. The detection of an inconsistency triggers an investigative process. Nevertheless, the assessors took note of the poor efficiency and efficacy of the process used to identify inaccuracies as every year TBMA receives more than 100,000 reports on transactions, and considering available data analysis tools, it could be possible compare each reported trade to the instructions sent to TSD for settlement purposes.

Representation of members in the board

The SEC requires the TBMA to establish transparent selection process of directors in line with good corporate governance principles and focus on stakeholders' participation and appropriate proportion of independent directors as well as acceptable knowledge and experience in debt instruments, securities or financial markets of the Board of Directors. In the present the TBMA determines the eligibility criteria and the qualifications of its board of directors in accordance with its regulations through a fair selection process; a board of directors consisting of not more than 11 directors elected by the ordinary and extraordinary members, of whom not less than 3 directors shall be independent directors; not be executive, director, managing director, person having day-to-day managerial powers, personnel, employees or major shareholders of the ordinary or extraordinary members. (currently 4 persons).

Avoidance of anticompetitive rules and oversight

In accordance with the TBMA Rules, before being proposed to the TBMA board, the regulations and rules of the TBMA must be considered by the Market Regulation Committee created to consider and provide recommendations to establish and expand the roles of the Association as

an SRO, as well as recommending ways to promote ethics and standard of good practice of the bond market and traders. The Committee is composed of representatives of Members, Board, the SEC, Bank of Thailand, the Federation of Accounting Professions, The Association of Investment Management Companies, and honorary committees from various sectors.

In addition, rules that affect members and related parties must be subject to a public hearing. The TBMA has not received complaints from market participants about the potential unfairness of the TBMA oversight.

Oversight by the regulator

Monitoring of compliance

The SEC conducts the oversight of the TBMA operations to ensure it supervises its members and performs its duties efficiently, fairly, transparently and contributively to the promotion and development of securities business. The SEC identifies two risks to oversee: operational risk and customer relationship risk, and the SEC sets up inspection period every five years. To complement on-site inspection, the SEC also conducts off-site monitoring to oversee the TBMA's operation.

The SEC assess the potential of the TBMA to supervise members and traders to comply with the laws or guidelines set by the TBMA along with treating members and subscribers equally, developing rules to supervise member behaviors, protecting investor, building credibility of the market, avoiding defining rules that may affect anti-competition in the market, enforcing the rules and the punishment measures effectively and fairly to ensure that its operation is effective, transparent and reliable.

The SEC inspects the TBMA to cover entire roles and responsibilities of the SRO as follows: i) supervision of members and debt securities traders; ii) supervision of trading in the secondary market; iii) performance standards and, iv) internal management.

The SEC reviews the TBMA through various reports including monthly trading on secondary market monitoring report, half-year members inspection report, and members punishment report among other periodic information.

In addition, to ensure its efficiency and efficacy, the SEC monitors the TBMA information from various external sources including complaints received directly from other stakeholders referring to its operation.

Retention of full authority by the regulator

The provisions of Sections 14, 237 and 264 of the SEA ensure that the SEC retains full authority to regulate all matters in the securities markets and to investigate or inquire into these matters in spite of some regulatory responsibilities having been delegated to the TBMA.

Taking over or support an SRO's responsibilities by the regulator

According to the MOU, the SEC has the authority to assist the TBMA in its role and has issued a letter to the securities companies reinforcing to the TBMA, the regulatory and oversight role of the TBMA.

Professional standards*Confidentiality*

1) Confidentiality of the TBMA

- Pursuant to the SEA, any persons including the SEC, and TBMA in exercising its powers and duties granted under the SEA are prohibited to disclose confidential information acquired as part of performing its duties to any other person unless exempted under Section 316(1)-(7)
- According to the MOU, the SEC requires the TBMA to have sufficient measures to prevent directors, executives, and employees from exploiting information acquired for personal gains as well as measures to preserve confidentiality of members and clients
- The TBMA establishes confidentiality guidelines in its Code of conduct and Rules. It also supervises its management and employees to report on its compliance.

In summary:

- o Maintain confidentiality of information obtained from their duty and do not disclose information to people who are not involved or outsiders unless disclosed by the function or obtained the consent of the relevant information owner.
- o Keep their confidential information and documents in a safe place, restrict the access and disclosure to outsider or irrelevant employees.
- o Do not allow unauthorized persons to enter the work area, storage space and the server of department that keeps the confidential information without permission.
- o Be careful of conversation, discussion, confidential electronic data transmission with outsiders in order to disallow an unauthorized person to access such information.

2) TBMA Information safety

- The Board of Directors has recently established the information security policy and the TBMA provides its guidance on access control system, classification and data management that is presented to the Board for approval. It monitored the performance of its employees in accordance with the Information Security Policy in 2016, organized awareness training on information security for employees and executives in 2017 inspected by the Internal Audit Department and reported to the Board.

	<ul style="list-style-type: none"> - The TBMA develops guidelines for access control of information system, classification, data management, data access restriction, information storage method and confidential submission. <p><i>Procedural fairness</i></p> <p>Procedural fairness in term of membership is related to the membership application process which is set out in the TBMA rules. In relation to the selection of the TBMA board of directors, the TBMA has defined the rules in of the composition of the board as well as the selection process. In addition, the TBMA provides a hearing process for the members in the process of regulation issuance and amendment.</p> <p>Conflict of interests</p> <p>As a general regulation, under the section 2 of the MOU, the SEC requires the TBMA to provide rules for preventing and resolving conflicts of interest which have, or may have, an effect on the performance or the confidence in the association. In specific the TBMA rules contemplate rules addressing conflicts of interest in the following areas:</p> <ul style="list-style-type: none"> a. Between the TBMA and its directors and employees <p>The TBMA set out in its Code of Conduct requirements for its directors in order to avoid any actions that may cause conflicts of interest with the TBMA, and to disclose the benefits from private businesses or from being a director or advisor in other businesses that may have conflict of interest or may lead to conflicts of interest with the TBMA. In relation to its executives and employees, they are required to avoid and abstain from actions that may cause conflict of interest with the TBMA. Furthermore, they should not engage or conceal any acts in a manner that would create a conflict of interest for their own benefit and/or other parties involved. According to the Code of Conduct, if there is any action that causes a conflict of interest, its staff must maintain the interests of the TBMA mainly, disclose that action to the board or managing director or supervisors as well as report to the regulatory department immediately.</p> b. Between the TBMA and its members <p>The Code of Conduct establishes that the TBMA must supervise its members in compliance with its Rules, Regulations, Code of Conduct and Performance Standards in the debt market and provide the systems to resolve complaints or disputes between members or between members and outside parties involved in the debt instrument market effectively and fairly. In addition, the Code of Conduct prohibits the board committees that have a stake in the matter for consideration.</p> c. Between the TBMA members <p>According to Code of Conduct, the TBMA members must conduct their business with honesty and ethical conduct in dealing with customers, public or securities company including other members.</p>
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d. Between the TBMA members and their customers or partners

According to Code of Conduct, the TBMA members must provide effectively measures to prevent conflicts of interest. This may be done by information disclosure, the refusal to provide services or by any other appropriate mean. If any conflict of interest occurs, they must treat customers fairly and equitably and refrain from exploiting customers or partners as well as to disclose to the client or partner when the member has a direct or indirect interest in the subject matter of the service.

II. The SET Group

The group's core entity is the Stock Exchange of Thailand (SET), a special juristic person under the SEA governed by a board of directors elected by member brokers or appointed by the SEC. The SET has two trading boards: SET and mai (which focuses on smaller, fast-growing companies with minimum paid-up capital of THB 50 million). In addition, the SET owns the Thailand Futures Exchange (TFEX), the Thailand Securities Depository (TSD), and the Thailand Clearing House (TCH),

Historically, the SET pre-dated the legislation and upon the enactment of the SEA, the legal authorization of SET as the securities exchange of Thailand has been reconfirmed and as this law does not provide for additional securities exchanges, under the SEA the SET is the sole securities exchange in Thailand.

Both the SET and its subsidiary TFEX perform SROs functions. Most of SET's rules are required to be approved by the SEC Board to ensure consistency with the public policy and direction of the SEC Board. In considering the approval of rules, the SEC Board will consider whether each rule aligns with, and meets the expectations, established by the SEC Board. Besides, if the SEC Board finds any SET rules may cause damage to or prejudice the public interest or insufficient to protect and maintain investor confidence, the SEC Board has the power under Section 170/1 of the SEA to order SET Board to issue additional rules or revoke, alter or modify its existing rules.

Governance

The SEA Section 159 has prescribed the composition of the SET Board to consist of 11 directors, of which 5 appointed by the SEC Board, 5 elected by members, and the SET Manager as an ex-officio member. According to the SEA, the SEC Board must appoint directors who are knowledgeable or experienced in securities exchange operations, securities or financial businesses, and at least one must be a senior executive of a company listed in SET. Except for the manager of the SET, directors must hold office for a term of two years and may be re-appointed but cannot hold office for more than two consecutive terms.

	<p>Conditions of Authorization</p> <p><i>Capacity and delegation and division of responsibilities</i></p> <p>SET</p> <p>Pursuant to Section 170 of the SEA, the SET Board has the power to issue rules to oversee activities within SET which include rules concerning the admission and withdrawal of listed securities; the admission, qualification, rights and duties, disciplines, punishment, inspection of documentation and accounts of members; and trading rules.</p> <p>The SEA does not provide the SEC with the authority to license the SET, suspend or revoke its authorization, or impose monetary fines or other penalties for misconduct. There is currently no authority who is empowered to suspend, revoke or limit the SET from doing business. Nevertheless, the SEC has the power to order the SET to issue additional rules, revoke, alter, or modify existing rules where it is evident that any SET rules may cause damage to the interest of the public, or is insufficient to protect and maintain investors confidence (SEA Section 170/1).</p> <p>To face the insufficient legal powers to regulate, oversee and regulate the SET, the SEC and SET has agreed under an MOU to define the responsibilities of each party by referring to the IOSCO Principles, and to determine the regulatory cooperation framework on supervision of issuers and listed companies, supervision of securities companies who are members of SET, market surveillance and law enforcement, and rulemaking process. The MOU also sets out the supervisory framework on SET by the SEC and information sharing arrangements between the two parties. This helps ensure that each party can perform their roles and responsibilities effectively. The MOU establishes the following requirements to the SET in its capacity as an SRO:</p> <ul style="list-style-type: none"> • Perform its duties which considers the public interest (e.g. applying corporate governance standards, appropriate use of resources, conflicts of interest management arisen from SRO duties and trading system operator, information confidentiality). • Have the capacity to perform its duties to meet the regulatory objectives (e.g. sufficient and capable personnel, sufficient and appropriate systems and financial resources, technological security). • Issue and enforce rules in a fair manner (e.g. have rules and enforce on members in a fair and consistent manner and avoid anti-competition, rulemaking procedures must incorporate sufficient hearings from stakeholders and disclose the findings, enforce rules in a transparent and nondiscriminatory basis). • Have its rules (including any other enforceable requirements) approved by the SEC Board to ensure consistency with the regulatory objectives, international standards, policies, laws and SEC regulations. • Cooperate with the SEC in monitoring its operation according to the regulatory objectives (e.g. have a process to report and provide the SEC with information on a regular basis, as agreed upon, as triggered by an event, or as requested).
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TFEX

Pursuant to Section 57 of the DA, TFEX as a licensed derivatives exchange has statutory obligations to have:

- Sufficient financial resources for the proper performance of its operation and for the assumption of any risks associated with the operation of the derivatives exchange;
- A system for the settlement of the obligations originated in the derivatives exchange;
- Measures to promote and maintain the standard of integrity, reliability as well as fairness in relation to derivatives trading;
- Efficient systems to record and disseminate information regarding derivatives price quotation and trades;
- A contingency plan to face any emergency which may affect the derivatives trading or settlement;
- An efficient arrangement for the handling of complaints or disputes in connection with the derivatives trading on the derivatives exchange or in respect of the use of services provided by the derivatives exchange;
- Rules for the admission of members which must take into consideration the fit and proper status of the applicants; and
- Rules applicable to members and arrangement for the monitoring and enforcement of their compliance by members.

The SEC has indicated that from a recent onsite inspection of SET and TFEX in 2018, it found that the SET and TFEX have sufficient human resources, systems, and financial resources to perform its SRO functions. Also, the SEC pointed out that more than half of the employees who are responsible for performing SRO functions have at least 10 years of experience and that their systems (e.g. surveillance, disclosure, etc.) are sufficient and have been continuously improved to meet the increasing capacity requirements. In addition, such inspection by the SEC concluded that rules, enforcement procedures and punishments are applied fairly and effectively.

Members

SET

The SEC Board has the power to approve SET's rules concerning membership of SET, qualifications, rights and duties, disciplines, punishment, member meetings as well as the transfer and termination of membership. The SEC Board also has the power under Section 170/1 to order SET to issue additional rules or revoke, alter or modify its existing rules if the SEC Board finds that the rules may cause damage to or prejudice the public interest (including unfair treatment and anti-competitive situation) or insufficient to protect and maintain investor confidence.

The MOU includes matters relating to the issuance and enforcement of the SET rules in a fair manner and does not create anti-competitive situations. For example, SET should provide sufficient stakeholders hearing and disclose of such hearing findings with SET's explanation as

	<p>part of the rulemaking process. SET should also have fair and transparent enforcement of its rules.</p> <p>TFEX</p> <p>Pursuant to DA Section 57(7), TFEX must establish rules for admission of members which shall take into consideration the fit and proper status of the applicants. The TFEX is required by the SEC Notification Tor Thor. 30/2559 to establish rules for the admission of members which are transparent and fair and must consider the suitability, financial status, operational performance, capacity, and the code of conduct of each applicant.</p> <p><i>Rules to set standards of behavior and promote investor confidence</i></p> <p>SET</p> <p>The Membership Rules of the SET (Bor.Sor./Sor. 01-00) establishes requirements to comply with the SEA, the regulations of the Exchange, circulars of the Exchange, resolutions of the Board and members' disciplines as prescribed by the exchange.</p> <p>Under the MOU the SEC has established its expectations on SET in order that the supervision of members behavior in the securities trading, clearing and settlement as well as the associated disciplinary actions must be transparent, fair and promote orderliness and integrity of the market.</p> <p>TFEX</p> <p>The TFEX is required by the DA to have measures to promote and maintain the standard of integrity, reliability as well as fairness in relation to derivatives trading. Also, the TFEX is required by the SEC Notification Tor Thor. 30/2559 to establish rules to empower itself to impose actions such as prohibit derivatives trading, liquidate or limit positions of a member or its clients or restrict the amount of trading by members, and to establish rules to supervise the conduct of members, the measures to ensure compliance as well as the disciplinary actions for non-compliance.</p> <p><i>Review and/or approval of rules by the regulator</i></p> <p>SET</p> <p>In accordance with the MOU, most of SET's rules are required to be approved by the SEC Board to ensure consistency with the public policy and direction of the SEC Board. In considering the approval of rules, the SEC Board will consider whether each rule aligns with, and meets the requirements set out in the MOU the SEA. In addition, the SEC Board has the power under the SEA Section 170/1 to order SET Board to issue additional rules or revoke, alter or modify its existing rules if the SEC finds any SET rule may cause damage to or prejudice the public interest or is insufficient to protect and maintain investor confidence.</p>
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	<p>TFEX</p> <p>All the TFEX rules, with the exception of internal rules, require the approval of the CMSB prior to enforcement. In considering the approval of rules submitted from the TFEX, the CMSB will not approve rules which are not consistent with the fulfilment of the statutory obligations of a derivatives exchange or are not fair and equitable to members, investors or stakeholders of the TFEX .The SEC Board has the power to order the TFEX to undertake or refrain from undertaking any action as the SEC Board deems appropriate which includes an order to issue, revoke or amend its rules.</p> <p><i>Cooperation with the SEC</i></p> <p>SET</p> <p>The MOU between the SEC and SET has explicitly requested that once the SEC or SET has identified an act that is a breach to the laws, rules or regulations under the power of the other party, the identifying party will conduct preliminary investigation. To conduct preliminary investigation, the identifying party may consult with, request further information or assistance from the other party. The identifying party will then refer cases with material evidence that a breach has occurred to the other party for enforcement actions. The recipient of the referred case must then inform the identifying party the actions taken on the referred case (i.e. the enforcement action taken or the reasoning for dropping such case).</p> <p>TFEX</p> <p>The TFEX is required by the SEC Notification Tor Thor. 30/2559 to establish rules which enables itself to exchange information relating to derivatives transactions, its members, any breaches by members and enforcement actions taken, as well as any information acquired as part of operating as a derivatives exchange with the SEC, BOT, SET, the TCH, TBMA and any other organizations responsible for overseeing the underlying goods and variables for the benefit of supervising derivatives, goods or variables.</p> <p>SEC onsite inspection</p> <p>The SEC has indicated that an onsite inspection of SET and TFEX carried out in 2018, the SEC found that the SET and TFEX have in place effective procedures for conducting preliminary investigation, collecting evidences, and summarizing the case prior to submitting the case to the SEC.</p> <p>Conditions of the SRO</p> <p><i>Formal recognition</i></p> <p>SET</p> <p>Pursuant to Section 170 of the SEA, SET's board of directors has been granted the power and duty to formulate policies, supervise the operation of SET. Also, the MOU between the SEC and</p>
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	<p>SET recognizes SET as a front-line regulator, in which SET conducts the surveillance of trading activities within the exchange. And if a violation to the SEA is identified, the case is to be submitted to the SEC for further enforcement action.</p> <p>TFEX</p> <p>The TFEX as a licensed derivatives exchange has statutory obligations under Section 57 of the DA.</p> <p><i>MOU with the regulator to secure cooperation</i></p> <p>SET</p> <p>The SEC and SET has signed an MoU effective on August 2018. The agreements under this MOU cover the framework and arrangements for cooperation between the SEC and SET to set out each of the parties' responsibilities, case referral, treatment of confidential information received through the arrangements under this MOU as well as the SEC's supervisory framework on SET.</p> <p>TFEX</p> <p>The TFEX is required by the SEC Notification Tor Thor. 30/2559 to establish rules which enables itself to exchange information relating to derivatives transactions, its members, any breaches by members and enforcement actions taken, as well as any information acquired as part of operating as a derivatives exchange with the SEC, BOT, SET, the TCH, TBMA and any other organizations responsible for overseeing the underlying goods and variables</p> <p><i>Own enforceable rules and oversight</i></p> <p>SET</p> <p>SET's Board of Directors is empowered under Section 170 of the SEA to issue rules to oversee the activities in SET as well as rules on sanctions in cases where a breach to SET's rules has occurred.</p> <p>In cases of sanctions against members, SET may impose one or several disciplinary actions, which includes:</p> <ol style="list-style-type: none"> 1. Probation; 2. Fine; 3. Prohibition from trading within a period of time and, 4. Termination of the membership <p>The SET has issued regulations on penalties and disclosure of punishments which was approved by the SEC Board. The disciplinary actions to be imposed on a member by SET Disciplinary Committee is reported to the SET Board of directors on a quarterly basis. The SET also informs the SEC of all disciplinary actions and submits summary reports on a quarterly basis. It also discloses its disciplinary actions on its website. For sanctions related to prohibition from trading</p>
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and termination of membership, the Disciplinary Committee must submit the case to the SET Board of directors for consideration and final decision.

Enforcement by the SET Disciplinary Committee

	2016	2017	2018
Members sanctioned – Probation (No. of companies)	2	-	-
Members sanctioned- fines (No. of companies and THB Mill.)	7 (3.64)	2 (1.5)	5 (7.98)
Traders sanctioned (No. of companies)	9	8	1

TFEX

Pursuant to Section 57 of the DA, TFEX has a statutory obligation to establish rules on member admission and rules to oversee the conduct of members and member's staff as well as enforcement action for non-compliance.

In cases of sanctions against members, TFEX may impose one or several disciplinary actions, which includes:

1. Warning;
2. Probation;
3. Reprimand through public announcement;
4. Fine;
5. Limitation of the scope of trading;
6. Prohibition from trading on a temporary basis and,
7. Termination of membership.

In a similar fashion as the SEC, the TFEX Disciplinary Committee reports the disciplinary actions to TFEX Board of directors and sanctions that limit the scope of trading on TFEX, prohibition from trading, and termination of membership, must be considered by the TFEX Board of directors who has the final decision. The imposition of disciplinary actions by TFEX are then required to be reported to the SEC on a quarterly basis. No disciplinary actions have been applied by the Disciplinary Committee during the last 3 years. The TFEX indicated that only minor infractions were detected associated to late filings and control systems not in accordance with required standards.

Representation of members in the board

SET

The SEA has prescribed the composition of SET Board of Directors consists of 11 directors, of which 5 are appointed by the SEC, the another 5 elected by members, and the SET's Manager as an ex-officio member under a fair and transparent nomination process to ensure a fair representation of all stakeholders.

	<p>TFEX</p> <p>Under Section 60 of the DA requires two fifth of TFEX's Board of Directors to be individuals who may perform the duties of protecting the interest of members, investors and stakeholders of TFEX with appropriate combination of representatives as specified by the SEC Board. The SEC requires that, at least one director must be an investor or an individual capable of protecting the interest of investors, and at least two directors must be individuals working in derivatives-related businesses.</p> <p><i>Avoidance of anticompetitive rules and oversight</i></p> <p>In accordance with the TBMA Rules, before being proposed to the TBMA board, the regulations and rules of the TBMA must be considered by the Market Regulation Committee created to consider and provide recommendations to establish and expand the roles of the Association as an SRO, as well as recommending ways to promote ethics and standard of good practice of the bond market and traders. The Committee is composed of representatives of Members, Board, the SEC, Bank of Thailand, the Federation of Accounting Professions, The Association of Investment Management Companies, and honorary committees from various sectors. In addition, rules that affect members and related parties must be subject to a public hearing. The TBMA has not received complaints from market participants about the potential unfairness of the TBMA oversight.</p> <p>SET</p> <p>All of SET's rules concerning members in the areas of admission, qualifications, rights and duties, disciplinary actions, trading of securities require hearing of opinions from members. In addition, most of these rules require approval by the SEC Board prior to enforcement which has the power to order the SET to revoke or amend any rules if such rules may cause damage or affect the public or is insufficient in protecting and maintaining confidence from investors (SEA Section 170/1). Also, the MOU between the SEC and SET has required SET to consult with the SEC on its amendment or issuance of all rules, including rules are not required an approval by the SEC Board.</p> <p>TFEX</p> <p>All TFEX's rules, except internal rules, require approval by the CMSB prior to enforcement. Also, any rules which affect members require hearing of opinions from members and the opinions submitted together with the application for rule approval for consideration by the CMSB. In considering the approval of rules submitted from TFEX, the CMSB will not approve rules which are not consistent with the fulfilment of the statutory obligations of a derivatives exchange or are not fair and equitable to members, investors or stakeholders of TFEX. The SEC Board has the power to order TFEX to undertake or refrain from undertaking any action as the SEC Board deems appropriate which includes an order to issue, revoke or amend its rules.</p>
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Oversight by the regulator*Monitoring of compliance*

SET, TFEX and the TCH are subjected to the SEC's oversight as self-regulatory organizations.

The SEC conducts the following supervisory framework which includes:

1. Onsite inspection,
2. Offsite monitoring through reporting requirements, and
3. Rules review and approval

The SEC conducts periodic onsite inspections on SET's and TFEX's operations. The SEC conducts an annual evaluation on SET Group (SET, TFEX, the TCH and the TSD) under a risk-based approach to consider whether any particular function requires an onsite inspection.

Retention of full authority by the regulator

The provisions of Sections 14 and 264 of the SEA and Sections 9 and 103 of the DA ensure that the SEC retains full authority to regulate all matters in the securities and derivatives markets and to investigate or inquire into these matters despite some self-regulatory responsibilities having been delegated to the SET and TFEX. In addition, the MOU between SEC and SET secures the cooperation on information sharing to enable the SEC to inquire into and request information from SET on supervisory matters which may affect investors or the market as a whole.

Taking over or support an SRO's responsibilities by the regulator

SET/TFEX

The SET and TFEX have the power to conduct preliminary investigations into suspected transactions which may be a breach to the SEA or the DA. In situations where SET and TFEX do not have adequate power to access certain information, the SEC will support SET and TFEX with the required information to conduct preliminary investigation (e.g. phone call log and IP log from telephone and internet service providers and civil registration information from the department of provincial administration).

Once a breach to the SEA or DA is identified, SET and TFEX will refer the case to the SEC. The SEC will take over the case, as the SEC has the authority empowered to enforce the SEA and DA. In conducting investigation for enforcement, the SEC has the power to access all required information including financial transactions records, call upon persons for testification, request further information from securities issuers and financial auditors as well as the authority to enter into the place of regulated entity for examination.

	<p>Professional standards</p> <p><i>Confidentiality</i></p> <p>Pursuant to the SEA and DA, any persons, including the SEC and the SET Group (SET, TFEX and TCH), who exercises powers and duties granted under the SEA and DA, respectively, are prohibited to disclose confidential information acquired under the performance of its duties to any other person unless exempted under Section 316 of the SEA and Section 153 of the DA.</p> <p>Also, any persons including directors, sub-committee members, officers and employees of the SEC and the SET Group who knows or possesses inside information related to listed companies or material non-public information are prohibited to purchase or sell such securities or any related derivatives or underlying goods in connection to such material information or to disclose such information to any person to exploit such information through purchasing or selling such securities or any related derivatives or underlying goods.</p> <p>The SET Group has established its Corporate Governance Policy to ensure sufficiency of measures to prevent directors, executives, sub-committee members, and employees from exploiting information acquired for personal gains as well as measures to preserve confidentiality of members and clients. The SET Group communicates the policy with its directors, executives, sub-committee members, and employees regularly to raise awareness.</p> <p><i>Procedural Fairness</i></p> <p>SET</p> <p>All of SET significant rules, including rules concerning members, disciplinary actions, and admission, except for internal rules are subjected to approval by the SEC, and any rules affecting members must be heard by members for opinions. In addition, the SET itself has set procedural due process to members and establish a committee to consider appeals filed by members against the disciplinary sanction.</p> <p>TFEX</p> <p>All of TFEX rules, including rules concerning members, disciplinary actions, and admission, but except internal rules are subjected to approval by the CMSB, and any rules affecting members must be heard by members for opinions. In particular, TFEX rules concerning member admission are required to be transparent and fair. In addition, TFEX is required to provide procedural due process to members and establish a committee to consider appeals filed by members against the disciplinary sanction.</p> <p>Conflict of interests</p> <p>SET</p> <p>The SEA prohibits any director who has an interest in the matter to be considered from participating in such consideration. The SEA also requires most of SET's rule to be approved by</p>
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	<p>the SEC Board prior to enforcement. In considering the approval of SET's rules, the SEC Board considers if the rules under consideration creates any conflicts of interest.</p> <p>In cases where the SET seeks to carry out any business other than exchange operation and other exchange related businesses, it must apply to the SEC Board for approval prior to undertaking such business. In considering the approval, the SEC Board will consider whether it creates conflicts of interest or affects the regulatory function of SET.</p> <p>TFEX</p> <p>Since TFEX rules are enforceable only upon approval of the CMSB and have to pass a process of hearing from members and related participants, the probability of conflicts of interest between TFEX and its members is reduced. When considering the approval of TFEX's and the TCH's rules, the CMSB considers if the rules under consideration are fair and equitable. The Section 80 of the Public Limited Company Act B.E. 2535 prohibits any director of a public limited company, such as the TFEX, who has interests in any matter to vote on such matter at the board meeting.</p> <p>In addition, the SET Group has applied the policies, rules and procedures to manage potential conflicts of interest. The SET Group's CG Policy and Code of Conduct covers the areas including:</p> <ol style="list-style-type: none"> 1. Roles and responsibility of the board, 2. Prevention of conflicts of interest, 3. Policy on the acquisition and disposal of securities, and 4. Insider dealing and confidentiality.
Assessment	Broadly implemented
Comments	<p>The broadly implemented assessment stems from the fact that the SEC's powers to regulate the SET as an SRO are not expressly stated in the SEA, a gap that is related to question 1 d) of the IOSCO Methodology. This shortcoming is partially addressed through an SEC and SET MOU. Recent amendments to the SEA, not yet in force, will eliminate this gap in the SEC powers and may result in a Fully Implemented rating in the future.</p> <p>In addition, the SEC lacks authority to suspend, fine or revoke the SET authorization, a situation that prevents full compliance with question 5 a) of the IOSCO Methodology.</p> <p>Also, the TBMA procedures aimed at detecting trade reporting inaccuracies lack efficiency and efficacy as they are implemented using sampling techniques instead of matching the information with the settlement data on an automated basis, considering the more than 100,000 trades reported per year, this issue the prevents full compliance with question 2 c) of the IOSCO Methodology.</p> <p>Finally, an observation that does not affect the assigned grade is the TBMA policy of not disclosing disciplinary sanctions to its member firms or the public. This practice should be examined by the SEC to determine if it is consistent with SEA policy on publication of sanctions and whether it promotes integrity of OTC trading market.</p>

Principles for the Enforcement of Securities Regulation	
Principle 10.	The regulator should have comprehensive inspection, investigation and surveillance powers.
Description	<p>Regulatory Authority to obtain books, records and testimony from regulated entities</p> <p>The SEC has broad powers to conduct surveillance, inspections and investigations of all regulated entities. It may demand all relevant information from regulated entities without the need for formal process (Sections 264 of SEA and 103 of DA). Pursuant to SEA Section 264 and DA Section 103 the SEC does not need to obtain judicial approval to conduct examinations or demand production of books, records, or the testimony of individuals, even in the absence of any suspicion of misconduct.</p> <p>SEA Section 264 empowers a competent official in executing his duties to:</p> <ul style="list-style-type: none"> - enter into the place of business or premises of a securities company, mutual fund supervisor, custodian, the Securities Exchange, over-the-counter center, clearing house, securities depository center, securities registrar or the place where the data of such securities company or institution is collected or processed by computers or any other equipment, in order to examine the operations, assets and liabilities of such securities company or institution, including documents, evidence or information concerning such securities company or institution; - enter into the place of business of a promoter of a public limited company, a company which issues securities or an owner of securities who offers for sale securities to the public or any person, or the place where the data of such person is collected or processed by computers or any other equipment, to inspect accounts or other related documents and evidence; - enter into a commercial bank, financial institution or any place to inspect accounts, documents or evidence which may be related to the commission of offences under the provisions of SEA; - seize or attach documents, or evidence related to the commission of offence under the provision of SEA for the purpose of inspection and taking legal action; - order a director, officer, employee or auditor of a securities company, mutual fund, mutual fund supervisor, custodian, the Securities Exchange, the over-the-counter center, clearing house, securities depository center, securities registrar or any person who collect or possess the data of such securities company or institution by computers or any other equipment, to testify or to deliver copies of or present accounts documents, seals or other evidences related to the business, operations, assets, and liabilities of such securities company or institution; - order any person who purchases or sells securities with or through a securities company or member of the Securities Exchange or over-the-counter center to testify or deliver copies of or present accounts, documents and other evidence related to the purchase or sale of securities; - order any person who may be of use in executing duties of the competent officer to testify or deliver copies of or present accounts, documents, evidence or any objects related to or necessary for the execution of the duties of the competent officer;

- enter into a place of business to inspect the condition or the operation of any debtor of any security company during the business hour of such place.

The law provides this power to competent officers, as appointed by the Minister of Finance. As discussed in Principle 1, this designation is an administrative formality that does not limit the operational authority of the SEC to conduct functions included in this Principle.

While the law does not require the SEC to provide advance notice, its standard practice for routine on-site inspections or investigative demands is to provide advance notice.

Surveillance of Trading Activity on Authorized Exchanges and Regulated Trading Platforms

SEA Section 14 provides the SEC with broad authority to "supervise ...the Securities Exchange, over the counter centers and related businesses" and DA Section 9 provides authority to supervise the derivatives exchange. In practice, the SET, TFEX and TBMA have primary responsibility for market surveillance as provided by the SEC through MOUs with each organization.

An MOU between the SEC and the SET recognizes the SET as a front-line regulator responsible for surveillance of trading activities on the exchange. When the SET identifies an act that may be a violation of its rules, the SEA or SEC regulations it will conduct a preliminary investigation. If a violation of the SEA or SEC rules is identified, the case is submitted to the SEC for further investigation and action. The SEC received 25 referrals from the SET/TFEX in 2018 and opened investigations in approximately 90%.

The SET and TFEX have separate parallel market surveillance groups that surveil all trading activity in real-time. The SET and TFEX surveillance systems display real-time overviews of market index and trading data of individual securities including price changes and trading volumes. The system sets parameters for detecting improper trading activities and subsequently displays alerts when there are abnormal movements of price and trading volume compared to past trading. Trading can be analyzed in real-time and comparisons with past trading activity can be performed. A member of each Surveillance team has the authority to examine trading activity on the other market at the end of each day. The SEC does not have direct, real-time access to the SET or TFEX surveillance systems. Instead, the SET and TFEX provide the SEC with automated files of all trading on a 60-day delayed basis. When needed, the SEC may obtain trading activity data relevant to an investigation sooner. The SEC through its on-site inspection program oversees these surveillance systems.

When the SET identifies inappropriate trading behaviors/activities or trading price or volume movements inconsistent with the normal market condition, or high concentration which may cause any abnormality in the market, the SET may order members to take one or more escalating actions in its own account or the account of one or more clients.

The SEC - TBMA MOU provides that TBMA must monitor and supervise the debt securities trading of its members; and must have efficient measures and systems in place to deal effectively with activities that may violate the TBMA rules. According to the MOU, when the TBMA finds any suspicious act or events that may violate the SEA or SEC regulations, it must submit the matter to the SEC for further legal action. The SEC oversees the TBMA surveillance program in several ways.

The TBMA submits monthly trading monitoring reports that describe possible misconduct including volume manipulation, markup markdown, improper bid offer and cornering, as well as reporting any punishment for illegal behavior transactions. The SEC also conducts periodic on-site inspection of the TBMA.

If the TBMA identifies specific conduct that may be a serious offense under the SEA, the TBMA will gather preliminary evidence and report it to the SEC without delay for further investigation.

Reports, Recordkeeping and Retention Requirements

In addition to its authority under SEA Section 264 and DA Section 103 to obtain books, records or testimony on specific request, Section 109 of the SEA and section 19 of the DA provide the SEC with authority to create periodic and material event reporting requirements. Generally, the SEC requires regulated entities to keep records of books and records of all transactions carried out, at minimum period of five years, with easy assessable for the first 2 years. The record retention requirement, however, is variable depending on types of the data and information. The SEC has issued a number of notifications requiring regulated entities to periodically submit reports. Every regulated entity is subject to proper record keeping requirements. Specific requirements in SEC Notification No. 35/2556 include:

- maintaining and keeping accurate and current books and records, including clients' accounts, clients' trades, clients' assets, as well as complaints received from clients, for a minimum period of 5 years after the termination or completion of the business relationship;
- clients' identity information (KYC/CDD), clients' profile and transaction records must be kept and updated. If a change in the identity information of any client occurs, the KYC/CDD must be updated on a timely manner; and
- Other related information such as client assets information and complaints handling

SEC Notification No. 35/2556 requires regulated entities to maintain client identity records. Regulated entities must have in place rules and procedures for opening a trading account and for entering into a transaction with a customer. The procedures must be designed to confirm that customers are the same person as stated in the account opening documents, to confirm the actual beneficiary, and to confirm a duly appointed proxy if any. Market intermediaries must also obtain information on the customer's investment objectives, level of knowledge, understanding and experience in securities investment, financial status, source of income, ability to repay debt as well as level of risk that suits with each client.

Securities company are required to maintain records of client assets and accounts for all transactions of each client. Records demonstrating segregation of client assets from the company's own accounts are required. (SEC Notification No.43/2552). Client asset accounts must include at least the following items:

- date of receiving or disbursing assets;
- amount and type of assets; and
- reason for receiving or disbursing assets

Also, a securities company must keep updated records of all assets in the client accounts . whenever an adjustment to a client record is necessary, the adjustment including the reason for doing so must be recorded within one working day once the cause for the adjustment is warranted .This facilitates tracing of fund and securities in and out of brokerage and bank accounts related to securities transactions. These records are typically required to be kept at minimum of 5 years .The above requirements are also required for derivatives companies (SEC Notification No. Tor Thor 84/2552).

Pursuant to its broad authority under SEA Section 264, the SEC can obtain any information related to a licensed entity's business operations including its clients' identities and clients' transaction records. Any person or regulated entities that do not provide cooperation with the SEC may be subject to penalties under SEA Section 303 and DA Section 139.

Outsourcing Regulatory Functions and Oversight

In addition to outsourcing trading surveillance responsibilities, the SEC has outsourced additional functions to the SET, specified in the MOU. Under its MOU, the SET, jointly with the SEC, has responsibility for supervision of securities issuers and listed companies and supervision of securities companies who are SET members. The SET/TFEX has an inspection program to oversee its members. The SET/TFEX may discipline its members or a member's employees for misconduct. The SET, as well as the SEC, may suspend trading in a listed security or delist a listed company. Any person or company disciplined may appeal the decision to the SEC.

The SEC through its MOU has authorized the TBMA to license members, regulate business conduct, conduct inspections of members and take disciplinary action for violation of TBMA rules. Persons or companies subject to a TBMA disciplinary action may appeal it to the SEC.

The SEC performs its oversight role through on-site inspections, off-site monitoring of mandatory reports, and through regular formal and informal communications at senior levels and operational levels. The SEC carries out high-level engagement between the Chairman of the SECB and members of SET's Board of Directors, at least twice a year. In addition, periodic informal meetings between the SEC, SET, and TFEX are also conducted at the working levels to discuss various operational issues and exchange views and opinions. The SEC, through SEA Section 264, has the authority to obtain any information or records from the SET or TFEX.

	<p>In 2018, the SEC conducted an on-site inspection of the SET and TFEX that focused on surveillance, listed company oversight and member supervision programs. The inspection report concluded that both programs were operating effectively. In 2015, it conducted an on-site inspection of the TBMA. This inspection found that the on-site inspection program of TBMA members required additional resources. TBMA responded by assigning more staff.</p> <p>In addition to its oversight functions described above, the SEC has additional authority under DA Section 70(4) and (5) to order TFEX to amend or temporarily suspend the application of any rules issued by TFEX; or undertake or refrain from undertaking any action as the SEC deems appropriate and necessary to maintain the stability of the financial system, the economy of country or the stability of trading and settlement system of the derivatives market.</p> <p>SEA Section 316 and DA Section 153 impose a broad confidentiality requirement that applies to any person who obtains information under these Acts. The SEC believes that this provision applies to SRO personnel as their authority to collect information is pursuant to these Acts.</p>
Assessment	Fully Implemented
Comments	<p>It may be appropriate for the SEC to examine whether the current surveillance practices are sufficient. While it is commonplace for regulators to utilize SRO surveillance programs as the primary monitor of daily activity, generally the regulator also should have the capacity to access SRO surveillance systems in real-time so that it is able to monitor activities in the financial markets in real-time. A regulator should have real-time surveillance capacity across all financial markets during periods of market turbulence to effectively fulfill its systemic risk responsibilities, to effectively oversee the effectiveness of SRO surveillance activities and to analyze patterns of market misconduct that may cross markets. While real-time access was at one time a relatively costly and complex IT issue, modern technology has made this a comparatively easy upgrade to implement.</p>
Principle 11.	The regulator should have comprehensive enforcement powers.
Description	<p>Investigation and Enforcement Powers</p> <p>Investigation</p> <p>The SEC has broad powers to investigate possible violations of the SEA, DA and SEC regulations. SEA Section 264 and DA Section 103 empowers the SEC staff, designated competent officials, to enter places of business and require production of books and records, and the testimony of individuals. This authority is not limited to entities and persons licensed and directly regulated by the SEC. The authority applies to, inter alia, securities companies, companies issuing securities or promoting securities, banks and other financial institutions, employees or auditors of these entities, companies where data of these entities is collected, processed or stored, and purchasers or sellers of securities.</p> <p>SEC staff conducts investigations when they receive information concerning a violation of the securities laws. To initiate an investigation, authorization must be obtained from the SEC S-G. The SECB and CMSB play no role at the investigation stage. As explained previously in Principles 1 and 10, SEC staff are formally designated competent officials by the Minister of Finance through an administrative process, for renewable five-year periods.</p>

Anyone who fails to comply or fails to facilitate or provides false statements may be liable for criminal sanctions under SEA Section 303 and DA Section 139. This must be prosecuted by Thai criminal prosecutors as an obstruction of justice. If this is successful, the only remedy available is a fine. The court cannot order compliance with the demand for testimony or document production. The SEC reports that it has never had an occasion when a person or entity failed to comply with a demand for documents or testimony.

Enforcement Actions

The SEC can take action to address violations of law or regulation through three processes: 1. Administrative actions, 2. Civil enforcement actions, or 3. Criminal proceedings. The SEC staff are responsible for litigating or negotiating settlement of administrative or civil actions. SEC staff are also responsible for negotiating settlements of criminal actions. If a criminal action is not settled, it must be referred for litigation to an office of the Thai Ministry of Justice. The choice of which process to use depends on the type of violation, the status of the violator (i.e. a licensed entity or employee of a licensed entity) and the type of sanction or remedy sought. The differences in each process is described below.

Administrative Actions

The SEC has authority to take administrative action against regulated entities, such as listed companies, securities companies, and asset management companies, as well as their executives and directors. Under the SEA the SEC can require listed companies and mutual funds to suspend the sale of securities, restate or correct required filings and financial statements and suspend or revoke licenses or be ordered to take remedial action or receive a public reprimand. Public reprimands, suspensions or bars can be imposed against executives and directors. In addition to taking administrative action against securities companies and asset management companies and their executives and directors, the SEC can use its administrative powers against the following; 1) financial advisors and their supervisor, 2) auditors, 3) valuation companies, 4) credit rating agencies, 5) debenture holders' representatives, and 6) capital market personnel registered with the SEC (e.g. investment analysts, investment consultants, investment planners, fund managers, and executives). The DA also provides the SEC with authority to impose a fine administratively for an amount not to exceed THB 2,000,000. The SEC has authority to bring administrative actions for firm failures adequately to supervise employees, 8 cases have been brought by the SEC (2014 – 2018). The SEC has a wide range of administrative sanctions that it may impose.

Regulated entities/executives, director of regulated entities:

1. order a securities /derivatives company to undertake certain action, to rectify or to refrain from taking certain action. (SEA Sections 141-143, DA Sections 50, 111-124)
2. disqualify directors or CEO of any securities/derivatives company (SEA Sections 103-104, DA Sections 23-24)
3. order the removal of directors of a failed securities/derivatives company (SEA Section 143, DA Section 199)
4. accept, refuse or revoke registration of any disqualified person of securities companies.

	<p>5. restrict business operation of any securities company which is unable to meet the capital requirement rule. (DA Section 50)</p> <p><i>Regulated persons (licensed, approved or registered):</i></p> <ol style="list-style-type: none"> 1. reprimand 2. probation, 3. suspension 4. revocation of license, approval or registration 5. specify prohibited characteristics <p><i>Issuing companies:</i></p> <ol style="list-style-type: none"> 1. disapprove an application for sale of securities to the public upon finding that the issuing company is unable to meet the requirements prescribed in the SEC regulations, including having disqualified director, officer, or controlling person, or failing to file periodic disclosure reports to the SEC or the exchange. (SEA Section 35); 2. delay the coming into effect of registration statements for sale of securities to the public until the information disclosed in the registration statements is complete and accurate as required. (SEA Sections 65-74); 3. require the company to restate its financial statements. (SEA Sections 56 and 58); 4. deny approval of or disqualify a particular auditor for auditing listed companies (SEA Sections 61, 89, 106, 107, and 140); 5. deny approval of a particular financial advisor for certifying offering documents (the SEC regulations concerning sale of securities to the public, and preparation of registration statements, or tender offer). 6. ask for additional documents or instruct the management of the company to provide additional explanation, or instruct the company to arrange audit and report back to SEC (SEA Section 58) . <p><i>Trading Suspensions</i></p> <p>The SET (SEA section 171(3)) has the authority to suspend trading in a security listed on the SET. The SECB (SEA section 186) may suspend trading in all securities listed on the SET.</p> <p>Under DA Section 70 the SEC has the authority to:</p> <ol style="list-style-type: none"> 1. suspend derivatives trading unless such trading is for the purposes of closing out derivatives positions; 2. instruct the closing out of derivatives positions; 3. limit the trading price range of derivatives; 4. amend or temporarily suspend the application of any rules issued by the derivatives exchange; and 5. undertake or refrain from undertaking any action as the SEC deems appropriate.
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Civil Enforcement Actions

SEA section 317/1 authorizes the imposition of civil sanctions for the following categories of offenses:

- 1) unfair trading practices including market manipulation and insider trading;
- 2) making a false statement or concealing material facts in a required filing with the SEC or SET;
- 3) failing to perform duties by an executive or director of a listed company; and
- 4) Persons who allow the use of a trading account or bank account to enable the commission of an unfair act in securities trading.

Civil sanctions that may be imposed include:

- 1) monetary penalty;
- 2) compensation equal to the benefit received or should have been received from committing an offence;
 - For violations in categories 1) or 2) of section 317/1 above, the money penalties may be up to 2 times the benefit and not less than THB 500,000, or if the benefit cannot be calculated an amount between THB 500,000 - THB 2,000,000.
 - For violations in categories 3) or 4) of section 317/1, a penalty between THB 50,000- THB 1,000,000.
- 3) suspension of trading in securities on the Stock Exchange or the over-the-counter center, or derivatives contracts on the Derivatives Exchange for a specified period not exceeding five years;
- 4) bar from serving as a director or executive in a securities-issuing company or a securities company within a specified period not exceeding ten years; and reimbursement to the SEC of investigative expenses.

The SECB has the authority to order an asset freeze or asset seizure for 180 days if it has reasonable grounds to believe that a suspect will remove or dispose of the property. After the SEC staff have completed an investigation, a recommendation must be submitted to an internal Enforcement Committee of senior SEC officers and chaired by the Assistant S-G for Enforcement. If the recommendation is approved, it is submitted to the Civil Sanction Committee ("CSC"). The CSC is composed of the Attorney-General (CSC Chairman), the Permanent Secretary of MOF, the Director-General of the Department of Special Investigations ("DSI"), the Governor of BOT, and the SEC S-G. The CSC has the authority to approve the SEC staff recommendation and order a sanction or decide that the violations require criminal prosecution. If the CSC approves the use of a civil sanction and the defendant consents to the order, the matter is concluded upon payment of the amount ordered. If the defendant does not consent to the order, then the SEC will file a complaint in Thai civil court, where the case will be litigated.

Criminal Prosecution

All violations of the SEA and DA may be prosecuted as criminal actions. Chapter 12 of the SEA contains 59 sections providing a specific range of sanctions (including money fines and terms of incarceration) for virtually every substantive requirement under the SEA. Chapter 9, Division 2 of the DA contains 26 sections specifying sanctions for specific provisions of the DA.

The criminal prosecution process is somewhat complex. After the SEC staff has completed its investigation and a recommendation for prosecution has been approved by the S-G, it is submitted to the Criminal Fining Committee (CFC) appointed by the Minister of Finance pursuant to section 317 of the SEA. The CFC is composed of three members, a representative of the Royal Thai Police ("RTP"), a representative of the BOT and a representative of the MOF/Fiscal Policy Office. If the defendants agree to the sanctions recommended by SEC staff and approved by the CFC, the matter is concluded. However, if the defendants do not agree to the approved staff recommendation, then the matter must be referred for investigation and possible prosecution by Thai law enforcement and the public prosecutor.

The SEC is not allowed to litigate criminal proceedings. The SEC must refer the case to the Royal Thai Police ("RTP") or Justice Ministry Department of Special Investigation ("DSI") for independent investigation. Under Thai law, all criminal proceedings require a formal criminal investigation by Thai law enforcement. The DSI investigates allegations of market manipulation, insider trading, making false statements and other large and complex cases. The RTP is responsible for investigating violations involving reporting and licensing violations.

Criminal prosecution of these matters is a complex and time-consuming. SEC staff estimates that the review and investigation by DSI or RTP review takes one year or longer typically and approximately 20 percent of SEC criminal referrals are dropped at this stage by the police or the DSI (SEC staff indicate that the prosecution rate has improved since the DSI assumed responsibility). If criminal action is appropriate, it is referred for action to the Public Prosecutor for trial. Completion of the trial and entry of a final judgment typically requires one or more years.

While the time period between SEC referral and final disposition may be more than 2 years, it is the policy of the SEC to publicly announce when the referral to the DSI is made. In other words, a person or entity may be charged publicly with a crime and then subsequently, the matter may be dropped with no formal criminal complaint ever filed. The Public Prosecutor's Office estimates that since the creation of the SEC in 1993, approximately 100 of 400 matters referred by the SEC have been closed by their office due to a statute of limitations issue. In Thailand the applicable statute of limitations is 20 years from the date of the violation.

Comprehensive investigative authority

The SEA and DA provide the SEC with comprehensive authority to obtain books, records, and any other documents as well as testimony from any individual or entity. SEA section 264 provides authority to " (7) order any person who may be of use in the execution of the duties of

the competent officer to testify or deliver copies of or present accounts, documents, evidence or any objects related to or necessary for the execution of the duties of the competent officer; and (8) enter into a place of business to inspect the condition or the operations of any debtor of any securities/derivatives company during the hours between sunrise and sunset or during the business hours of such place (SEA Section 264). This authority explicitly covers banks and other financial institutions and customer records. Pursuant to SEA Section 264(3) and DA 103(2), the SEC has the power to request and obtain banking records about any entities or natural person from any bank or financial institution situated in Thailand. The SEC reports that it has never encountered any problems in obtaining banking records. SEC regulations require licensed securities companies to maintain information identifying beneficial owners and controlling persons of all clients should be recorded in the regulated entity (Notification No. Tor Thor 80/2552 and Notification No. Tor Thor 35/2556).

SEA Sections 65 and 69 require information on shareholders with significant control over a public listed company("PLC"): (a) be disclosed in the registration statement (Form 69-1); and (b) be updated in the annual corporate filing (Form 56-1) following the offering of securities to the public (Section 56 of the SEA). In addition, PLC information regarding the percentage holdings of: (a) its top-ten major shareholders and (b) major shareholders who have substantial influence over the policy making, management or operation of a listed PLC (such as appointment of any representative as an authorized director) are publicly available in Forms 69-1 and 56-1. The SEC requires that these forms specify the names of individuals or groups who are the ultimate holders of the PLC's securities, unless there is "due cause" preventing the company establishing knowledge of the actual shareholders (e.g., the company is, in good faith, unaware that the names in its shareholders' register are not the real beneficial owners).

Private Actions

The SEA has been amended to authorize certain private rights of action. Shareholder in a public listed company may bring a private action against the company or its directors for false statements in a prospectus or offering document (section 82 of the SEA) or for false statements in a required disclosure document (section 89/20 of the SEA). The one-year statute of limitation is applicable under SEA Section 82. For SEA Section 89/20, the limitation is 2 years after the victim knows of such false statement in the disclosure documents or 5 years after such false statements is made in the disclosure documents. The SEA has been amended to authorize class action lawsuits. To date none have been filed. Anecdotally, it has been suggested that the lack of pre-trial discovery in civil litigation makes it difficult to pursue a class action.

Information Sharing

The SEC has the authority to share information with other authorities on matters of investigation, enforcement and other corrective action (SEA Section 316(2) and (6) and DA Section 153 (2) and (7), the authority can share information obtained by regulatory power or inspection with others (2) for the purpose of investigation or trial; or (6) disclosure to authorities or domestic or international agencies which are responsible for the supervisions of securities, the Securities Exchange or the supervision and examination of financial institutions.

Assessment	Broadly Implemented
Comments	<p>The last FSAP Assessment rated this Principle partly implemented. It identified a number of significant impediments to development of an effective enforcement program. As discussed below, the 2016 SEA amendments addressed substantially, but not entirely, three of areas. In the 2 years since enactment, the SEC has undertaken strong efforts to implement the amendments. Accordingly, this Principle should be rated higher than partly. As a fully implemented is not accurate yet, the Assessors have assigned a Broadly Implemented rating. While the IOSCO Methodology does not provide a standard for a Broadly Implemented rating of this principle, the Assessors have determined to assign this rating pursuant to our discretion, as discussed in the Preamble to the IOSCO Principles Methodology (page 19).</p> <p>The issues identified in the previous Assessment included:</p> <ol style="list-style-type: none"> 1) problems with speedy and effective criminal prosecutions 2) lack of a civil enforcement remedy 3) absence of private rights of action, including class actions, under Thai law 4) deficiencies in the legal definitions of market manipulation and insider trading law 5) Lack of authority for the SEC to issue orders barring persons from serving as directors of listed companies. <p>In 2016 the SEA was amended. The amendments and SEC implementing regulations have addressed, substantially but not entirely, each of these issues with the exception of items 1) and 5). Each issue will be discussed below in the discussion of the Thai system for enforcing compliance.</p> <p>The amendments to the SEA authorizing SEC civil actions in important areas is a significant improvement in SEC enforcement authority. However, for all other violations the available remedies are administrative actions against licensed entities and associated person, and criminal actions, which if not settled has serious practical limitations. Administratively, the SEC lacks fining authority (except under the DA). Criminal sanctions, if agreed to by the defendant, may be imposed by the Criminal Fining Committee and, as noted above, can be substantial. However, if the defendants do not agree to a settlement of the criminal action, the likelihood of successful criminal prosecution is uncertain. Referral for criminal prosecution is unlikely to result in action for several reasons. It is time consuming, as every matter must be reinvestigated by the DSI or RTP, which cannot rely upon the completed SEC investigation. The burden of proof, proof beyond a reasonable doubt, is a high threshold in a complex case that frequently involves reliance upon documentary and circumstantial evidence. Finally, public prosecutors may be inexperienced in capital market law and have other higher priorities, such as violent crimes, that require action.</p> <p>The SEC also lacks the authority to take action against the SET if it violates the SEA.</p>

	<p>The creation of a Civil Sanction Fining Committee and a Criminal Sanction Fining Committee, with membership from non-SEC law enforcement agencies and other governmental agencies is an unusual addition to the process. The potential impact of this on operational decision making is discussed and included in the assessment of Principle 2.</p>
Principle 12.	<p>The regulatory system should ensure an effective and credible use of inspection, investigation, surveillance and enforcement powers and implementation of an effective compliance program.</p>
Description	<p>Resources</p> <p>The staffing assigned to SEC departments involved in surveillance, inspection, investigation and enforcement are as follows:</p> <ul style="list-style-type: none"> - Enforcement Department 1 (46 staff); - Enforcement Department 2 (9 staff) - Intermediaries Supervision Department (40 staff); - Market Supervision Department (16 staff); - Sales Conduct Supervision Department (19 staff), - Investment Management Supervision Department (19 staff); - Corporate Monitoring Department (29 staff); - Accounting Supervision Department (37 staff); - Litigation Department (21 staff); - Legal Counsel and Administrative Law Department (9 staff); and - Legal Counsel and Development Department (10 staff). <p>SET and TFEX's Market Surveillance Department (17 staff, SEC estimate)</p> <p>Inspections</p> <p>A risk-based approach is used to select firms for inspection and to determine which areas to inspect. Results from the assessment are used to prioritize inspections or examination plans for regulated entities. The SEC inspection program has 40 employees assigned to intermediaries and 19 employees assigned to inspecting CIS.</p> <p>There are 3 types of inspections:</p> <ol style="list-style-type: none"> 1. Routine periodic on-site inspection are conducted to assess compliance with regulatory requirements. Firms are selected for inspection through a risk-based supervision matrix. 2. Thematic inspections (industry wide) are used to examine emerging risks or areas of concern that cut across the industry. 3. Cause inspection (ad-hoc) are more focused inspections of one or more issues and are usually conducted in response to significant/ material complaints, or a referral from other departments within the SEC or other agencies, or to respond to other urgent cases. During 2015 - 2017, SEC staff conducted 3 on-site cause inspections (2 for market intermediaries and 1 for CIS) and 56 off-site cause inspection (based on complaints received).

	<p>Routine inspections of intermediaries focus on 4 key areas—prudential risk, operational risk, risk to client and information technology risks. SEC staff will review a sample of customer files to assess compliance with KYC, client identity, and churning. A sample of client phone calls will be reviewed. SEC staff estimates that a routine intermediary exam will require 3–4 staff working onsite for 2 weeks.</p> <p>The SEC staff have a target that all securities intermediaries are inspected over a three-year cycle. However, in 2017, 4 of the 45 licensed brokers were inspected on-site. In 2018 there were 6 periodic on-site inspections of the 46 licensed firms. As part of these inspections, 14 firms were inspected on-site in 2017 and 12 in 2018. The staff that conduct on-site inspections of CIS have a three-year cycle for the 25 licensed CIS groups. During the three-year period 2016-2018, the SEC completed on-site inspections of the 25 licensed asset management groups.</p> <p>Following every onsite inspection, SEC staff prepare a written report (Deficiency letter) on its findings. The letter will include, when appropriate, directives on corrective action that must be taken. The findings in each inspection report/deficiency letter are a factor included in the RBA matrix.</p> <p>Thematic inspections may be conducted for other purposes such as to explore in-depth understanding of business practices. Thematic inspections are typically conducted on-site and off-site. SEC staff will prepare a standard questionnaire and require all licensed firms to submit answers. Certain the inspections are addressed through a combination of off-site reviews of questionnaire responses, followed by targeted on-site inspections of selected firms. In 2016 the SEC used this combined approach in a them inspection of securities company programs for compliance with KYC and customer due diligence responsibilities. Following compliance, fines were imposed on two firms. In 2017 SEC staff conducted a thematic off-site inspection focused on problems associated with issuance and sale of unrated bonds. The SEC imposed a fine on one firm, suspended its authority to engage in unrated debt offerings, and took disciplinary action against responsible executives of the firm. The SEC CIS inspection program conducted a parallel theme inspection of mutual funds that invested in these unrated debt offerings and imposed fines on the CIS operator and individual managers at a mutual fund. In 2018-2019 SEC staff have been engaged in a review of intermediary IT systems. The PWC auditing firm has been retained to assist and advise the SEC staff in the project.</p> <p>The SEC recognizes that special "cause" inspections are a component of its inspection programs. However, statistics on the inspection programs do not indicate that this component is used frequently.</p>
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Securities Intermediaries On-site Inspections							
		2014	2015	2016	2017	2018	
No. of mkt intermediaries		42	46	44	45	46	
Routine inspection (on-site)	Full scope	15	18	8	3	5	
	Follow-up	4	3	1	1	1	
Theme inspection	On-site	14 (Proprietary Trading) / 4 (Call Force on derivatives)	30 (Inappropriate trading)	30 (KYC/CDD)	14 (Debt offering & sales conducts)	5 (IT audit) / 7 (Debt offering & sales conducts)	
	Off-site	-	3 (Program trading)	32 (DW)/ 37 (Research)	-	12 (Debt offering & sales conducts)	
Cause inspection (on-site)		-	1	1	-	-	
Collective Investment Schemes On-site inspections							
Table. Number of on-site inspections							
		2013	2014	2015	2016	2017	2018
Type of inspection	Number of on-site inspections on CIS operators licensed to manage mutual fund						
Routine (market share coverage %)	15 (40)	9 (79)	7 (49)	8 (14)	9 (28)	8 (68)	
Theme	Sales Conduct	Sales Conduct	Unrated invest.	-	Unrated invest. / Foreign invest.	Product Govern. / IT security	
Cause	-	-	-	-	1 (Disclosure)	-	
Type of inspection	Number of on-site inspections on Mutual Fund Supervisors						
Routine (market share coverage %)	1 (7)	10 (100)	6 (74)	- -	5 (23)	- -	

	<p>Surveillance</p> <p>As described in Principle 10, the SROs have primary responsibility for surveillance on the SET/TFEX and on the TBMA bond market. The SET/TFEX have sophisticated real-time market watch systems that automatically alert the market surveillance teams to unusual trading volume, concentration or price movements in individual securities, based upon pre-set parameters. The Surveillance team adjusts these parameters every six months.</p> <p>The TBMA is responsible for monitoring trading in debt securities. Debt trading in Thailand is conducted OTC with all firms required to report trades to the TBMA, which publishes completed trades, provides end of day indicative quotes, and is assigned by the SEC responsibility for surveilling the market and the conduct of member firms. Because TBMA trading data is available in real-time, the TBMA monitors activity as trades are reported. Through its on-site inspection program. The TBMA samples firm trading to ensure reporting is accurate.</p> <p>As discussed previously the SEC does not have its own real-time surveillance systems and does not have direct linkage to the SRO surveillance systems. It can make specific requests for data to the SET/TFEX/TBMA and receive the requested data overnight. In the absence of a specific request the SRO's provide a full data dump to the SEC on a two-month delay basis.</p> <p>The SET and TFEX have in place surveillance mechanisms that permit an audit of execution and trading of all transactions on the SET and TFEX. This audit trail data is retained permanently by the SET and TFEX.</p> <p>Market and Price Manipulation</p> <p>The 2016 amendments to the SEA added provisions clearly prohibiting a wide array of conduct as market manipulation (SEA sections 244/1, 244/2, 244/3, 244/5, 244/7). The SET has trading rules (SET Circular: Gor.Kor (Wor) 3/2014) that enable them to place temporary restrictions on member firms or individual clients of firms that engage in trading that can disrupt the market. The SET has created a Trading Alert List and Turnover List for securities in which there is a significant change in trading patterns or where a trading pattern appears to deviate from normal trading in the stock. When a security is placed on the List, the SET may impose special restrictions on suspect accounts or firms:</p> <ul style="list-style-type: none"> • Step 1: A member must ensure that its customers pay the full amount in cash prior to trading, then; • Step 2: A member must not use the security as collateral in the calculation of the customer's credit line in all types of account; • Step 3: A member must not offset the trading value of buy and sell orders in the security on a given day. (The amount received from sale of the particular security will be credited back on the following day.).
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Following a SET warning regarding inappropriate trading order (ASCO Circular: BorLor 46/2016), a broker may be instructed to take the following actions:

- Verbal warning: a broker must reduce 20% of the trading limit of the client
- Written warning: a broker must reduce 50% of the trading limit of the client and prohibit such client from online trading for 30 days

Between 2014 and 2018, the SEC (Enforcement Department) received 53 referred cases from the SET relating to possible market and/or price manipulation.

Insider Trading, Misrepresentations or Omissions of Material Information

The 2016 SEA amendments provide a clear prohibition for insider trading (SEA sections 242-244). DA sections 99-100 address insider trading in derivatives. The SEA section 240 prohibits making false or materially misleading statements and sections 56-58 impose periodic and special reporting and dissemination requirements on listed companies. Between 2014 and 2018, the SEC (Enforcement Department) received 66 referred cases from SET relating to possible insider trading. Between 2014 and 2018, the SEC (Enforcement Department) received 20 cases referred from the SET relating to possible misrepresentations of material information or other fraudulent conduct.

In addition to monitoring trading for suspicious activity, the SET/TFEX surveillance units conduct a daily pre-open review of available news reports for material information that could be associated with illegal trading activity. SET staff will contact management of listed companies if a disclosure report is not filed on the SET Electronic Company Information Disclosure (ELCID) system. They will also review SEC Form 59-2 (changes in securities holding of management report). If it appears that a company has not made necessary disclosures, the SET has a series of warning symbols that are attached to the security on the SET. If necessary, the SET will halt (H) or suspend trading (SP) in a security. The SET Surveillance Dept. estimates that it issues 25 - 40 trading suspension annually. Virtually all suspensions were in response to a delay in filing periodic reports. In 2018, the SET adopted a "C" symbol to alert investors that caution should be exercised due to the delay on reporting information or because questions have arisen concerning the reliability of public information. When companies publicly disclose material information, the SET recommends that insiders should wait for at least 24 hours or 48 hours after the general publication of the release has been adequately disseminated.

Licensed Entity Compliance with Prudential and Business Conduct Regulations

The SEC utilizes a combination of processes to monitor and investigate compliance with regulatory requirements by licensed entities. These include requiring periodic and special event reports (described in the relevant Principles below) that are reviewed by SEC staff; on-site inspections; internal compliance departments (discussed below); and complaints (discussed below).

The SEC uses its risk-based matrix to identify which reports of entities are reviewed. For corporate issuers, one SEC office has primary responsibility for reviewing financial statements and another office reviews periodic disclosure reports. While more than 30% of annual report financial statements are reviewed by SEC staff, it appears that 10-15% of the textual reports are reviewed.

SEC Risk-Based Review of Listed Company Annual Reports

	2015	2016	2017	2018
Total number of listed companies	639	656	688	704
Number of companies which both its financial statements & Form 56-1 were reviewed	83	39	35	43
Number of companies which only its financial statements were reviewed	110	197	199	187
Number of companies which only its Form 56-1 were reviewed	105	35	0	65
Total number of listed companies were reviewed	298	271	234	295

Licensed intermediaries are required to provide all relevant information regularly, timely and in readily accessible way. The details of the information required and time period are specified in the SEC Notification No. Sor Thor 50/2559. Examples of the reports regularly submitted include:

- Daily: status report – includes information on the intermediary’s financial position and amount of margin calls and bad debts.
- Monthly: NC calculation report, client assets report, activities report, financial status and performance report
- Quarterly: investor complaints report
- Annually: compliance report
- Financial reports – every 6-month period and financial year.

SEC staff review these reports for all 26 licensed intermediaries, with emphasis on financial adequacy. Net capital deficiencies are regulated by Notifications Sor Thor. 31/2557 (securities) and Sor Thor. 84/2558 (derivatives). If a firm's net capital falls below 150% of its minimum capital level it must submit the full NC calculation report on a daily basis, so that the SEC can closely monitor the situation. The SEC reports that since 2017 there has been only one intermediary with net capital falling below the early warning level. The firm was able to provide explanations for the deficiency and to promptly restore NC.

Licensed Entity Internal Compliance Function

A focal point of SEC on-site inspections is the compliance department of the securities company or CIS. SEC regulations (Notification No. Tor Thor 35/2556, Providing Compliance Unit of an Intermediary) specify that licensed entities must have a compliance department responsible for ensuring that the company is operating in compliance with SEC regulations. SEC requirements for compliance departments include:

- (1) a line of command that is independent from the management;
- (2) an operational structure that allows the Compliance Dept. to report directly to the board of directors of the intermediary or designated committee
- (3) clearly specify the duties and responsibilities of the compliance unit
- (4) ensure that the Compliance unit has the following:
 - sufficient personnel for the firm's business model and scope of functions;
 - personnel may not be assigned any duties that may cause a conflict of interest;
 - unit head must have suitable qualifications and be assigned full-time to compliance duties;
 - training programs on compliance function for personnel must be held regularly; and
 - the unit must be authorized access to information and staff as necessary to perform duties.

SEC regulation requires regulated entities to submit an annual compliance report and quarterly complaint handling report containing the following information:

- annual compliance plan;
- result of actions taken under its annual compliance plan;
- all violations, breaches or failures to comply with SEC regulations and proposed rectification;
- compliance with suggestions of the SEC or any other supervisory agency; and
- review of compliance policy.

As explained in principles 24-25, before a licensed securities company or CIS can begin business, the SEC conducts an on-site inspection to verify that the entity has procedures and systems in place as described in its application package. The existence of a Compliance Department is an essential component that must be in place.

Intelligence and Complaint Input

The SEC has a public complaint process that undertakes to consider all complaints within 5 - 10 days of receipt. The public may file a complaint, in writing, by phone to an SEC hot line or through the SEC website.

SEC Complaint Statistics

Year	No. of complaints received / tips	No. of complaints/ tips referred to other departments	No. of complaints/ tips dismissed by SHC	No. of complaints/ tips referred to other agencies both domestic and foreign
2018	169	36	125	8
2017	746	184	526	36
2016	691	153	490	48
2015	593	102	432	59
2014	364	100	244	20

Investigations

The SEC investigation and enforcement departments use a variety of sources as a basis for initiating an investigation. As noted above, investigations were opened in approximately 90% of referrals from the SET. Statistical data provided by the SEC show that the vast majority of investigations opened by the SEC lead to some form of enforcement action.

Table 2: Statistic of number of investigations opened, finalized and dismissed on an annual basis

Offences	2018			2017		
	Number of investigations opened (case)	Number of investigations finalized (case)	Number of investigations dismissed (case)	Number of investigations opened (case)	Number of investigations finalized (case)	Number of investigations dismissed (case)
Unfair Securities Trading Activities Section 317/1 (1)						
Disclosure of false statement/ Dissemination of false or misleading information	1	-	1	1	-	1
Market manipulation	12	11	1	3	1	2
Insider trading	8	6	2	15	8	7
Front running	-	-	-	-	-	-
Director of Company Section 317/1 (2) / (3)						
Presenting a false statement or concealing material facts that should have been stated	1	1	-	-	-	-
Fail to exercise duty of care	-	-	-	1	1	-
Others Section 317/1 (4)						
allowing any person to use one's own securities trading account or banking account, or using any person's securities trading account or banking account	-	-	-	-	-	-
Grand Total	22	18	4	20	10	10

Table 2: Statistic of number of investigations opened, finalized and dismissed on an annual basis under administrative sanction

Types of Approved persons	Types of misconduct	2018 (As of June)			2017			2016			2015			2014		
		Number of investigations opened	Number of investigations finalized	Number of investigations dismissed	Number of investigations opened	Number of investigations finalized	Number of investigations dismissed	Number of investigations opened	Number of investigations finalized	Number of investigations dismissed	Number of investigations opened	Number of investigations finalized	Number of investigations dismissed	Number of investigations opened	Number of investigations finalized	Number of investigations dismissed
Financial advisor	Improper performance of duty	1	1		2	2		5	5		2	2				
Financial advisor supervisor	Improper performance of duty	1	1		2	2		5	5		2	2				
Auditor	Improper performance of duty															
Valuation company	Improper performance of duty					1		1								
Principal valuer	Improper performance of duty					1		1								
Total		2	2	0	4	6	0	12	10	0	4	4	0	0	0	0

ENFORCEMENT ACTIONS

The statistics below summarize SEC enforcement actions during the past five years. The data on civil litigation is limited to 2017-2018 because the SEA amendment creating this authorized was enacted in mid-2016. Although this period of time is too short to support a definitive judgment, it demonstrates the merits of the remedy when compared to criminal prosecution. During the period 2012-2016, the SEC referred 27 unsettled matters for criminal prosecution. Five of the 27 matters were accepted for prosecution by the Public Prosecutor's office. Only two of the five prosecutions resulted in the imposition of sanctions. In 2018 alone, the SEC filed 11 litigated civil actions, charging 89 defendants. Final disposition and sanctioning data were not available as these cases are all still being litigated.

In addition to the aggregate statistics, the SEC provided the following summaries of specific enforcement actions. In 2016, the SEC fined a securities company THB 1.14 million and

prohibited its operations in debt offering service because of sales process violations and conflict of interest violations by management. This action arose from highly publicized defaults by unrated bills of exchange, a form of short-term debt instrument. In 2015, the SEC fined a securities company THB 2.27 million and suspended the intermediary's executive (MD) for a period of 2 years for negligent failure to supervise resulting in SEC customer protection regulation violations (failure of KYC/CDD and transaction monitoring system).

In 2014, the SEC revoked the license of a fund manager for 10 years for failure to perform his duty with honesty by distorting information of the fund scheme/ prospectus (property fund) and receiving benefits from the property seller.

Enforcement Statistics under Civil Sanction														
Offences	2018 (as of December 2018)					2017								
	Signed a Letter of Consent					Filing a lawsuit to the Civil Court		Signed a Letter of Consent					Filing a lawsuit to the Civil Court	
	Persons	Cases	Civil Monetary (MB.)	Disgorgement (MB.)	Reimbursement (MB.)	Persons	Cases	Persons	Cases	Civil Monetary (MB.)	Disgorgement (MB.)	Persons	Cases	
Unfair Securities Trading Activities Section 317/1 (1)														
Disclosure of false statement/ Dissemination of false or misleading information	-	-	-	-	-	-	-	-	-	-	-	-	-	
Market manipulation	33	3+2*	293.90	-	-	73	7	4	1	3.13	-	-	-	
Insider trading	12	6+1*	23.51	16.45	0.043	12	2	15	7	28.13	19.61	2	1	
Front running	-	-	-	-	-	-	-	-	-	-	-	-	-	
Director of Company Section 317/1 (2) / (3)														
Fail to exercise duty of care 281/1, 1 st P.	-	-	-	-	-	1	1	6	1	3	-	-	-	
Presenting a false statement or concealing material facts that should have been stated	-	-	-	-	-	3	1	-	-	-	-	-	-	
Others Section 317/1 (4)														
Allowing any person to use one's own or any person's securities trading account or banking account	1	-	0.05	-	0.043	-	-	-	-	-	-	-	-	
Grand Total	46	12*	317.47*	16.45	0.87	89	11	25	9	34.27	19.61	2	1	

*The CSC has made a decision on the three unfair trading cases which are two market manipulation cases: (1) A/D (fines: 1.70 Billion Baht), (2) BA (fines: 499.50 MB) and (3) PTL (insider trading). The amount of civil monetary penalty may increase if alleged offenders agree to pay fines, otherwise the SEC will file these cases with Civil Court. 1520

Statistic of sanctions (criminal and administrative) imposed on regulated entities, executives/ management and personnel between January 2014 and June 2018

Type of regulated entities	Regulated Entities		Executives/Management				Personnel				
	Fines		Suspension (No. of person)	Revocation (No. of person)	Fines		Public reprimand (No. of person)	Suspension (No. of person)	Revocation (No. of person)	Fines	
	No. of cases	Amount (Baht in millions)			No. of person	Amount (Baht in millions)				No. of person	Amount (Baht in millions)
Intermediaries	36	13.7	5	-	4	0.5	1	93	19	-	-
CIS operator	37	8.2	-	-	6	1.8	-	-	2	2	2
CIS Marketer	5	4.4	-	-	-	-	20	12	1	-	-

Enforcement Statistics on Corporate Fraud

Offences	2018				2017				2016			
	Criminal Fine		File Criminal Complaint		Criminal Fine		File Criminal Complaint		Criminal Fine		File Criminal Complaint	
	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases
Director of Company												
Fraud			46	4			37	4			3	1
Fail to exercise duty of care			1	1			1	1	1	1	-	-
Over the past two years, SEC could expedite the investigation process on corporate fraud. Therefore, the number of filed fraud cases with DSI have been increased.												
Offences	2015				2014				2013			
	Criminal Fine		File Criminal Complaint		Criminal Fine		File Criminal Complaint		Criminal Fine		File Criminal Complaint	
	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases
Director of Company												
Fraud			21	5			3	1			8	3
Fail to exercise duty of care			2	2			-	-			-	-

Enforcement Statistics on Unlicensed-Business

Offences	2018		2017		2016	
	File Criminal Complaint		File Criminal Complaint		File Criminal Complaint	
	Persons	Cases	Persons	Cases	Persons	Cases
Business Operator						
Unlicensed securities business	12	2	-	-	17	5
Unlicensed derivatives business	11	3	2	1	-	-
Offences	2015		2014		2013	
	File Criminal Complaint		File Criminal Complaint		File Criminal Complaint	
	Persons	Cases	Persons	Cases	Persons	Cases
Business Operator						
Unlicensed securities business	8	2	6	3	4	1
Unlicensed derivatives business	3	1	7	4	11	5

Rating	Broadly Implemented
Comments	<p>This assessment deviates slightly from the IOSCO Methodology. The inspection, investigation, surveillance and enforcement program address all key questions in Principle 12, with caveats due to the recency of the 2016 amendments to the SEA and the limited time period to assess the implementation of the changes in legal definitions and the creation of the civil enforcement remedy. It also reflects a view that the existing surveillance program at the TBMA should be expanded and that the SEC should have the ability to access in real-time the online surveillance systems at the SET/TFEX, rather than depend on a 60-day delayed data submission and a need to make specific data requests when needed.</p> <p>SET/TFEX/TBMA surveillance programs should be augmented (but not replaced or superseded) by creation of a complementary surveillance unit in the SEC that has real-time access to all SRO surveillance systems. A SEC surveillance unit could perform functions that the individual surveillance programs cannot do. It would be available for use as part of the SEC systemic risk</p>

process. It could perform analysis across markets and across longer time frames than the SRO programs which, of necessity, be focused on daily trading activity.

Surveillance by the TBMA of the OTC bond market is limited to post trade reports by member firms. There is no real-time capability and no capacity to monitor pre-trade quoting by member firms. The oversight of trade reporting of member-client trades is limited to a periodic review through its on-site inspections of member firms. As member-client trading represents 80 percent of daily transactions, this is an area that should be examined by the SEC.

Based upon a review of sample confidential inspection reports, SEC on-site inspections appear to be of high quality. While the number of CIS on-site inspections per year appears to fulfill the SEC target of a three-year cycle to inspect all licensed CIS, the number of on-site inspections of securities companies does not appear to be sufficient to meet its three-year target for completion of a full cycle of licensed firms. Although the number of on-site periodic exams during the past two years may reflect a greater emphasis on completing industry-wide them inspections in high-priority areas. It appears that there may be a need for greater allocation of resources. Also, it appears that there may be a need for allocation of resources to increase the number of cause inspections conducted.

Similarly, it appears that the number of SEC off-site reviews of periodic disclosure reports by listed companies is too low to achieve a meaningful level of oversight. It appears that SEC staff review fewer than 10 percent of listed company disclosures per year. The SET review process is limited to monitoring that reports are timely filed.

The statistics provided by the SEC demonstrate that it has made good use of its civil enforcement authority. The statistics on other types of action that require criminal prosecution demonstrate the limitations of criminal prosecution as an effective enforcement tool. Notwithstanding the substantial number of criminal referrals made in each of the years reported, the number of cases actually prosecuted is quite small, 12 prosecutions since 2017. The creation of a civil enforcement procedure to address some categories of misconduct has been an important addition to SEC authority. The SEA should be amended to enable the SEC to institute civil proceedings for all categories of misconduct that it concludes require an enforcement action and sanction. A wide range of other violative conduct, most of which would usually be considered less significant, is punishable only by an administrative sanction or referral of the matter to Thai law enforcement agencies. Because criminal prosecution is more difficult and time consuming, the vast majority of SEC referrals have not led to successful prosecutions. Faster and proportionate enforcement actions are best pursued through civil litigation.

Until the SEA is amended to provide civil enforcement authority, the SEC should pursue methods to make criminal prosecution a more likely event. Improving the expertise of DSI/RTP investigators, public prosecutors and judges through regular training programs and seminars is one possibility. Given the time constraints of prosecutors and turnover in assignments,

	<p>consideration should be given to offering 2-3 day training events several times during the year. It would also be beneficial to provide written training manuals, containing instructions on the elements of crimes, examples of how crimes can be proven through documents, trading records and circumstantial evidence, and case studies of successful prosecutions. It has been suggested that the SET has reserve funds that could be used to fund these programs.</p>
Principles for Cooperation in Regulation	
Principle 13.	The regulator should have authority to share both public and non-public information with domestic and foreign counterparts.
Description	<p>Information sharing and co-operation</p> <p>According to SEA Section 316 and DA Section 153 the SEC is able to share information to both domestic and foreign regulators and authorities as necessary. Ordinarily, the SEA requires that such confidential information obtained in the course of duties and power may not be disclosed. However, those sections also provide an exemption in the following cases:</p> <ol style="list-style-type: none"> 1. Disclosure in the performance of duty; 2. Disclosure for the purpose of investigation or trial; 3. Disclosure in relation to the commission of offences under the SEA and DA; 4. Disclosure for the purpose of rectifying the condition of operation of a securities company; 5. Disclosure to an auditor of any audit firm under the SEA and DA; 6. Disclosure to authorities or domestic and international authorities responsible for supervision of securities/derivatives, securities/derivatives exchange or financial institutions; 7. Disclosure to securities or derivatives exchange, trading center or clearinghouse responsible for the supervision of derivatives (DA); and 8. Disclosure where written consent has been obtained. <p>No requirement for external approval</p> <p>In accordance with the SEA and the DA, the power to share information solely belongs to the SEC according to the SEA and the DA. Thus, the SEC can share any necessary information for regulatory or enforcement purposes whereas the condition has been met under SEA Section 316 and the DA Section 153.</p> <p>No requirement for breach of domestic laws</p> <p>Information sharing in accordance with SEA Section 316(6) and DA Section 153(6) is not subject to the "dual illegality" condition. Therefore, the SEC can share information with foreign counterparts without the condition of the same breaches of domestic law. In addition, upon request from foreign regulators, the SEA Section 264/1 and DA Section 105 also empower the SEC to provide assistance by gathering necessary information and evidence for the purpose of determining any violations of the securities law, the derivatives law, or other laws of similar nature.</p>

	<p>Bank account information</p> <p>According to the SEA Section 264/1 and the DA Section 105, information which is already in the possession of the SEC can be shared with both domestic and foreign counterparts. Specifically, The SEC can obtain information and records identifying the person or persons beneficially owning or controlling bank accounts related to securities and derivatives transactions and brokerage accounts through market intermediaries. According to the SEC Notification No. Tor Thor. 63/2552 and SEC Notification No. KorThor. 22/2553, intermediaries are required to keep and maintain those record and information. If the information required by foreign regulators is not in the possession of the SEC, the SEC may exercise its powers to obtain such information for the purpose of determining any violation of securities law, derivatives law or other laws of similar nature, under SEA Section 264/1 and DA Section 105.</p> <p>Confidentiality</p> <p>The SEC has enough assurance of confidentiality of information gathered from its regulatory functions and powers that are shared with other competent authorities through various mechanisms:</p> <ol style="list-style-type: none"> 1) The general provision of the SEA and the DA 2) Confidentiality safeguard provided by SEA Section 316 and DA Section 153 covers any person who has acquired information in the performance of his duty. Therefore, the confidentiality safeguard applies not only to the SEC and its competent officers but also everybody who acquires the information by performing duty under the powers and duties in accordance with the SEA and DA. In addition, confidentiality safeguard under DA also covers any person learning non-disclosed information as a result of disclosure from empowered persons according to DA Section 153. 3) Internal rules for the SEC staff. In addition to the applicability of SEA Section 316 and DA Section 153, the SEC has adopted internal rules for SEC’s staff to preserve the confidentiality of information in the SEC’s possession. (the SEC Order and the SEC Codes of Conduct on safeguarding the confidentiality of information, more detailed in Principle 5). 4) The provision under domestic MOUs. Under MOUs with many domestic authorities (e.g. BOT, OIC, SET, AMLO, and DSI), confidentiality safeguards clause must be included as an important provision and be enforceable. 5) The provision under IOSCO MMoU/multilateral MOUs/bilateral MOUs. Confidentiality safeguards are included as a specific provision the IOSCO MMoU in which the SEC is signatory A and in every multilateral and bilateral MOU, the SEC has subscribed.
Assessment	Fully implemented
Comments	In contrast with the last FSAP in 2008, today the SEC is empowered by the SEA and the DA to share public and non-public information with domestic and foreign counterparts.

Principle 14.	Regulators should establish information sharing mechanisms that set out when and how they will share both public and non-public information with their domestic and foreign counterparts.
Description	<p>Power to enter into information sharing agreements</p> <p>The main legal source of the SEC powers and duties are sections 14 and 19 of SEA, which empowers the SEC to carry out "<i>any other activities as assigned by the SEC or any other activities to be implemented according to the objectives of this Act</i>" (sec. 14). Based on these powers, the SEC has entered into memoranda of understanding relating to cooperation with other domestic regulatory authorities (e.g. the BOT, SET, AMLO, the OIC, the LED, and the DSI), which includes an agreement on information sharing. The same legal provisions have been used by the SEC to enter into agreements, including information-sharing matters, with foreign regulators.</p> <p>Upon request of the foreign authority whose powers are given through respective foreign law on securities and exchange, derivatives, or other law of similar nature, the SEC is empowered by the SEA and DA to provide assistance to foreign counterparts under conditions following SEA Section 264/1 or DA Section 105. This assistance involves the gathering of necessary information or evidence to determine whether there have been any violations of the law on securities and exchange or other laws of similar nature of the requesting country. The SEC can share this information within the scope of SEA Section 316 or DA Section 153.</p> <p>Information sharing mechanisms</p> <p>The SEC became a full signatory of the IOSCO MMoU on June 19th, 2008. As a full signatory of the MMoU, the SEC is committed to providing other signatory members with the fullest assistance permissible to secure compliance with respective laws and regulations of the other members as well as share information upon request following the scope of assistance stated in the MMoU.</p> <p><i>Domestic Level</i></p> <p>The SEC has established MOUs with SROs and other domestic authorities (e.g. the BOT, the OIC, SET, the DSI, AMLO, the LED and TBMA), as well as entered into written bilateral and multilateral MOUs with other countries to develop information-sharing mechanisms to assist in the matters of licensing, surveillance and enforcement functions.</p> <p>With regards to cooperation between domestic authorities, the revised tripartite MOU between the BOT, the SEC, and the OIC has been established to enhance cooperation and increase the efficiency of information sharing and operation among three regulators, especially in the interconnected areas. The scope of the new MOU includes:</p> <ol style="list-style-type: none"> (1) jointly set policies, make regulatory decisions and achieving resolutions on the interconnected regulatory issues; (2) closely and continually conduct the operation at the working level in, the interconnected areas;

- (3) jointly supervise and examine regulated entities to ensure that regulatory functions are carried out effectively and consistently;
- (4) share information within the regulatory purview, including areas of concerns or observations, found from regulatory examination; and
- (5) establish an appropriate channel of communication and cooperation (e.g. contact person) to exchange information, recommendation, experience, and area of concerns or observations that are useful when regulating interconnected areas.

When information or assistance is requested by one of the authorities, the other two can delegate a representative to be the focal contact point to share, exchange and cooperate with interconnected areas. The three regulators shall cooperate in full efforts to ensure that information exchanged and shared is complete, accurate and timely.

MOUs with SROs (SET and TBMA) have also been established to share information regarding enforcement and surveillance areas, the scope and mechanism are described in detail in Principle 9.

MOU with enforcement agencies (Department of Special Investigation: DSI)

An MOU between the SEC and the DSI has been established to support and enhance cooperation in exchanging of information. The main purposes are for examining facts and suppression of criminal acts that are considered to be special cases. In any case, where the DSI needs to use other information aside from the above purposes, it shall have written request for such information to the SEC on a case by case basis. In giving, using, and retaining information that is received under this MOU, the authority shall do so under the law, regulation, and related order. The authority shall also perform such action carefully by recognizing the necessity and appropriateness of preserving the confidentiality of such information.

MOU with AMLO (Anti-Money Laundering Office)

The Anti-Money Laundering Office (AMLO) and the SEC have signed a memorandum of understanding concerning coordination of cooperation relating to the supervision of capital market and anti-money laundering and combating the financing of terrorism (AML/CFT) issues Since 2010. The MOU has been developed in order to be compliance with FATF standards, which will, in turn, render more efficient efforts to break the cycle of crimes which are predicate offenses under the anti-money laundering law and will also boost the confidence of investors, helping market intermediaries to gain international acceptance for their businesses. Regarding implementation of this MOU, AMLO and the SEC shall 1) cooperate in the exchange of necessary information to be used in examining acts in violation of relevant laws, 2) mutually support AML/CFT policy in the capital market, and 3) develop knowledge and expertise of the agencies.

	<p><i>MOU with Legal Execution Department ("LED")</i></p> <p>The SEC has signed a memorandum of understanding with the LED in October 2017. The LED has responsibilities on supervision and execution of civil judgments including bankruptcy and reorganization of public or listed companies, intermediaries and asset management companies. This MOU aims to enhance the supervision of public or listed companies, intermediaries and asset management companies which are entering into the procedures in Bankruptcy Act (e.g. bankruptcy and reorganization) in order to ensure investor protection and maintain market and investor confidence in investing in Thai capital market and execution proceedings for bankruptcy and reorganization. Under this MoU, the parties agreed to establish cooperation in exchange of necessary information in possession of each party, procedures for such cooperation and confidentiality safeguard for information exchanged.</p> <p><i>International Level</i></p> <p>The SEC has been a full signatory to the IOSCO MMoU Signatory A since 2008. This would ensure that the SEC can provide competent foreign regulators with assistance in the matters of discharge of licensing, surveillance and enforcement responsibilities. In addition, SEA Section 264/1 and DA Section 105 provide the SEC with the power to provide the foreign regulators with assistance regardless of having MOU with the SEC or membership of IOSCO MMoU Signatory A (i.e. informal and urgent request).</p> <p>However, to enhance effectiveness in areas of information-sharing, written bilateral and multilateral MOUs are established. To date, there are 51 bilateral MOUs and 8 multilateral MOUs with foreign regulators in the areas relating to the exchange of information and cooperation regarding the investigation, enforcement and ensuring compliance of securities and derivatives laws and regulations and other matters. These MOUs cover all major jurisdictions connected to the Thai capital market through cross-border flow including those that are IOSCO's ordinary member and those that are not (i.e. Cambodia, Laos PDR, and Myanmar). The information-sharing arrangements with foreign regulators have a wide range of areas which are consistent with SEA Section 264/1 and 316 and DA Section 105 and 153. Therefore, the SEC undoubtedly can assist foreign regulators in the discharge of licensing, surveillance and enforcement responsibilities.</p> <p>The SEC also has provided assistance upon request from foreign regulators based on the internal workflow. Such workflow aims to provide a clear procedure and specified timeframe to response the request in due course. This would result in better internal arrangement and an increase in efficiency of assistance given to requesting authority.</p>
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In practice, the SEC receives and handles requests from foreign assistance by divided into two different sources of requesting entities:

1. If the requested authority is MMOU signatory member, Enforcement Department is responsible for gathering the information and transmitted information as requested.
2. If the requested authority is not MMOU signatory member or requested any information not identified in the scope under IOSCO MMOU, Strategy and International Affairs Department will act as a liaison for such matters.

To gather relevant information, the request areas are transferred to the related functional department. The requesting issues can be divided into 2 main categories which are; 1) enforcement or investigation related issues and 2) regulatory information issues (such as licensing, compliance information, regulatory process).

In both cases, internal approval is required to remit the information. The approval is done at the level of the SEC (SEC Secretary General's approval) as a formal step identified in the workflow and in no case, a request has been denied or information not submitted.

Confidentiality

The SEC has taken steps to assure safeguards are put in place to protect the confidentiality of information transmitted consistent with its uses.

According to the SEA Section 316, any person, in the performance of his duty under the powers and duties provided in accordance with the Act, having acquired confidential information of any person which, under normal circumstances, should not be disclosed, who discloses such information to another person, would be liable to imprisonment for a term not exceeding one year or a fine not exceeding THB 100,000 or both.

The provisions of the previous paragraph are not applicable in the following cases:

- (1) disclosure in the performance of his duty;
- (2) disclosure for the purpose of investigation or trial;
- (3) disclosure relating to the commission of offenses under this Act;
- (4) disclosure for the purpose of rectifying the condition or operation of a securities company;
- (5) disclosure to an auditor of any juristic person under this Act;
- (6) disclosure to the authorities or domestic and international agencies which are responsible for the supervision of securities, the Securities Exchange or the supervision and examination of financial institutions;
- (7) disclosure upon written consent of such person.

	<p><i>Safeguards of confidentiality</i></p> <p>The safeguards include confidentiality provisions and sanctions at the legislation and staff's Code of Conduct levels. Under each MOU, safeguards are further enhanced through provisions on confidentiality and permissible use, which specify the scope of how such information can be used and confidentiality requirements between authorities under the MOUs.</p> <p>1. Information transmitted to domestic authorities</p> <p>Disclosure within SEC authority and permissible uses</p> <p>The SEC treats the requests and information received from both domestic and foreign regulators as a strictly confidential matter and must ensure that such information and requests shall not be unnecessarily used or disclosed beyond its scope of uses.</p> <p>Furthermore, the SEC's Article for Employees and Code of Conduct, which stipulates provisions regarding confidentiality and permissible use, requires that its staff preserve the confidentiality of information in either paper or electronic form within the SEC and not to use such information for their own or other's benefit. (SEC order no. 53/2551, 36/2555, and internal guidelines) Further information can be found in Principle 5.</p> <p>For enhancement of confidentiality prevention, the SEC has entered into the MOUs with other regulators and authorities such as the BOT, the OIC, SET, TBMA, the DSI, the LED and AMLO, which covers most entities that the SEC has to cooperate with. Those MOUs covers the issues of confidential information exchanged between the parties. By doing this, the assurance on confidence on confidentiality safeguards of third parties receiving confidential information from the SEC can be guaranteed.</p> <p>2. Information transmitted to foreign regulators</p> <p>2.1. IOSCO MMOU Signatory A member/MOUs with the SEC</p> <p>With international agencies, confidentiality clauses specifically require each authority to keep confidential the requests (i.e. content or any matter arising from such requests) that are made under the MOU. These clauses prohibit each authority from disclosing non-public information (including documents) received under the MOU while at the same time require that each authority uses its best efforts to protect the confidentiality of such information/documents and continually retain such treatment. These requirements extend to any consultations made between the authorities and unsolicited assistance under the MOU.</p>
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2.2 Foreign authorities with no mutual agreements

In the event of information sharing with a foreign regulator who is not a signatory of the IOSCO MMoU nor does not have mutual agreement with the SEC, the SEC letter transmitting the information will state that the information is provided on a strictly confidential basis and the foreign regulator shall not disclose any information to the third parties without the SEC's prior written consent.

Practice

Information sharing to **foreign counterparts**

Year	Number of Requests	Nature of Information
2015	5	<ul style="list-style-type: none"> - request of banking documents e.g. bank statements, applications for opening bank accounts and evidence of banking transaction, etc. - verify personal data for approving licenses
2016	6	<ul style="list-style-type: none"> - request documents from companies - request banking documents - interview recording - request personal data from Social Welfare Administration
2017	8	<ul style="list-style-type: none"> - request banking documents - request documents from companies - voluntary interview with witnesses - request immigration information from the Immigration Bureau
2018	8	<ul style="list-style-type: none"> - request banking documents - request telephone records, call logs, and subscriber information from the Internet service provider/ telecommunications service companies - request immigration information from the Immigration Bureau - request documents and information from companies - request information from the SEC's files e.g. information of personal data, licenses, registrations, and the penalty imposed by the SEC - English translation of Thai Laws e.g. Bankruptcy Act, Civil and Commercial Code, and other Acts. - request information of jurisdiction of the SEC over the requested entity

As of June 2018

Assessment	Fully implemented
Comments	The SEC is authorized and has exercised its powers to establish information sharing mechanisms, including be a signatory of the IOSCO MMoU.

Principle 15.	The regulatory system should allow for assistance to be provided to foreign regulators who need to make inquiries in the discharge of their functions and exercise of their powers.
Description	<p>Assistance to foreign regulators</p> <p>Bank records: the SEC under the SEA Section 264(3)(7) and DA Section 103(2)(7), has the power to request and obtain banking records about any legal or natural person from any bank or financial institution situated in Thailand. The SEC's competent officers (SEC employees appointed by the MOF as such) when they are assigned to an office performing these functions can also exercise their investigatory powers in order to enter the premises or business places of commercial banks and financial institutions for the purpose of inspecting any bank account, document or any evidence. Failure to comply with such a request is sanctioned by imprisonment and a fine. The SEC indicates that has never encountered any obstacles in obtaining banking records.</p> <p><i>Transaction records and other information:</i> All the information records sufficient to reconstruct all securities and derivatives transactions, including records of all funds and assets transferred into and out of bank and brokerage accounts relating to those transactions, is in the possession of regulated entities that must be licensed by or registered with the SEC. The SEC has an ability to obtain information from the following regulated entities: i) market intermediaries, ii) derivatives brokers, iii) asset management companies, iv) the securities exchange (SET), v) derivatives exchanges (i.e. TFEX), and the Thailand Securities Depository (TSD). As clients and transactions records are mostly kept by market intermediaries, the SEC Notifications require the intermediaries to submit various reporting requirements covering the information indicated.</p> <p>The SEC's competent officers may also conduct on-site inspections either on a routine basis or for the purpose of gathering documents or evidence where there is a suspicion of a law violation. In addition, the SEC's competent officers have the authority to order the director, officer or employee of an intermediary to provide a statement. (SEA Section 264 (5) and DA Section 103 (5))</p> <p>In sum, the SEC can exercise its powers to obtain the information from entities and individuals; both from (i) those regulated by the SEC and (ii) those NOT regulated by the SEC (as per Principle 14), such as banks, other financial institutions, and any other persons. Accordingly, the SEC can offer effective and timely assistance regard the above-mentioned information to the foreign regulators.</p> <p><i>Beneficial owner or control non-natural persons:</i> The Limited Companies ("LC") and the Public Limited Companies ("PLC") are required to keep a shareholders' register and make it available to shareholders. The shareholders' register includes information about names, nationality, and addresses of shareholders, the date of registration or termination as shareholders, and the serial number of the shares certificates in accordance with the Civil and Commercial Code (CCC) Section 1138-1139 and the Public Limited Company Act (PLCA) Section 61-63. The shareholders' register of an LC and PLC must be filed with the Registrar of the Ministry of</p>

Commerce within 14 days of the date of the AGM in the case of an LC, and within 1 month thereof on the case of a PLC. Therefore, a company's register of shareholders is publicly available through the Registrar at the Ministry of Commerce (the CCC Section 1139 and PLCA Section 64). In addition, under client information, know your client and suitability rules (see Principle 31) intermediaries are required to know the beneficial owners of their clients' securities holdings, when the latter are not physical persons, information that can also be shared under SEA section 264/1 and DA Section 105.

In relation to listed companies, SEA Sections 65 and 69 require that information on shareholders with significant control over the company: (a) be disclosed in the registration statement (Form 69-1) filed with the SEC for the purpose of making an offer for sale of securities to the public; and (b) be updated in the annual corporate filing (Form 56-1) following the offering of securities to the public (SEA Section 56). In addition, the disclosure by the PLC of information regarding the percentage holdings of: (a) its top-ten major shareholders and (b) major shareholders who have substantial influence over the policy-making, management or operation of a listed PLC (such as appointment of any representative as an authorized director) are publicly available in Forms 69-1 and 56-1. The SEC requires that these forms specify the names of individuals or groups who are the ultimate holders of the PLC's securities, unless there is "due cause" preventing the company establishing knowledge of the actual shareholders (e.g., the company is, in good faith, unaware that the names in its shareholders' register are not the real beneficial owners).

SEC ability to provide assistance to foreign regulators

With regard to non-public information, the SEC can obtain information by performing its duties under the powers and duties identified in the SEA and DA. This information is normally held by the regulated entities, especially information about clients record and transactions are kept by market intermediaries. Typically, all information that comes into the SEC's possession is regarded as confidential and disclosure of such information shall be subject to SEA Section 316 and DA Section 153.

The SEC may assist foreign regulators in gathering information or evidence outside of SEC's possession with certain conditions such as not prejudice domestic public interest, similar nature of violations of the SEA and DA, and reciprocal assistance in accordance with SEA Section 264/1 and DA Section 105. However, this would not obstruct the SEC to assist foreign regulators in obtaining information inquiries that are in the possession of SEC, because SEA Section 316(6) and DA Section 153(6) allow the SEC to disclose the information to foreign authority which is responsible for the supervision of securities and derivatives.

Where information is publicly available, there is no restriction on the SEC's ability to share such information with its foreign counterparts. For example, in most cases, information on the beneficial ownership of non-natural persons are available to the public and can be easily accessible accessed and shared.

	<p>Where the requested information is already in the files of the SEC, the disclosure thereof to a foreign regulator is permissible under SEA Section 316(6) and DA Section 153(6).</p> <p>Information on regulatory processes</p> <p>Requests by foreign regulators for the information outlined on regulatory processes fall within the SEC's power and competence. As a result, the SEC is able to offer effective and timely assistance to foreign regulators in securing compliance with laws and regulations.</p> <p>No requirement for independent interest</p> <p>The SEC can provide foreign regulators with assistance to in an effective and timely manner, even though the SEC has no independent interest in the matter. The ability to share information with a foreign authority is under SEA Section 316(6) and DA Section 153(3). Those sections do not require the SEC to consider an independent interest of the SEC in the matter to be shared. Therefore, the SEC is not limited to be satisfied with an independent interest in the matter prior to sharing information in request of foreign authority.</p> <p>In addition to ability to share the above-mentioned information, the SEC also has a power to provide assistance by gathering necessary information or evidence, which are out of SEC's possession, for the purpose of determining whether there have been any violations of securities laws or other laws of a similar nature of the requesting country upon request of the foreign authority with the power under respective foreign securities laws or other laws of a similar nature under SEA Section 264/1 and DA Section 105 with some conditions that the SEC must be satisfied. However, the conditions specified in both SEA Section 264/1 and DA Section 105 do not require the SEC to consider an independent interest in the matter.</p> <p>The SEC is not restricted by domestic laws or regulations from providing foreign regulators with assistance in obtaining information and sharing information. Therefore, the SEC can provide effective and timely assistance to foreign regulators regardless of whether it has an independent interest in the matter.</p> <p>Information on regulatory processes</p> <p>The SEC can offer effective and timely assistance to foreign regulators in obtaining information on the regulatory processes such as licensing procedures or audit procedures which could be relevant to enforcement in the jurisdiction. As discussed in the response to Principle 13, SEA Section 316 (6) and DA Section 153(6) allow the SEC to share confidential information subject to the condition that the SEC must disclose such information to authorities or domestic and international agencies responsible for supervision of securities/derivatives, exchanges, or supervision and examination of financial institutions.</p> <p>Moreover, most of the information regarding regulatory processes is publicly available. There is no restriction on the SEC's ability to share public information with its foreign counterparts.</p>
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The SEC can offer assistance to foreign regulators in requiring or requesting the production of documents and a person's statement or testimony, where permissible under SEA Sections 264 (5), (6), and (7) and DA Sections 103 (5), (6), and (7).

- the SEC's competent officers may not only conduct on-site inspections, inspect books and records but also can order regulated entities to produce evidence or documents in the form of books and records.
- In obtaining a person's statement or testimony, the SEC's competent officers can exercise their investigatory powers to require a statement from any director, officer, employee or auditor of a market intermediary, asset management companies, custodian, exchange, clearinghouse, securities depository center, securities registrar and any person that collects or processes data for such entity, regarding the book and record as well as the operation, assets or liabilities of the entity. The SEC may also take a voluntary statement without restriction. It has, however, no power to compel any person to make a testimony under oath. In Thailand, such testimony is normally carried out in the context of court proceedings.

In addition, the SEC can also assist foreign regulator in information out of the SEC's possession for the purpose of determining whether there has been a violation of the law under SEA Section 264/1 and DA Section 105.

Court orders

The SEC can provide a foreign regulator with assistance by facilitating the court procedure in Thailand.

Financial conglomerates

The SEC can share the information related to financial conglomerates without any condition if such information is publicly available. When the information related to financial conglomerates is under the SEC supervision, the SEC can obtain information by performing its duties under the powers of the SEA or DA. By doing this, the SEC can share such information with international agencies responsible for the supervision of securities or derivatives markets or supervision and examination of financial institutions under SEA Section 316(6) and DA Section 153(6)-(7).

Information regarding financial conglomerates under BOT supervision, the SEC may assist foreign regulators in providing assistance regarding information about consolidated supervision of the BOT by using specific provision of tripartite MoU to obtain such requested information. It is stated that the ability to share information provided by the BOT with foreign regulators is subject to written consent of the BOT according to the confidentiality safeguard under Clause 3 of the tripartite MoU together with SEA Section 316(7) and DA Section 153(8). Apart from the BOT, the SEC may remit information of other supervision areas received from other domestic regulators or agencies to foreign counterparts if written permission is granted by the owner of the information. However, the SEC has never been officially requested to provide assistance in sharing information regarding financial conglomerates.

	<p>The SEC can obtain all information by using its investigation power authorized by the SEA and DA (mostly SEA Section 264 and DA Section 103). Any person who fails to facilitate information to a competent officer shall be subject to imprisonment not exceeding 1 year and fine of up to THB 100,000 in accordance with SEA Section 303 and DA Section 139. In addition, any person who provided false statement or untrue information shall also be subject to imprisonment and criminal fine in accordance with SEA Section 302 and DA Section 142.</p> <p>Regarding information provided by the SEC in response to a request pursuant to the IOSCO MMoU, the requesting authority can use the information subject to the purposes set forth under IOSCO MMoU Article 10(a).</p>				
Assessment	Fully implemented				
Comments	The SEA gives powers to SEC to provide assistance to domestic and foreign regulators. The SEC has provided assistance in a number of opportunities to foreign regulators.				
Principles for Issuers					
Principle 16.	There should be full, accurate and timely disclosure of financial results, risk and other information that is material to investors' decisions.				
Description	<p>Background <i>Public offering of securities</i></p> <p>Under the SEA Section 33, 35 and 65, a company seeking to make a public offering of shares or debt securities ("issuer") is required to obtain approval from the SEC based on the qualification criteria as stipulated by the SEC and comply with the respective filing requirements (i.e. submitting the registration statement and draft prospectus to the SEC as required). For each type of securities, the qualitative criteria for approval of the application for a public offering are specified in the following notifications:</p> <p>Approval criteria</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Type of Securities</th> <th style="text-align: left;">Criteria</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">Equity Securities</td> <td> <p>The SEC regulations on public offering set out qualifications as well as disclosure requirements on the initial public offering or a seasoned public offering and for the first time and on an ongoing basis.</p> <p>Qualitative criteria</p> <ul style="list-style-type: none"> - SEC Notification: Tor Jor. 39/2559 - Application for and Approval of Offer for Sale of Newly Issued Equity Securities <p>The main criteria to assess the quality of the issuer is not having experienced negative issues in terms of corporate governance (as defined in the same Notification) as well as to meet certain conditions set out in this Notification in relation to i) the</p> </td> </tr> </tbody> </table>	Type of Securities	Criteria	Equity Securities	<p>The SEC regulations on public offering set out qualifications as well as disclosure requirements on the initial public offering or a seasoned public offering and for the first time and on an ongoing basis.</p> <p>Qualitative criteria</p> <ul style="list-style-type: none"> - SEC Notification: Tor Jor. 39/2559 - Application for and Approval of Offer for Sale of Newly Issued Equity Securities <p>The main criteria to assess the quality of the issuer is not having experienced negative issues in terms of corporate governance (as defined in the same Notification) as well as to meet certain conditions set out in this Notification in relation to i) the</p>
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		<p>protection of shareholders' rights; ii) fair dealing with shareholders; iii) compliance with management duties and responsibilities; iv) complete disclosure and transparency of information and v) other qualifications.</p> <p>Listing criteria (SET)</p> <p>The SET and mai requirements regarding the quality of an applicant are in line with those of the SEC, plus the following quantitative criteria: i) minimum track record; ii) financial condition and liquidity; iii) minimum paid-up capital; iv) offering size; v) distribution of minority shareholders (free float).</p> <p>In practice, an equity securities issuer will file its initial public offering ("IPO") application with the SEC and submit its listing application to the SET in parallel. Those that meet the above-mentioned criteria will obtain approval for an IPO and a listing status from the SEC and SET consecutively.</p>
	Debt Securities	<p>Qualitative criteria</p> <ul style="list-style-type: none"> - SEC Notification: Tor Jor. 17/2561: Application for and Approval of Offer for Sale of Newly Issued Debt Securities - SEC Notification: Tor Jor. 13/2552: Application for and Approval of Offer for Sale of Newly Issued Securitized Bonds <p>Main criteria to assess the quality of issuer for newly issued debt securities include:</p> <ul style="list-style-type: none"> - Not having a record of a material violation of the rules or conditions relating to the offer for sale of any securities within 5 years prior to the filing date of the application for approval; - Financial statements prepared according to Thai Financial Reporting Standards ("TFRS") and audited by the SEC's approved auditors; - Directors and executives are listed on the executive's database in accordance with the notification concerning regulation on the issuing company's executives and controlling persons that do not have any prohibited characteristics; - Complete disclosure and transparency of information; - Has never offered debt securities in violation of, or non-compliant with, any criteria and conditions for approval.

	<p><i>Regulatory responsibilities</i></p> <p><u>Disclosure requirements</u></p> <p>The SEA Section 65 requires the equity and debt securities issuers to comply with the filing requirements comprising of 1) registration statements and 2) prospectus.</p> <p>The terms “registration statement” and “prospectus” together are referred to as “registration statement”.</p> <p>(1) <u>Registration Statements</u></p> <p>The SEA Section 69, 70, and 71 set out the main criteria for an issuer to disclose information as required in the registration statements. The SEC, empowered by these sections, also stipulates other disclosure requirements. These are included in the SEC Notifications Tor Jor. 10/2556 and Tor Jor. 30/2551. In this aspect, the main areas of disclosure requirements include:</p> <ul style="list-style-type: none"> • <u>Executive summary</u>: Summary of key information • <u>Company profile</u>: Business overview, nature of the business operation, the reason of the offer and use of proceeds, risk factors, research and development, significant assets, future projects (only for equity securities), legal disputes and other significant information • <u>Management</u>: Information relating to shareholders (i.e. controlling persons), organization and management structure including information on directors and executives, business supervision, corporate governance, corporate social responsibilities, internal control, and risk management and related party transactions • <u>Financial statements and reports concerning the company’s financial condition</u>: Audited financial statements for the previous three years for equity securities and one year audited financial statements for debt securities, as well as the latest quarterly reviewed financial statements and management discussion and analysis • <u>Features</u>: Description of the equity or debt securities offering, including its pricing and selling method • <u>Other information</u>: For debt securities: Bond terms and conditions, agreement on the appointment of a bondholder representative, etc. <p>For each type of securities, these disclosure requirements are specified in the following SEA Sections, SEC Notifications, and Forms:</p> <table border="1" data-bbox="423 1583 1554 1908"> <thead> <tr> <th data-bbox="423 1583 667 1625">Type of Securities</th> <th data-bbox="667 1583 1554 1625">Disclosure Requirements</th> </tr> </thead> <tbody> <tr> <td data-bbox="423 1625 667 1751">Equity Securities</td> <td data-bbox="667 1625 1554 1751"> <ul style="list-style-type: none"> - SEA Section 69 and Registration Statement (“Form 69-1”) - SEC Notification Tor Jor. 30/2551: Filing of Registration Statement for Securities Offering </td> </tr> <tr> <td data-bbox="423 1751 667 1908">Debt Securities</td> <td data-bbox="667 1751 1554 1908"> <ul style="list-style-type: none"> - SEA Section 69 and 70, and Registration Statement (“Form 69-Debt-PO” for debt securities and “Form 69-SPV-PO” for securitized bonds) - SEC Notification: Tor Jor. 10/2556: Submission of a Registration Statement for Offer for Sale of Debt Securities </td> </tr> </tbody> </table>	Type of Securities	Disclosure Requirements	Equity Securities	<ul style="list-style-type: none"> - SEA Section 69 and Registration Statement (“Form 69-1”) - SEC Notification Tor Jor. 30/2551: Filing of Registration Statement for Securities Offering 	Debt Securities	<ul style="list-style-type: none"> - SEA Section 69 and 70, and Registration Statement (“Form 69-Debt-PO” for debt securities and “Form 69-SPV-PO” for securitized bonds) - SEC Notification: Tor Jor. 10/2556: Submission of a Registration Statement for Offer for Sale of Debt Securities
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(2) Prospectus

The SEA Section 72 states that the draft prospectus shall be structured as specified in the respective SEC Notification (the SEC Notification Sor Jor. 54/2543 for both equity and debt securities).

Timeliness for investors in accessing information disclosed in the registration statement

Investors will be able to access the first draft of the registration statement via the SEC website at the time these reports are filed. Meanwhile, revisions and amendments can be made to update information and to address concerns of the SEC, investors will then be able to access the final draft at least 14 days in case of equity securities and 10 business days in case of debt securities before these documents become effective.

Distribution of prospectus

As stipulated by the SEA Section 79, offer for sale of securities to the public can be made by the issuer only when a registration statement has become effective and a prospectus has been delivered or distributed to the investors. However, according to the SEC Notification Tor Jor 30/2551, to ensure that the investors have sufficient information to review aside from accessing the SEC websites as mentioned above, the issuer is also required to provide appropriate channels to disseminate the prospectus, either via printed or electronic publications to the investors.

Initial offerings exempt from public disclosure requirements

The following are the exemptions available from public disclosure requirements for both equities and debt securities.

Equity securities

According to the SEC Notification KorJor. 18/2551, an offer for sale of shares made in one of the following manners shall be exempted from the filing of the registration statement and the draft prospectus with the SEC:

1. Subscription rights being offered to existing investors;
2. A private placement of shares made to:
 - (1) no more than 50 persons in a 12-month period;
 - (2) any person with an aggregate value not exceeding THB 20 million in a 12-month period, using the offering price as the basis for calculation;
 - (3) an institutional investor (as defined in Clause 2(4) of Notification of the SEC No. KorJor. 17/2551).
3. Directors and employees

This is in accordance with the relaxation of offering requirements as regulated by the SEC Notification No. Tor Jor. 39/2559.

	<p><i>Debt securities</i></p> <p>According to the SEC Notification TorJor. 17/2561, the following types of private placement for debt securities offerings are exempted from the filing of the registration statement and draft prospectus with the SEC as well as public disclosure:</p> <ol style="list-style-type: none"> 1. An offer for sale to a limited number of investors* which does not exceed 10 investors within any 4-month period; 2. An offering to existing creditors of the issuer for the purpose of debt restructuring; 3. An offer for sale whereby the waiver can prove that such offering: <ol style="list-style-type: none"> (a) is necessary and reasonable; (b) will not broadly impact the investors; (c) has adopted adequate measures for investor protection. <p>*limited number of investors means institutional investors, high net worth investors and the investors who are related to the issuer in terms of business relationship such as customers, suppliers and potential business partner.</p> <p>However, under the following types of private placements for the offering of debt securities, the issuers are still required to file a registration and a draft prospectus with the SEC, although they are subject to lower information requirements:</p> <ol style="list-style-type: none"> 1. An offer for sale to institutional investors 2. An offer for sale to high net worth investors, <p>Besides, all types of debt securities offerings under a private placement scheme are required to submit to the SEC reports on events that are material to the security's value.</p> <p><i>Annual reports</i></p> <p>The SEA Section 56 and 60 and the SEC Notification Tor Jor. 44/2556 stipulate that a securities issuer (of equity and debt securities, and others as defined under the SEA and by the SEC Notification) on an annual basis must prepare the following reports:</p> <ol style="list-style-type: none"> 1. Annual financial statements prepared according to Thai Financial Reporting Standards ("TFRS") and audited by the SEC's approved auditors 2. Annual report according to Form 56-2 (only listed companies) 3. Annual registration statements according to Form 56-1, <p>In addition, Form 56-1 (annual registration statement) is designed to allow investors to monitor and follow through significant company information throughout the year in the following aspects:</p> <ul style="list-style-type: none"> - Business overview (i.e. significant changes and development on shareholding structure, management, or business operation) - Organization and management structure, including directors and executives' information (e.g. meeting attendance and remuneration) - Corporate governance - Corporate social responsibilities
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- Related-party transactions
- Internal control
- Risk management
- Comparative financial statements for the last three years for equity securities or one-year comparative financial statement for debt securities, including an explanation of the factors that caused identified changes;
- Management Discussion and Analysis (MD&A) on the following areas:
 - o Business overview
 - o Operating performance and ability to generate profits
 - o Ability in managing assets used in the business operation
 - o Liquidity and capital adequacy
 - o Contingent liabilities and management of off-balance sheet transactions
 - o Factors and events that have a potential impact on the financial position and future business operations

The issuer must comply with the following submission deadlines of the reports on financial and non-financial information:

Type of report	Period of time and conditions for submission of the report to SEC and SET
Audited annual financial statements	Within the following time window: <ul style="list-style-type: none"> - Two months from the end of the accounting period - Three months from the end of the accounting period in case the company has submitted the 4th quarter reviewed financial statements 45 days prior to the submission of the audited annual financial statements
Annual registration statement (Form 56-1).	Within 3 months since the end of the accounting period and must be submitted to the SEC and SET
Annual report (Form 56-2)	No later than the date submitted to the shareholders, but should be within 4 months since the end of the accounting period <u>Note:</u> As the annual report and annual registration statements contain similar information, the SEC allows the issuer to submit only the annual registration statement with a complete set of audited annual financial statements.

Submission Method

The listed companies are required to submit all the reports to the SET and SEC via SET's disclosure system, called SET Community Portal ("SET PORTAL"), to publish these reports as well as all companies' announcements to the public. Non-listed companies are required to submit these reports to the SEC in hard copies and online via the SEC's disclosure system.

*Other periodic reports*Requirements of the SEC

Under SEA Section 56 and 60 and SEC Notification Tor Jor. 44/2556, other periodic reports that are required to be disclosed on a periodic basis are:

- Interim (reviewed quarterly or audited half-yearly) financial statements prepared according to TFRS and reviewed by an SEC's approved auditor
 - o These reports are required to be submitted within 45 days from the end of each quarter. The issuer can also choose to submit 2nd quarter reviewed financial statements or audited financial statements for the 6 month-period. If the company chose to submit the latter, it must do so within 2 months as from the end of the first half of the accounting year.
 - o In case that a listed company's operational results (i.e. revenues or net profits) have changed by more than 20% compared to the same accounting period of the previous year, the listed company must disclose an explanation (i.e. causes, key factors that make the difference, and effect thereof) in the interim management discussion and analysis and submit such report together with the financial statements to the SEC and SET.
 - o In case the issuer of debt securities is not a listed company, it is required to submit such reports to the SEC within the same period as mentioned above.

The detail and process of disclosure requirements are further addressed in the SEC Notification Tor Jor. 44/2556.

In case the listed company is being posted with an SP (Suspension) sign by the SET as a result from its financial distress or is in the list of the non-performing group as described under Clause 26 of the SEC Notification Tor Jor. 44/2556, the company shall comply with the following submission period:

Type of report	Period of time and conditions for submission of report
Financial report for the first half of the financial year and an interim management discussion and analysis	Within 45 days as from the end of the first half of the accounting year

Requirements of the SET

SET requires the listed companies to disclose the reports mentioned above to the public via the SET PORTAL. The SET has designed templates for "important news" (e.g. summary of financial results, material information), to facilitate the listed firms as well as investors to obtain the information easily and in a timely manner.

In addition to reports under the SEC Notification Tor Jor. 44/2556, the SET also further requires submission of a periodic summary of business operation (F45) together with the quarterly reviewed or audited annual financial statements. The submissions sent electronically through the SET in accordance with the relevant regulations are deemed to be submitted to the SEC office.

Shareholder voting decisions

The PCA, the SEA, and the SEC have set out disclosure requirements in the notice for shareholders' meeting. Generally, the AGM or EGM is held no later than 2 months after the record date has been determined.

These laws and notifications have specified a minimum list of information required to be disclosed in the notice for shareholders' meeting in the area that may affect the interest of the shareholders, as follows:

Record Date (RD)	Book Closing Date
In line with the SEA Section 89/26 and PCA Section 225	In line with the PCA Section 60
The listed company can host the shareholder meeting within 2 months after the record date. The company will have a longer time to prepare the document and sent to shareholders to consider thoroughly before attending the meeting	The listed company is required to hold the shareholder's meeting within 21 days after the book closing date

*Advertising of public offerings*Registration statement prior to the effective date

Under the SEA Section 77 and SEC Notification No. Sor Jor. 18/2547, if the issuer seeks to provide information before the registration statement's effective date, it can do so after it has submitted the document to the SEC at least three business days prior to the release date of the document for review. If the SEC has no objection, such distribution of information can be made. In addition, such information must be in line with those in the registration statement filed with the SEC, and there are no exaggerated, false, or misleading statements. Such a document should also contain a statement informing the investors that the document is not a prospectus of the company's offer for sale of securities. In the case where the company distributes any

information, which is not included in the registration statement filed with the SEC, such information shall be added in the registration statement without delay. (SEC Notification Tor Jor. 10/2556 Clause 14, Tor Jor. 30/2551 Clause 9)

Registration statement after the effective date

Under the SEA, Section 80 requires that, for any advertisement made to the public or to any other person to purchase securities, information in such advertisement shall not contain exaggerated, false or misleading statements. In case that the advertisement is made by a document, it shall contain the following details:

1. Amount, type, offer price per unit and the total value of securities offered;
2. Name of the issuer
3. Type of business to be or being operated
4. Place and time at which the draft prospectus may be obtained;
5. Name of underwriters (if any)
6. Other information specified in the SEC notification

Specifically, for equity securities, SEC Notification Tor Jor. 39/2559 Clause 38 (3) also stipulates that from the date the registration statement has become effective, if the issuer advertises its public offering aside from distributing its prospectus, the issuer can do so as long as the information in the advertisement meet the following conditions: i) Does not contain false, exaggerated, distorted, concealment of the truth, or misleading statement and ii) The material of the information presented in the advertisement shall not be beyond the information reported in the registration statement filed with the SEC.

In case that the issuer does not comply with the above requirements, the SEC is empowered to order the issuer to perform as follows:

- Cease or end its advertisement;
- Rectify the information or statement in the advertisement;
- Explain to the investors so that they receive information that is complete, correct, accurate and not misleading;
- Take or omit action within a specified period of time to allow investors to make a decision or review their decisions on the information that is complete, correct, accurate and not misleading.

Disclosure

Disclosure of material events

The SEA Section 57 states that a securities issuing company in accordance must submit a report with reasons to the SEC Office immediately when one of the following incidents occurs: 1) the company suffers serious damage; 2) the company ceases operating all or part of its business; 3) the company alters its objects or the nature of its business; 4) the company enters into an agreement entrusting other persons with power in whole or in part in the management of the

company; 5) the company takes over another company or is taken over; 6) any incident which affects or is likely to affect the rights and interests of securities holders or the decision-making on investment or the change in the securities price of the company.

In the case of listed securities, under the SET Notification Bor.Jor./Por.23-00, the SET requires all listed companies to disclose price-sensitive information, or information affecting the interests of securities holders or investment decisions in general, via the SET PORTAL system within the prescribed time (see below). The exchange has in place an "important news" web section to facilitate reporting to the listed companies and to allow investors to access material information on an equitable basis.

Material Information required to be disclosed

- (1) Price-sensitive information is required to be disclosed immediately, due to their potential impact on investment decisions. Such events include, but are not limited to, setting the date for shareholders' meetings, setting the book closing date or the record date, an increase or decrease in capital, share allotment, dividend payment, change in major shareholders, share repurchase and wind-down.
- (2) For material events that do not directly affect the decision to invest, SET requires listed companies to disclose them within three business days. Such events include the appointment of directors, executives, an auditor; relocation of the of headquarters; and changing of securities registrar. For other events, SET requires companies to disclose them on a periodic basis. For instance, reports on the use of proceeds from raised capital must be disclosed every 6 months and the free float ratio is required to be disclosed annually.
- (3) Financial condition, such as financial statements, management discussion and analysis, annual report, and annual registration statement (Form 56-1) as prescribed by SEC.

Method of disclosure: Listed companies are required to disseminate the company's information via the SET PORTAL. All information shall be disclosed in both Thai and English languages.

Disclosure schedule: To provide investors with adequate time to process listed companies' information prior to making their trading decisions in an equitable manner, listed companies shall disclose information outside trading hours.

The SET applies the same principle of disclosure for other securities whereby the issuers shall disclose complete material information within the prescribed timeframe via the SET PORTAL, thus, enable investors to obtain material information on time for their decision making. The material information varies due to the characteristics of each product.

	<p><i>Disclosure of the most significant risks of investing in the security</i></p> <p>The SEC Form 69-1 "Registration Statement for Securities Offering" requires that the issuer identify and explain risks that are material to the company and to its shareholders. These risks include:</p> <ol style="list-style-type: none"> 1. business risks of the company or company group, which can materially impact business operation, financial status, performance, or existence of the company 2. investment risks of the securities holders, in which case the issuer shall identify and explain the risks and their characteristics which may be faced by the securities holders: risks of not receiving his / her return on investment or rights that he/she is entitled to receive, or losing either wholly or partially of his / her investment, credit risk, market risk, and other relevant risks. <p>Together with, the issuer must also disclose the risk factors; potential impact; trend or possibility that such risks may occur. If there is a case that the company issues securities which have its own specific risks, the company shall disclose or highlight such risks in the registration statement as well. For instance, in case of debt securities, the SEC also requires the company to disclose significant risks in the factsheet as well as to explain special characteristics associated with the type of securities for the investors to consider.</p> <p><i>Periodic information about financial position</i></p> <p>Audited and quarterly reviewed financial statements are required to be reported by the issuer according to SEA Section 56 for all types of securities. Such information will be available for the public to access.</p> <p>Companies are also required to submit the audited financial statements together with the annual report to the shareholders. While there is no requirement for the company to distribute semi-annual or quarterly reports to its shareholders and/or bondholders, they can access these reports via the SEC and the SET websites. These reports include information on significant transactions such as related-party transaction; acquisition and disposition of assets; report on the directors, executives, and auditors' securities holdings; report on acquisition and disposition of securities; and tender offers.</p> <p>Moreover, according to the SEC Notification Tor Jor. 44/2556 (Clause 22), listed companies are also required to submit interim management and discussion and analysis in case that its operational results (i.e. revenues or net profits) have changed by more than 20% compared to the same accounting period of the previous year, the listed company shall disclose an explanation (i.e. causes, key factors that make the difference, and effect thereof) in the interim management discussion and analysis and submit such report together with the financial statements to the SEC and release these reports to the public via the SET PORTAL.</p>
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In case the issuer of debt securities is not a listed company, it is required to submit the same reports as mentioned above to the SEC in hard copies and online via SEC's disclosure system.

Stated audited financial statements included in a prospectus

In the case that there is a need to provide investors with additional material information for making investment decisions, the SEC has the power to order the issuer to submit any additional information, including the latest financial statements. In addition, where any significant change to the issuer's business structure (i.e. acquisition or disposition of material assets or capital structure changes) have not been reflected in the audited financial statements attached to the registration statement, the issuer must also provide proforma financial statement as if such significant changes had occurred at the beginning of that financial year and the period of the interim financial statement (as the case may be).

General requirement to disclose all information necessary to the issuing process

In addition to the minimum information required to be disclosed in the registration statement, the SEC Notification Tor Jor. 39/2559 and the SEC Notification No. Tor Jor. 17/2561 also requires the issuer to disclose any other material information which would enable investors and their investment advisors to make an informed assessment of the assets and liabilities, financial position, profits and losses, and prospects of the issuer and of the rights attaching to such securities.

This information should meet the qualitative criteria stipulated in the SEC notifications such that there should be no reason to doubt that the information disclosed to the public is incomplete and inadequate for making investment decisions or contains any statement which may mislead investors. In addition, directors and the CFO of the issuer must certify that the information disclosed in the registration statement is accurate, complete, without any false statement or misleading and omission of any material information. This statement should also be explicitly stated.

For significant transactions such as the acquisition of securities for business takeover, related party transactions, and material transactions (i.e. acquisition and disposition of asset), the issuer shall have the duty to ensure that the disclosed information of these transactions:

- is complete and accurate,
- contains no misleading content in any material aspect,
- does not conceal any material information which should be disclosed, and
- complies to relevant rules and requirements.

Measures available to the SEC

If the issuer fails to provide the required disclosures, the SEC may reject the IPO application.

Registration statement prior to the effective date

The SEC reviews every registration statement. In case the SEC is of the opinion that the statement or particulars in the registration statement are incomplete, the SEC, with the power given by the SEA Section 73, has the authority to order the issuer to file additional information or amend the registration statement. The SEC has the power to order the issuer to act within a specified period of time as follows: 1) Explain, amend, or submit additional information or evidential documents and 2) Arrange to have an independent expert to give an opinion on the accuracy, completeness, or credibility of the information contained in the registration statement.

Registration statement after the effective date

After the effective date, in case that the SEC found that statements in the registration statement are false or contain errors, the SEC empowered by SEA Section 76 has the power to order the issuer to proceed as follows:

In cases, where statements in the registration statement	SEC has the power to:
are false or fail to disclose material facts that should have been stated therein which may cause damage to the purchase of securities	<ul style="list-style-type: none"> - suspend the effectiveness of the reports - withdraw the approval for the sale of securities
contain material facts which are incorrect or there is an event which causes a material change in the information to contain in the reports which may affect the investment-making decision of the investors	temporarily suspend the effectiveness of the reports until a course of action has been taken to make a correction and another action is taken to make public the amendment of such information
are incorrect in other aspects	order the promoters of the issuer/company who files documents to make corrections

In the specific case of equity securities as part of the approval process:

- The SEC will review due diligence working papers of a financial advisor.
- The SEC will review the audit working papers of the auditors who reviewed and audited these financial statements. If the SEC found that the financial statements do not comply with the Thai Financial Reporting Standards (TFRS), the SEC has the power to order a restatement of those financial statements before allowing the offering to take place.
- The SEC will visit the issuer's company in order to conduct an interview with the management team and make inquiries or comments on the application information and the registration statement to ensure that the issuer complies with the approval criteria and the disclosure requirement.

Ongoing process

The SEC also oversees the issuer's disclosure of information by monitoring news and significant events of the issuer on a daily basis. The SEC coordinates with the SET to exchange information. The SEC also review the adequacy of information before its disclosure to the shareholders for transactions that require shareholder approval such as material acquisition and disposition assets and related party transactions. In addition, the SEC also reviews documentation related to tender offers (Form 247-4) including the opinion of the company on it (Form 250-2).

In monitoring annual registration statements (Form 56-1), the SEC uses a risk-based approach ("RBA") to review the forms submitted by the issuer of equity securities. The main RBA criteria include:

- Companies which their operating results have significantly decreased or likely to face financial problems.
- Issues that pose higher risk and impact on the capital market such as listed companies with frequent report observation or issues or those which affect the public interest for specific reasons.

Oversight statistics

The table below shows the oversight activity of two of the most relevant supervision activities on corporate issuers in terms of financial (financial statements) and non-financial information (Form 56-1, Annual report). The data suggest that around 40% of the total number of listed companies were actively reviewed. A figure that does not include automatic checking procedures and data validation. The percentage of reviewed entities is in line with international practice.

	2015	2016	2017	2018
Total number of listed companies	639	656	688	704
Number of companies which both its financial statements & Form 56-1_were reviewed	83	39	35	43
Number of companies which only its financial statements were reviewed	110	197	199	187
Number of companies which only its Form 56-1 were reviewed	105	35	0	65
Total number of listed companies reviewed	298	271	234	295

It can be noticed that from the total number of companies listed, between 5% and 15% of them are reviewed each year in terms of their financial statements, which suggest some room for improvement on the coverage of the total universe of issuers.

Regulation to ensure liability for the content of disclosures

The SEC Notifications require a signature from all directors, the officer of the highest management position in the accounting department of the securities issuer, and the financial advisor (if provided) to certify the accuracy and completeness of the information. If information contains false statements and concealment of facts are found, the sanction will fall under SEA Section 278.

According to the SEC Notification Tor Jor 30/2551, the company is exempted from the requirement of a financial advisor in the case where the debt securities issuer is a listed company with good corporate governance standing (meeting certain conditions set out in the SEC Notification Tor Jor. 17/2561) and has received an investment grade rating.

As stipulated in SEA Sections 82 and 83, in cases where the registration statement and prospectus contain false statements or particulars or fail to disclose material facts that should have been stated therein, any person who purchases securities from the promoters of such company, a company or securities owners, and such person is still the owner of such securities, has the right to claim compensation from the company or the securities owners.

In case that the director, manager, or person responsible for the operation of any juristic person under the SEA:

Actions	Sanctions
dishonestly deceives the public by the assertion of falsehood or the concealment of facts which otherwise should be revealed to the public, and by such deception, <ul style="list-style-type: none"> • obtains property from the public or from a third person deceived, and • by such deception, obtains property from the public or from a third person so deceived, or leads the public or third person so deceived to execute, revoke, or destroy a document of right [SEA Section 306] 	such director, manager, or person responsible for the operation is subject to imprisonment for a term of five to ten years and a fine from THB 500,000 to THB 1,000,000.
commits or permits another to act in order to: <ul style="list-style-type: none"> • damage, destroy, alter, abridge, or falsify accounts or documents or collateral of such juristic person or related to such juristic person; • make false entries or fail to enter any material statement in the accounts or documents of such juristic person or related to such juristic person; or • prepares incomplete, incorrect, out-of-date, inaccurate accounts, 	

	<p>where such action is done or permitted to be done to deceitfully deprive the juristic person or its shareholders of their rightful benefit or to deceive any person [SEA Section 312]</p>	
<p>In addition, under the SEA Section 89/20, the directors and the executives are also liable for any damages arising from disclosure of information to shareholders or the public which contains a false statement or concealing material facts which should have been stated in the following cases, unless such director or executive can prove that, by his/her position, he/she could not have been aware of the truthfulness of information or lack of information which should have been stated:</p> <ol style="list-style-type: none"> (1) providing information in support of seeking a resolution of the shareholders' meeting; (2) financial statements and reports concerning the financial condition and the business operation of the company or any other reports required to be disclosed under Section 56, Section 57, Section 58 or Section 199; (3) an opinion of the business when a person makes a general tender offer to purchase shares from shareholders; (4) providing information or any other reports in relation to the business prepared by the company for the purpose of disclosure to shareholders or the public as specified in the SEC notifications. <p><i>Circumstances where disclosures may be omitted</i></p> <p>According to the SEA Section 56, the CMSB may issue a notification to grant a waiver or an exemption of duty to prepare or submit the information related to financial statements and reports concerning the financial condition and the business operation by taking into consideration the necessity of information for the decision making of investors. In this respect, according to CMSB Notification TorJor. 44/2556 (Rules, Conditions and Procedures for Disclosure of Financial and Non-financial Information of Securities), a waiver can be granted by the SEC if the issuer can demonstrate to the SEC that (1) such information does not materially affect the investment decision of investors and (2) there is a reasonable ground not to disclose such information or other sufficient measure has been provided in lieu of the disclosure of information. As equivalent information should be maintained since the offering of the securities and on an ongoing basis, the annual registration statement (Form 56-1) also allows similar exemptions.</p> <p>The SET's rules on the disclosure of information of listed companies (Bor.Jor. 23-00 Clause 3.1(4)) indicate the following circumstances for which a company may temporarily refrain from publicly disclosing material information, provided that complete confidentiality is maintained:</p> <ul style="list-style-type: none"> - when immediate disclosure would prejudice the ability of the company to pursue its corporate objectives - when the facts are in development - when the immediate disclosure will significantly benefit a company's competitor. 		

	<p>In case there is any information leakage, the company should be prepared to make an immediate public announcement.</p> <p>Where there are derogations from disclosure, the regulation allows temporary trading suspensions as well as restrictions and sanctions on trading by corporate insiders.</p> <p>a) The SET has an authority to temporarily suspend trading on any individual stock and post the status symbol: H (Trading Halt) and SP (Suspension) if the trading condition of any listed securities indicates that some groups of investors may have obtained material information and SET is inquiring the facts and awaiting explanations from the company. The company may also decide to request the SET to temporarily suspend trading of its securities until the issuer can disseminate the information to the public completely and thoroughly. Only until such disclosure is made can SET removes H or SP symbols, thereby allowing the securities to resume normal trading activities. Recently, the SET introduces the "C" (Caution) sign effective from July 2, 2018, to protect investors and urge listed companies to resolve the issues arise from deteriorating financial status, financial statement and business operation (SET Notification Bor.Jor. (Wor) 2/2018). This is to remind investors to study those of securities carefully before making an investment.</p> <p>When such material information is publicly disclosed, the SET also recommends that insiders should wait for at least 24 hours or 48 hours after the general publication of the release has been adequately disseminated.</p> <p>b) The regulatory regime relating to insider trading is based upon both criminal and civil sanctions. The fundamental provision is in Section 242 of the SEA, which imposes restrictions and sanctions on the trading activities of persons with superior information (i.e. inside information). Breaches of Section 242 will lead to a criminal violation under Section 296 and civil liability under Section 317/5 of the SEA.</p> <p><u>Cross border offerings</u></p> <p><i>Equity securities</i></p> <p>The regulatory framework imposed on foreign issuers can be classified into two categories:</p> <ol style="list-style-type: none"> (1) In case that a foreign issuer mainly offers its securities for sale to the public in Thailand and has the SEC as its host regulator, such issuer shall follow provisions and requirements comparable to those required for Thai issuers. (2) In case that the foreign issuer mainly offers its securities for sale to the public in a foreign jurisdiction that regulates listed companies similarly to those listed in Thailand (i.e. listed in an established exchange), and has the respective foreign regulator as its home regulator, the issuer shall comply with the regulations stipulated by such regulator.
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The approval criteria and disclosure requirements are stipulated in the SEC Notifications Tor Jor. 3/2558, Tor Jor. 14/2558 and Form 69-1-F.

Currently, there are no public offerings of equity securities by foreign issuers.

Ongoing disclosure requirements - For ongoing disclosure, SEC Notification Tor Jor. 17/2558, which is issued in support of SEA Section 56, requires that the foreign issuer is subject to financial disclosure requirements similar to those required for Thai issuers.

In order to protect the benefits of the investors so that they have enough information to make an informed decision without imposing excessive disclosure conditions to the issuer, the SEC may consider either to relax the requirements or to adopt additional criteria in relation to the disclosure reports required to the foreign issuer. When making this consideration, the SEC takes into account the following factors:

- 1) The regulatory framework of the home jurisdiction;
- 2) Credibility, sufficiency, and timeliness of home jurisdiction disclosure requirements;
- 3) Characteristics of the foreign issuer;
- 4) Other factors that may impact the rights of the shareholders.

The SEC keeps the authority to repeal, amend or change its prior decision.

Debt securities

A foreign issuer that offers debt securities for sale to the public in Thailand and has SEC as its host regulator, must follow the provisions and requirements comparable to those required for the Thai issuer. The approval criteria and disclosure requirements are stipulated under SEC Notifications Tor Jor. 62/2561 (foreign currency denominated bonds) and Tor Jor. 63/2561 (Baht denominated bonds) and Form 69-FD, which are in line with the "IOSCO's International Disclosure Standards for Cross Border Offerings and Initial Listings by a Foreign Issuer".

Ongoing disclosure requirements - For ongoing disclosure, the SEC Notification Tor Jor. 44/2556 requires that the foreign issuer be subject to disclosure requirements as follows:

Type of report	Period of time and conditions for submission of the report to SEC
1. Audited annual financial statements	within the same period that the foreign issuer has to submit the same report to their lead regulator or no later than 180 days prior to its submission of the audited annual financial statements, whichever comes first.
2. reviewed quarterly financial statement (if any)	
3. Annual registration statement (Form 56-1).	

Assessment	Fully implemented
Comments	<p>The SEA provides the SEC with ample powers to monitor, oversee and discipline issuers and all entities and persons with responsibilities in public offerings.</p> <p>From the total number of companies listed, between 5% and 15% of them are reviewed each year in terms of their financial statements, which suggest a room for improvement on the coverage of the total universe of issuers. Nevertheless, this fact is not considered to affect the grading of this principle. In addition, the SEC should consider implementing common processes between areas reviewing qualitative and quantitative aspects of issuer disclosure reports. None of these issues are considered to affect the grading of this specific Principle.</p>
Principle 17.	Holders of securities in a company should be treated in a fair and equitable manner.
Description	<p>Regulatory background</p> <p>The Public Limited Companies Act B.E. 2535 (1992) (“PCA”) sets out the basic rights for shareholders. In addition, the SEC and the Thai Institute of Directors (IOD), issued the Corporate Governance Code (the CG Code) in 2017 to be used as a practical guideline for corporate governance, with a view to strengthen the roles, duties, and responsibilities of the board of directors as promoters of sustainable corporate values. The Code also focuses on the board of directors’ effectiveness, effective risk management and internal control, shareholders’ engagement and communication. It must be used on a ‘comply or explain’ basis while the publicly disclosed information will be used by the IOD to evaluate and grade the companies in the Corporate Governance Annual Report. In addition, the Investment Governance Code (I-Code), which provide guidelines to institutional investors to perform an active role as shareholders, was also launched to urge listed companies to adhere to good corporate governance principles.</p> <p>Rights and equitable treatment of shareholders</p> <p>Shareholders have the right to vote for different business matters according to the procedures stated in the PCA or the Company’s Article. Each shareholder has the right to vote equitably according to the number of shares he/she holds under a one share, one vote basis. Where a shareholder holds preferred share(s), the company may require one share to represent less than one vote (PCA Section 102 in conjunction with Section 33 paragraph 4).</p> <p><i>Voting for the election of directors</i></p> <p>Under the PCA, Section 70 stipulates the right for shareholders to vote for the appointment of directors. Unless the company’s articles of association require otherwise, the election of directors must be conducted at the annual shareholders’ meeting in accordance with the following rules (cumulative voting):</p> <ol style="list-style-type: none"> (1) Each shareholder has the same number of votes as shares held by such shareholder multiplied by the number of directors to be elected; (2) Each shareholder can cast his/her vote for one or more nominated persons;

- (3) The nominated persons with the highest number of votes in the respective order are elected as directors in accordance with the number of directors the company intends to elect.

Although the company may have different rules and procedures in the articles of association, these must not contain any provision that precludes the right of shareholders to vote in an election of directors.

The article of incorporation may provide for a one share, one vote scheme, different from the cumulative voting scheme. The diagram below shows the difference between cumulative voting and the one share one vote system.

Cumulative voting	One share one vote
Each shareholder has the number of votes equivalent to that of the shares held by such shareholder <u>multiplied by the number of directors to be elected</u>	Each shareholder has the same number of votes as shares held by such shareholder
Each shareholder can cast his/her vote to <u>one or more nominated persons</u>	Each shareholder can cast his/her vote for <u>one nominated person</u>
The nominated persons with the highest number of votes in the respective order are elected as directors in accordance with the number of directors the company intends to elect.	The nominated persons with the highest number of votes in the respective order are elected as directors in accordance with the number of directors the company intends to elect

The SEA allows any shareholder or group of shareholders, holding at least 5% of the total number of voting rights, to submit to the board of directors a written proposal as an agenda for the shareholders' meeting, including the nomination of any person as a potential director in the upcoming shareholder meeting (SEA Section 89/28).

Recently, the PCA Section 100 has been revised to reinforce the rights of shareholders in relation to the procedures for summoning an extraordinary shareholders' meeting. Any shareholder or group of shareholders holding at least 10% of the total number of shares can submit a written requisition to the board of directors to organize the meeting, which shall be conducted within 45 days of the request. In case that the board of directors does not organize such a meeting, the PCA has empowered the shareholders with the right to organize the meeting on their own.

	<p><i>Voting on corporate changes affecting the terms and conditions of their securities</i></p> <p>The terms and conditions relating to shares are either set out in the PCA (for example, PCA Section 33 and 102 stipulate that one share carries one vote, PCA Section 57 describes that shares must be transferable unless due to any limitation on foreign ownership) or in the company's memorandum or in its articles of association (for example, PCA Section 30 and 102 allows the creation of preferred shares, however, the features of such preferred shares must be set in the company's memorandum). A requirement of shareholders' approval of no less than three-fourths of the total number of votes of those who attend the meeting is applicable for the following resolutions:</p> <ul style="list-style-type: none"> - Amendment of the memorandum or the company's articles of association (PCA Section 31) - Increment and reduction of registered capital (PCA Section 136 and 139) - Dissolution of the company (PCA Section 154) <p>In relation to the shareholders who vote against the resolution of the shareholders' meeting in relation to the company's articles of association in the matters related to the shareholder's right to vote and right to receive dividends (PCA Section 66/1), the company may repurchase shares from such shareholders. In case of a merger, the companies are also required to repurchase shares from dissenting shareholders (PCA Section 146).</p> <p><i>Voting on other fundamental corporate changes</i></p> <p>For listed companies, the PCA, SEC, and SET have issued additional regulations for the following matters:</p> <ul style="list-style-type: none"> - Increment and Reduction of registered capital through the offer of newly issued securities - Private placements (SEC Notification TorJor. 72/2558) - Selling of newly issued securities to directors and employees at a lower than market price (SEC Notification TorJor. 32/2551 – Clause 5) - Material transactions (i.e. acquisition or disposition of assets (SEC Notification TorJor. 20/2551; SET Notification Bor. JorPor. 21-01)) - Related-party transactions (SEC Notification Tor Jor. 21/2551; SET Notification Bor. JorPor. 22-01; and SET Notification Bor. JorPor. 22-02) - Amalgamation of companies (PCA Section 146 / SET Notification Bor. JorPor. 24-00) - Waiver from the requirement to carry out a tender offer for all securities of business by virtue of the resolution of the shareholders' meeting of the business [whitewash] (SEC Notification Sor Chor. 36/2546, Clause 6(2)(a)) - Delisting of securities (SET Notification Bor. JorPhor. 01-00)
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The additional regulations indicated above require the listed companies to submit information to the shareholders no later than 14 days prior to the shareholders' meeting date and obtain approval from no less than three-fourths of the total number votes of those attending the meeting.

The SEA also sets out the basic rights of the shareholders so that they are adequately protected, and their rights are consistent with the characteristics and cases of listed companies. For instance, in case that the listed company has material related party transactions or transactions relating to acquisition/disposition of assets such as:

- the related party transaction is of high value (i.e. equivalent to or more than 3% of the net tangible asset or more than 20 million Thai Baht, whichever is higher)
- the transaction relating to acquisition/disposition of asset is of high value (i.e. exceeding 50% according to the stipulated valuation methodology and if transaction value exceeds 100% and falls under the criteria of backdoor listing, an issuer is required to reapply for its listing status), the listed company has to request for shareholders' meeting approval and shall disclose sufficient information for investors to make an informed decision. The listed company will be able to proceed with these transactions when the shareholders' meeting approves the transaction with the affirmative vote not less than three-fourths of the voting rights of those who attended the meeting and have the right to vote.

For other significant transactions such as, i) where a listed company offers newly issued shares in a private placement at a price lower than the market price, or ii) where a waiver of a tender offer is granted through a shareholders' resolution, they must be approved by at least 10% or 5% of the total voting rights, respectively. Otherwise, the company will not be allowed to proceed with the transaction.

Timely notice of shareholders' meetings and voting decisions

Companies' board of directors are required by the PCA to i) Prepare a notice summoning the shareholders' meeting; ii) Submit the notice to the shareholders at least 7 days prior to the meeting date, and iii) Publish the shareholders' meeting date in a newspaper at least 3 days prior to the meeting date (PCA Section 101).

Procedures that enable beneficial owners to give proxies or voting instructions efficiently

The PCA enables shareholders to give a proxy to a person to attend the shareholders' meeting and vote on his/her behalf (PCA Section 102). Various forms of proxies are stipulated by the Department of Business Development (Notice of Department of Business Development. Re: Form of Proxy (No.5) B.E. 2550). According to that regulation, shareholders can allow proxies to vote on specific points of the agenda of the meeting according to the proxy's or the shareholder's decision. This option provides a convenient procedure for both Thai and foreign shareholders, including foreign investors appointing a local custodian (PCA Section 34).

The revised CG Code also sets out a practical guideline for the board of directors to ensure that there are no actions which limit the shareholders' opportunity to attend the meeting or that create an inappropriate burden to the shareholders. For example, the company should not require shareholder or proxies to bring documentation or evidence to confirm his/her identity more than which is specified in the regulations of the SEC. In addition, proxy solicitation is also supported by the SEA Section 89/31 together with relevant rules and regulations.

Record on ownership of shares

According to the SEA Section 225, where securities are deposited with the SET, the depositor must prepare a list of security holders, whose securities have been deposited with the SET, in accordance with the rules and procedures as specified by the SET. After the SET has accepted the deposit of such securities, the SET may accept the transfer of such deposited securities into its own name and shall hold such securities for the depositor or for any customer who is the owner of such securities. Securities which are in the name of the SET shall be presumed to be securities held by the SET on behalf of those persons according to type, category and amount as appear in the list of names prepared by the depositor. The SEA Section 227 also gives the shareholders their right to request from the TSD the share certificates of their ownership and PCA Section 63 also gives the shareholders further right to examine the shareholder's registration with the securities registrar.

Transfer of shares

The PCA prohibits listed companies to impose a restriction on transfer of shares. However, exceptions can be made when such restrictions are imposed to (1) preserve rights and benefits which the company may enjoy under the law or (2) when it is to maintain a ratio of shareholdings between Thais and foreigners. (PCA Section 57).

Payment of dividends

The PCA Section 115 stipulates the rules for the distribution of dividends. Unless otherwise provided in the articles of association, dividends shall be distributed in accordance with the number of shares, with each share being granted equal amount, provided that the payment of dividends must be upon the approval of the shareholders' meeting. If permitted by the articles of association of the company, the board of directors may declare the payment of interim dividends to the shareholders when it is apparent that the company has a reasonable amount of profits to justify such payment.

The revised CG Code also sets out practical guidelines for listed companies when preparing the agenda for the shareholders' meeting. Among the information listed companies are encouraged to disclose are: 1) the objective and reasons of the distributions, and 2) the opinion from the board of directors in relation to the dividend rate.

For other types of distributions, the SET requires immediate disclosure of information, for example:

- Repurchase or share buy-backs and disposition of repurchased shares (SET Notification Bor. JorPor 11-00 and 11-04).
- Increase or decrease of the company's capital and changes in the nominal value of shares (SET Notification Bor. JorPor. 12-00).

Tender offer for the purpose of business acquisition

The SEA Sections 247 and 250, provide mechanisms to protect shareholders when a tender offer is launched for the purpose of a business acquisition as follow:

- (1) Where any person, by his own act or acting in concert with others, acquires or disposes securities of any business, thereby increases or decreases the number of securities held to a number which aggregately reaches any multiple of 5% of the total number of voting rights of such business, such person is required to report the acquisition or disposition of securities to the SEC no later than 3 business days from the day such securities are acquired. Under this requirement, investors will be able to monitor the changes of securities holdings of the major shareholders who may potentially carry out a takeover on the company (SEA Section 246 and related SEC Regulations). The SEC will publish such information via the SEC website.
- (2) Any person who offers to purchase by his own act or acting in concert with others, or takes any action that results or will result in such person to acquire the company's shares up to or in excess of: 25%, 50% and 75% of the total number of voting shares, is required to lunch a tender offer for the total of shares (SEA Section 247 and related SEC regulations).

The tender offer procedures must be conducted in accordance with the SEC Notification Tor Jor. 12/2554 (Re: Rules, Conditions and Procedures for the Acquisition of Securities for Business Takeovers), which includes requirements regarding the disclosure of the acquirer's intention to launch the tender offer, the tender offer proposal, the cancellation of shareholders' intention to sell his/her shares at the offered price, the amendment of conditions, the offer period, the report on the tender offer results, and the cancellation of the tender offer. The offeror must also appoint a financial advisor to prepare the tender offer.

In addition, the SEC prohibits the listed companies the inclusion of anti-takeover provisions, except when it has received shareholders' approval and they are in compliance with the SEC regulations (SEA Section 250/1 and SEC Regulations).

	<p><i>Other transactions that result in a change of control on the business</i></p> <p>In supervising other transactions that result in a change of control on the business, the PCA and SEA stipulate requirements as follows:</p> <ul style="list-style-type: none"> - Procedures in the amalgamation of companies: Before proceeding with the transaction, each company is required to obtain a resolution from the shareholders' meeting with no less of three-fourths of the total number of votes from those who attended the meeting. In case there is a shareholder of a company who votes against the amalgamation, such company is required to arrange a buyer of shares for such shareholder at the market price of the date prior to the date of the shareholders' meeting resolution (PCA Section 146). - Procedures on transactions regarding the acquisition and disposal of assets (including reverse takeovers) and related party transactions: A listed company is required to request a shareholders' meeting approval prior to performing the following transactions: <ul style="list-style-type: none"> o High-valued related party transactions (i.e. equivalent to 3% or more of the net assets or THB 20 million or more, whichever is higher) o Acquisition or disposal of high-valued assets - Three-fourths of the total number of votes from those who attended the meeting and are entitled to vote is required before the company can proceed with the above transactions. - The company shall ensure that the information is adequately disclosed for the shareholders to make an informed decision (SEA Section 89/12 and 89/29; SET notifications). - In case that the listed company does not comply to the regulation and have caused damage to the company itself, the directors and management of the company may be charged with criminal or civil penalties (SEA Section 281/2 and 317/4(4)) such as bar the prohibition from serving as a director or executive in the issuing company. - In the case where a listed company acquires assets of a non-listed company with a value equal to or over 100% of the listed company itself, such transaction may be deemed as a reverse takeover. In this case, the listed company must file an application to the SET for consideration for reapproval as a listed company. <p>The SET requires the immediate disclosure of any changes in major shareholder of the company.</p> <p><i>Directors and senior management accountability</i></p> <p>The PCA and SEA stipulate that the company's directors and executives must perform their duties in accordance to the law, regulations, and the company's articles of association as well as the resolutions of the board of directors and shareholders' meeting with integrity, honesty, and due care in the protection of the benefits of the company (PCA 85 and SEA Section 89/7).</p>
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- In case of non-compliance where such act or omission of such act causes loss to the company:
- The company may claim compensation from such director and/or executive; or
 - The shareholders who hold the aggregate number of shares of not less than 5% of the total may claim a compensatory damages award on behalf of the company (derivative action)
 - In cases where there is an action that threatens the company to incur a loss, the PCA also allows the shareholders to apply to the Court for an order restraining such act and/or may apply to the Court for an order to remove such director from the company (PCA Section 85). The SEA Section 89/18 also empowers shareholders with the right to apply against a director and/or executive for non-compliance of his/her duties and responsibilities, with the aim of the disgorgement of undue benefits obtained to the company.
 - The director and/or an executive may also be subject to criminal and/or civil penalties.

The SEA Section 89/21 prohibits a director and/or an executive to act or omit to act in bad faith or with gross negligence causing damage to the company or causing the company to lose benefits that should have been obtained otherwise. If this is done, the director and/or executive will not be allowed to make use of approval or ratification from the shareholders' meeting or the board of directors to release himself/herself of these liabilities. The director and/or executive shall also meet the stipulated qualifications and show trustworthiness in managing the business of the company (SEA Section 89/3, 89/4, 89/6 and SEC Notification KorJor. 3/2560). The SEA Section 317/1 and 317/4 specify offenses whereby civil sanctions may be imposed and civil sanctions respectively, which are universally applicable, including companies' directors and/or executives.

Bankruptcy or insolvency of the company

In case a company goes into bankruptcy, the PCA Section 154 stipulates that upon the occurrence of such event the company must be dissolved. The procedures under which the assets would be managed after the dissolution of the company fall under the authority of the official receiver empowered by the Bankruptcy Act B.E. 2483 (1940) ("Bankruptcy Act"). The Court would be an examiner of such official receiver's performance. However, in case that the company enters into a business rehabilitation plan in accordance to the Bankruptcy Act, the authority for managing the company's assets falls upon the interim manager, plan preparer, and plan administrator, who must be subject to examination by the company's creditors and the Court. In addition, according to the SEA Section 89/22 (1), such persons are also subject to fiduciary duties in the same manner as a company's director or executive, and therefore any violation of these duties may cause such persons to be subject to criminal or civil penalties.

Disclosure of information material to an investment or voting decision

The PCA stipulates that a company shall disclose information to its shareholders before a shareholders' meeting is held so that they officially have a complete set of information to make

an informed decision. The PCA Section 101 specifies that the company's board of director prepares a notice summoning the shareholders' meeting including therewith the place, date, time, agenda of the meeting, and matters to be submitted. The notice shall include reasonable details and a clear indication as to whether such matters are to be submitted for information, approval or consideration as well as opinions of the board of directors on such matters. For transactions such as takeovers and other changes of controls, the SEC requires minimum disclosure of information concerning these transactions as follows:

- (1) Disclosures of information relating to takeovers: The offeror must disclose information in accordance to the forms stipulated by the SEC to enable investors to monitor changes in the shareholdings of the major shareholders, provide adequate information for consideration and decision-making, and provide a fair exit for the existing shareholders. The followings are the example of these forms:
- Reports of the Acquisition or Disposition of Securities (Form 246-2);
 - Tender Offer (Form 247-4);
 - The opinion of a Business on Tender Offer (Form 250-2)

To illustrate, Form 247-4 requires the offeror to disclose accurate and complete information without any being misleading, and that no concealment is made on any material information that should be disclosed. The form stipulates disclosures of information in various areas as follows:

- The conditions of the tender offer
- Offer period
- purpose of the tender offer
- Business status (e.g. to specify whether or not the status of the business shall remain a listed company)
- Business management policy and plan within the next 12 months
- Sources of funds for the tender offer
- The relationship between the offeror and the business
- Business information
- Shareholding structure of the business
- Financial status and performance of the offeror over the past three years
- Information relating to criminal records of the offeror over the past five years

In case that the offeror seeks a waiver to carry out a tender offer, the offeror must obtain a favorable resolution from the shareholders' meeting with three-fourths of the total voting rights from the shareholders who are entitled to vote and attended the meeting. The SEC has also issued a regulation to ensure that material information is disclosed in order for the shareholders to make an informed decision (SEC Notification Sor Chor. 36/2546 (Clause 3-6)). Listed companies also must disclose the above information through the SET Portal without.

	<p>(2) Disclosure of information on transaction performed to acquire and dispose of assets</p> <p>A listed company shall disclose the resolution of the board of directors relating to acquisition and disposition of assets as soon as the company agrees to enter into such transaction through SET Portal. The material information in the resolution of the board of directors required to be disclosed includes, but not limited to:</p> <ul style="list-style-type: none"> - details of the assets; the value of the consideration; method of payment and other important condition according to the agreement - value of the assets acquired or disposed - benefits to be received by the listed company - sources of funds for acquisition of an asset in case that the source of funds is through the loan of financial institutions: the listed company shall identify conditions which affect the rights of the shareholders - use of proceeds in the disposition of assets - other conditions that are necessary to process prior to acquisition or disposition of such assets - in case that the listed company invests in company that is a related party (i.e. major shareholder of the company) and has business that is related to that of the listed company: an explanation, necessity, and measures to prevent potential conflicts of interests shall be disclosed as well as opinions from the board of director for entering into such transaction as to whether or not such transaction is appropriate and beneficial to the listed company, and whether it contains risks or other concerns. <p>In the case where entering into this type of transaction requires approval from the shareholders' meeting, the board of directors shall disclose its opinion clearly whether the shareholders should approve such transaction and the reasons of the opinion. If an audit committee or a director have different opinions, such opinions shall also be disclosed to the shareholders.</p> <p>In addition to the above disclosure requirements, the listed company shall make an arrangement to have an opinion from an independent financial advisor, who can demonstrate an independent view on such transaction to the board of directors in regards of the reasonableness and benefits that the listed company shall receive, fairness of price and conditions of the transaction, whether or not shareholders shall vote for or against the transaction with supporting reasons, and opinion on whether additional working capital is needed in case where the transaction performed is considered a backdoor listing.</p> <p>(3) Disclosure of information on related party transactions</p> <p>The concept of a related party is developed in the SEA Section 258 (1) through (7). The SEC Notification TorChor. 21/2551(Rules on Connected Transactions), provides that "connected transactions" shall comply with the SET's guidelines on that matter. In that respect, the SET Notification BorJor 22-01, stipulates that companies must disclose the resolution of the board the directors relating to related party transactions as soon as the company agrees to enter into such transaction through SET Portal. The</p>
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	<p>material information in the resolution of the board of directors which are required to be disclosed include:</p> <ul style="list-style-type: none"> - explanation regarding nature of an asset, service and an offer or receipt of financial assistance - in case that such transaction is an investment, name, type of business, nature of the business, a summary of financial status and the operating result, as well as major shareholders and directors, must be identified - a total value and criteria used in determining a transaction's total value, a total return value, mode of payment, conditions, interest rates, a period of return of payment, interest, and collateral (if any) - name of connected persons and the nature of the relationship - characteristics and scope of interests of connected persons when agreeing to enter into such related party transaction - in case of asset purchase and offer of financial assistance, financial sources and adequacy of capital flow shall be identified - in case of a loan, conditions that may affect shareholders' right such as restriction of dividend payment shall be indicated - name of the directors who have interests and/or who are related persons and statement showing that such directors will not attend the meeting and have no right to vote in the meeting - opinions of the board of directors concerning a decision to enter into a connected transaction, specifying the reasonableness and the highest benefit to the company compared with a decision to enter into a transaction with an independent third party as well as risks that may potentially occur from entering into related party transaction - opinions of the company's audit committee and/or directors which are different from those of the board of directors or when the latter abstains their votes <p>In addition to the above disclosure requirements, according to the SET Notification BorJor 22-02, companies shall make an arrangement to have an opinion from an independent financial advisor (a financial advisor approved by the SEC), who can demonstrate an independent view on such transaction to the board of directors in regards of the reasonableness and benefits that the listed company shall receive, fairness of price and conditions of the transaction, and whether or not shareholders shall vote for or against the transaction with supporting reasons.</p> <p>According to the same SET Notification cited above, prior to submitting this information to the shareholders, the company is also required to submit the information to the SEC for review to ensure completeness of information and compliance with the respective regulations. In case that there is other information deemed necessary to be disclosed for the shareholders, the SEC is also empowered by SEA Section 89/27 to stipulate additional requirements.</p>
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Additional regulations on takeover bids and change of control

- (1) An adequate period of time for shareholders to make a decision in case there is a tender offer for the purpose of business takeover is specified under SEC Notification on rules, conditions, and procedures in the acquisition of securities for business takeovers. The notification stipulates that the offeror shall specify the offer period of at least 25 consecutive business days but not more than 45 consecutive business days. It also requires that the offeror allow the shareholders, who intend to sell their shares according to the offer, to cancel their tender of securities pursuant to the offer document any time during the period specified in the offer, which shall not be less than 20 business days. In case that the offeror obtained a waiver from launching a tender offer for all securities of the business by virtue of the resolution of the shareholders' meeting of the business, the notification requires that the notice for the shareholders' meeting and adequate information on the acquisition be submitted at least 14 days prior to the meeting date.
- (2) An adequate period of time for shareholders to make a decision under SEC notifications relating to transactions concerning acquisition or disposition of assets or related-party transactions. A listed company is required to submit the notice for shareholders' meeting and adequate information relating to these transactions at least 14 days prior to the shareholders' meeting date.

Any person who offers to purchase by his own account or acting in concert with others, or takes any action that results or will result in such person having acquired the company shares exceeding the following thresholds: 25%, 50%, and 75% of the total number of voting rights, is required to carry out a tender offer for all the shares of that such company (SEA Section 247 and related SEC regulations).

The types of securities that are subject to the tender offer are ordinary share, preferred share, warrant and convertible debenture (CD). Those exempted from such duty are treasury stock, warrant or CD that possesses any of the following characteristics:

- The exercise price is higher than or equal to the offer price, and the offeror has never acquired such securities during the period of 90 days prior to the date when a tender offer is submitted to the SEC;
- The offeror cannot exercise the conversion right because the right expires before the end date of the offering period or the exerciser is subject to certain limitations, e.g., the right reserved to directors or employees of the business;
- The nomination is in a foreign currency.

In addition, in order to ensure that every shareholder is treated equitably, SEC has also stipulated method for the offering price determination. The tender price given to all holders of securities of the same class and issue shall be in the same form and shall not be less than the highest price paid for shares of such class which have been acquired by the offeror or any related party (i.e. spouse, a jurisdiction person in which the offeror holds shares in an amount not less than 30% of the total number of voting rights, and a concert party of the offeror) during

	<p>the period of 90 days prior to the date on which the offer document is submitted to the SEC. The shareholder retains his / her right whether to accept or reject the offer.</p> <p>Further, PCA Section 80 prohibits directors to cast votes on issues in which they have interests. There are also rules stipulated for specific areas (e.g. related party transactions on certain circumstances), where the directors and executive management, who have special interests on such transactions, are prohibited from attending the meeting.</p> <p>Substantial holdings of voting securities <i>Identity and holdings of persons</i></p> <p>The SEA Section 69 and SEC notification require that information regarding the list of shareholders' names be disclosed in the registration statement for securities offering ("Form 69-1") as well as in the annual registration statement ("Form 56-1"). This information includes:</p> <ul style="list-style-type: none"> - Top 10 shareholders, and - Major shareholders (i.e. shareholders who own more than 10% of the total number of voting rights) in which practically have a significant influence on policy-setting and business operation (e.g. assign a person as a director who has authority to manage the business operation) <p>In addition, the abovementioned forms require that in case that any of shareholders' names are not the true beneficiaries of the shares (e.g. being a holding company or nominee account), true beneficiaries shall be identified and disclosed. The information disclosed shall also include the main business of the true beneficiary person of the shares, except where there is a reasonable cause that a true beneficiary person cannot be identified.</p> <p>Reporting of acquisition and disposition of securities - Where any person, by his own act or acting in concert with others, acquires or disposes securities of any business, thereby increases or decreases the number of securities held by him or other persons in such business to a number which aggregately reaches any multiple of 5% of the total number of voting rights of such business, such person is required to report the acquisition or disposition of securities according to Form 246-2 and submits such form to the SEC no later than 3 business days from the day such securities are acquired. The SEC will publish such information via the SEC website.</p> <p>Annual Report - According to SEA Section 56 and relevant SEC regulations, the company offering securities publicly has duty to prepare information according to Annual Registration Statement ("Form 56-1") and Annual Report ("Form 56-2") on an annual basis, where list of major shareholders is required to be disclosed as well as the number of shares and the latest proportion of their shareholdings. This information is consistent with the registration statement (Form 69-1) when the company offers to sell its securities to the public for the first time.</p>
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	<p><i>Disclosure in a timely manner</i></p> <p>SEC Notification on reporting of acquisition and disposition of shares requires that a person who has a duty to disclose such information shall report such information according to Form 246-2 within 3 business days.</p> <p><i>Disclosure requirements applicable to two or more persons acting in concert</i></p> <p>Disclosure obligations as stated above are required and applicable to the parties acting in concert even though their beneficial ownership might not have to be disclosed. To be considered as parties acting in concert, the SEC stipulates the following regulation:</p> <p>(1) Acting in concert: To account for shares held by another person, the person who has an obligation to report transactions on the acquisition or disposal of securities according to the SEA Section 246 or to prepare a tender offer Section 247, will be understood to have the intention to perform such transactions with the other person(s) (i.e. concerted party). According to the SEA and the SEC Notification Tor Jor 7/2552, the conditions that will be considered as concerted party transactions are as follows:</p> <ul style="list-style-type: none"> - Having an agreement to exercise voting rights in the same direction - Having an agreement to restrict the right to sell securities in the case of a tender offer or have an agreement to maintain or to change the securities holding ratio in a business (standstill agreement) - Soliciting other persons by himself or through his assignee for the purpose of acquiring or disposing securities of a business at the same time or nearly at the same time - Having the same source of funds - Authorizing another person habitually and continuously to exercise his voting rights in the shareholders' meetings of a business, but excluding a proxy granted to an independent director, a custodian or a provider of a proxy voting service to attend the meeting and vote on his/her behalf - Giving securities to other persons other than by way of a gratuitous transfer in respect of an ordinary relationship between parent and sui juris children - Having an agreement among any persons relating to a sale and purchase of securities of a business at a low price without any reasonable grounds for doing so <p>(2) Persons according to SEA Section 258: Securities holdings by persons indicated in the SEA Section 258 will be counted together with securities held by a person with an obligation to report under SEA Section 246 and 247 if the persons according to SEA Section 258 is:</p> <ul style="list-style-type: none"> - The spouse or a minor child of the person who has the obligation to report under SEA Section 246 and 247 - A natural person who is a shareholder of the person referred to in Section 246 and 247 in an amount exceeding 30% of the total number of voting rights of such person
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	<ul style="list-style-type: none"> - A juristic person that is a shareholder of the person referred to in Section 246 and 247 in an amount exceeding 30% of the total number of voting rights of such person (multiple layers of shareholding are included) - A juristic person where the person referred to in Section 246 and 247 collectively hold shares in an amount exceeding 30% of the total number of voting rights (multiple layers of shareholding are included) - An ordinary/limited partnership where the person referred to in Section 246 and 247 is a partner or an unlimited liability partner. - A juristic person over where the person under Section 246 and 247 have the power of management in respect of investment in securities <p>Holdings of voting securities by directors and senior management</p> <p><i>Information about the beneficial ownership</i></p> <p>The SEA Section 59 and the SEC Notification Sor. 38/2561 stipulate that directors, executives, and auditors of a listed company must report the changes to their securities and derivatives holdings upon the purchase, sale or transfer of them according to the Form 59 within 3 business days. In addition, the directors, executives, and auditors must report changes on the information of the persons having the following relationships (1) spouse or cohabiting couple; (2) minor child; (3) juristic person wherein the reporter and the persons in (1) and (2) hold shares at an aggregate amount exceeding 30% of the total voting shares and where such aggregate shareholding represents the largest proportion among all shareholders.</p> <p><i>Information availability</i></p> <p>Information on securities holdings of directors and executives are disclosed to the public offering and listing documents (i.e. registration statement when the company offers its securities for sale to the public for the first time (Form 69-1) as well as in the annual report (Form 56-2)). This information can also be found in the shareholding reports of directors and executives (Form 59), required to be submitted when there is a change in the shareholdings and the annual registration statement (Form 56-1) which is required to be submitted annually.</p> <p><i>Sufficiency of legal infrastructure to ensure enforcement and compliance</i></p> <p>In case a director and/or an executive violate their duties, according to the SEA Section 59, they may be subject to a fine up to THB 500,000.</p> <p>Public offerings or listings by foreign issuers</p> <p>The forms 69-F-1 and 56-1 contemplate specific disclosure requirements for foreign issuers (see Principle 16).</p>
Assessment	Broadly implemented

Comments	<p>The broadly implemented assessment stems from the fact that proxy statements don't provide shareholders with enough information in relation to the matters to be voted in shareholders meetings, an issue connected with question 2 of the IOSCO Methodology on the provision of information material to an investment or voting decisions. For instance, information on candidate directors' interests in the issuer, compensation from the issuer or past relationships. Although there is regulation on this matter, this is not very specific.</p> <p>An additional comment not affecting the assigned grade is related with the fact that the SEA prohibits trading shares with material information that has not been provided to the public and also states disclosure obligations to certain company insiders. The SEC has also provided guidance that these insiders should not trade around the time that financial results are published. Nevertheless, public companies should be required to establish their own internal policies in relation to trading by insiders, that should include a definition of insiders and the specific events or situations that should prevent these from trading on the company's shares.</p>
Principle 18.	Accounting standards used by issuers to prepare financial statements should be of a high and internationally acceptable quality.
Description	<p>Requirement of audited financial statements</p> <p>In accordance with SEC Notification Tor. Jor. 39/2559, the SEC requires quarterly reviewed and audited financial statements in:</p> <ul style="list-style-type: none"> a) Public offerings and listing documents which include registration statement (Form 69-1) and prospectuses and, b) Publicly available annual reports (i.e. annual registration statement (Form 56-1) and annual reports (Form 56-2)) to update the latest fiscal year of audited financial statements on an annual basis. <p>These full set of financial statements are publicly available on both the SEC, SET and the issuer's websites and are easily accessible at any time.</p> <p>Accounting standards</p> <p>Thai Accounting Standards (TAS) and the Thai Financial Reporting Standards (TFRS) are word-for-word translations of the International Accounting Standards (IAS) and International Financial Reporting Standards (IFRS). Thailand has adopted all IFRS with a one-year delay from the IFRS standard's effective date, except for the IFRS standards relating to financial instruments which will be effective for reporting periods beginning on or after 1 January 2020 (IFRS 9 Financial Instruments, IAS 32 Financial Instruments: Presentation, and IFRS 7 Financial Instruments: Disclosures), where the current, non-modified, TFRS on this matter are being applied. The adopted IFRS are translated into Thai language and are known as Thai Financial Reporting Standards ("TFRS"). According to the Accounting Profession Act B.E. 2547, TFRS, are considered officially issued after they are approved by the Accounting Profession Supervision Committee (the Supervision Committee) and notified in the Royal Gazette.</p>

According to the SEC Notification Tor Jor. 44/2556, the financial statements of issuers are required to comply with TFRS.

Components of the audited financial statements

Under TAS 1 which is a word-for-word translation of IAS 1 (Paragraph 10), a complete set of financial statements shall consist of:

- (a) A statement of financial position;
- (b) A statement of profit or loss and other comprehensive income;
- (c) A statement of cash flows and,
- (d) A statement of changes in equity.

In addition, a complete set of financial statements should also include notes to the financial statements, comprising of a summary of significant accounting policies and other explanatory information, including comparative statements for the preceding periods. According to TAS1 paragraph 112, the note shall (a) present information about the basis of preparation of the financial statements and the specific accounting policies used (b) disclose the information required by IFRS that is not presented elsewhere in the financial statements; and (c) provide information that is not presented elsewhere in the financial statements, but is relevant to an understanding of them.

Oversight, interpretation, and independence

Organization responsible for the establishment and timely interpretation of accounting standards

In accordance with the Accounting Professions Act B.E. 2547 (2004), the Federation of Accounting Professions (FAP) was established in October 2004 as an entity aiming to promote and develop the accounting profession. The FAP is the professional body responsible for formulating Thai Financial Reporting Standards (TFRS), and for managing their convergence to international standards. It is empowered with duties to formulate accounting and auditing standards, develop professional ethics issue the regulation for Continuing Professional Development, and other duties as stipulated under the Accounting Professional Act Section 7. According to the abovementioned act, all juristic persons which operate the business of providing the auditing service, the bookkeeping service or accounting must register with the FAP.

When a new IFRS is published, the FAP translates word-by-word in order to draft the TFRS as well as to analyze the impacts of implementing such standards. The FAP has established that each of the TFRS will be adopted 1 year later than the publication of the IFRS. One exception to the full IFRS adoption is the adoption of IFRS relating to financial instruments (IFRS 9) which will be effective for reporting periods beginning on or after 1 January 2020 (2 years delay from IFRS effective date).

Under the FAP Act Section 33, there should be an Accounting Standards Committee (“ASC”) that has the powers and duties to formulate and revise accounting standards, which include (1) monitoring on development of the IFRS, (2) setting the Roadmap for TFRS, (3) drafting TFRS based on the IFRS by translating them into Thai language, and 4) arranging public hearing before implementation and seminars to educate relevant stakeholders.

Standard setting is undertaken in cooperation with the regulator

Due process for drafting and approving TFRS is open and transparent and includes seeking public opinions (through a public hearing process) and an approval process by the Supervision Committee, an independent body acting in public interest.

Under the FAP Act Section 59, the FAP Supervision Committee has the power to approve the TFRS, as translated from IFRS. The majority of the Supervision Committee members are representatives of regulators that act in the public interest. The Committee members comprise of the Permanent Secretary of the Ministry of Commerce, the Director General of Office of Insurance Commission, the Director General of the Revenue Department, the Governor of the Office of the Auditor General of Thailand, the Governor of the Bank of Thailand, the Secretary-General of the SEC, the President of the Federation of Accounting Professions, the President of the Federation of Thai Industries, the President of Thai Bankers Association, and the President of the Thai Chamber of Commerce.

Review of issuers’ compliance with accounting standards

Under the requirements of the SEC’s notifications, the annual and quarterly financial statements must be audited and reviewed, respectively, by an SEC-approved auditor. The auditor’s report must not contain an audit opinion that the financial statements did not comply with TFRS or that the audit scope was limited by the management. Under those scenarios it is considered a non-compliance with SEC’s notification and the SEA Section 56. Therefore, those financial statements would need to be rectified.

In addition, the SEC has in place a system to ensure and enforce compliance with the accounting standards. The duty and responsibility to monitor and enforce such compliance are fulfilled by the financial statement’s surveillance team of the Accounting Supervision Department. The team consists of 20 staff with experience and education in accounting and auditing field.

In monitoring the issuer’s compliance, the SEC uses a risk-based approach (“RBA”) methodology. The financial statements are selected for review to ensure compliance with the TFRS based upon the following main RBA criteria:

- 1) Modified audit opinion
- 2) Complaints & news
- 3) IPO issuers & securities that have recently resumed their trading activities

- 4) Other criteria such as issuers that are affected by the implementation of new accounting standards and issuers with significant changes in financial information

In the process of gathering information for examination purposes, in accordance with the SEC Notification Tor Jor. 44/2556, the SEC has the power to obtain explanation and supporting document from issuers and their auditors on areas of concern, including the review of auditor's working papers. In case that a non-compliance with the TFRS is found, the SEC may consult the SEC's technical committee on accounting (namely FS Panel) to seek experts' opinions before taking any actions. The FS Panel is set up by SEC and comprises 1 non-practicing accountant (i.e. ex-audit partner), 4 technical accounting experts (normally academics) and 1 representative from SET. The main duty of FS panel is to provide an opinion on accounting issues raised by SEC, especially when facing potential non-compliance or inappropriate application of the accounting standards on the financial reports of IPOs and listed companies

If a misstatement is found in the issuer's financial statements or the issuer does not comply with the SEA Section 56, the SEC has the following powers:

- To instruct the issuer and directors of the issuer to provide additional explanation;
- To correct the financial statements;
- To arrange to have an auditor to perform special procedures on the issuer and report the result to the SEC as well as disclose the information to the public;
- To impose fines on the issuer and its directors, and
- To file charges against the issuer and its directors for fraudulent financial reporting

In addition, the SEC's orders and sanctions are published on both the SEC and SET websites to ensure that the investors have sufficient information to make informed investment decisions.

Enforcement statistics

Enforcement actions/measures	2015	2016	2017
<i>Total number of listed companies</i>	639	656	688
Number of company's financial statements were reviewed	193	236	234
	30%	36%	34%
Enforcement statistics	2015	2016	2017
Verbal communication with subsequent resubmission of the financial statements	1	1	2
SEC ordered listed companies to rectify the financial statements	5	3	2
SEC ordered listed companies to arrange a special audit (i.e. to have an auditor performs special procedures on the issuer and reports the result to the SEC as well as disclose the information to the public)	-	-	3

	<p>Foreign issuers</p> <p>Foreign issuers are permitted to use IFRS, which is a high quality, internationally acceptable accounting standards. Under the SEC Notifications, the quarterly and annual financial statements of foreign issuers (both primary and secondary listing) must be in compliance with a) TFRS, b) IFRS, or c) generally acceptable financial reporting standards as allowed by a foreign regulator, with the requirement to prepare and disclose reconciliation of items for any differences when compared to the IFRS.</p>
Assessment	Broadly implemented
Comments	The broadly implemented grade stems from what can be understood as a temporary and circumscribed exception to the requirement of a comprehensive body of accounting standards in connection with question 3 a) of the IOSCO Methodology, since that in spite of the full adoption of IFRS in the TFRS, the specific standard relating to financial instruments is still not applicable as a TFRS, since its adoption delay was set as 2 years, being implemented in year 2020. In addition, the 1-year delay for the adoption of each new IFRS is considered unnecessarily lengthy.
Principles for Auditors, Credit Rating Agencies, and Other Information Service Providers	
Principle 19. Auditors should be subject to adequate levels of oversight.	
Description	<p>Supervisory framework</p> <p>Under the general provision set by the SEA Section 14 the SEC has assumed the responsibility to supervise the auditors of securities issuers and entities under the SEC supervision (e.g. listed companies, market intermediaries, asset management companies and collective investment scheme).</p> <p>Also, in accordance with the purpose stated in SEA Section 61 that stipulates that a securities issuing company shall only use an auditor who has been approved by the SEC, the SEC has issued regulations on the approval of auditors in the capital market ("SEC Notification Sor. Shor. 39/2553") to supervise the quality of individual auditors, implementation of auditing standards, independence, ethical standards, and firm's quality control.</p> <p>In accordance with the Accounting Professions Act, the SEC requires auditors of issuers and entities under the SEC's supervision to hold a certified public accountant ("CPA") license, which is granted by the FAP (as the same Act states). The CPA license requires to have a bachelor's degree in accounting or equivalent studies from one approved university; satisfy practical experience requirements, and successfully pass six examinations papers. In an ongoing basis CPAs must maintain the stipulated qualification criteria, including ethical standards set out in the Accounting Professions Act and the professional code of ethics.</p> <p>In case of negligence or breach of duties, the SEC will pursue administrative sanctions, ranging from a warning, probation, suspension or revocation of approval, against such auditors (SEC Notification Sor. Shor. 39/2553).</p>

	<p>As part of the required criteria, the SEC Notification Sor. Shor. 39/2553 stipulates that individual auditors must work for an audit firm that complies with the standards on quality control established by the FAP. For these purposes the latter has implemented the Thai Standard on Quality Control ("TSQC1"), which is a word-for-word translation of the International Standard on Quality Control ("ISQC1", a quality control framework for firms that perform audits and reviews of financial statements, and other assurance and related services engagements).</p> <p>In addition, the SEC Notification Sor. Shor. 39/2553 states that in case that the Federation of Accounting Professions ("FAP") has not established or updated its TSQC1 to be in accordance with ISQC1, the audit firm must follow ISQC1 instead of TSQC1. Thus, standard on quality control will be referred to as ISQC1 in the following explanations. The SEC inspects the audit firms regularly to ensure that they have an appropriate and reliable quality assurance system. In fact, the SEC monitors both individual auditors and audit firms through the on-site visit and off-site monitoring program.</p> <p>After the inspection process is carried out, an inspection report is issued by the SEC to each audit firm to inform the outcome of the inspection. For audit firms that deficiencies were found, the SEC requires that the firms perform an analysis to determine the root cause of such deficiencies as well as submit a remediation plan. Similarly, if the SEC identifies deficiencies in the quality control at the audit-firm level (i.e., non-compliance with the ISQC1), the SEC has the authority to order the audit firm to remediate those problems (e.g. revise policy and implementation, create additional audit guidelines, conduct specific training, involve specialist into complicated audit issue, increase engagement team member, etc.) until they are rectified and the audit quality of the audit firm is ensured. In case that the SEC found major deficiencies, the SEC will order that audit firm to rectify or implement a suitable policy to correct such deficiencies within a specified timeline.</p> <p>To further reinforce the quality of the audit works, the SEC also engages in various educational activities, including knowledge sharing and training on accounting and auditing standards, with the SEC-approved auditors.</p> <p>In relation to listed state-owned enterprises ("listed SOE") their financial statements are audited by the Office of the Auditor General of Thailand ("OAG"), which is an independent body under The Constitution of the Kingdom of Thailand responsible for state audits including the audits of state-owned enterprises (section 58 of State Audit Act ("SAA")), the framework for overseeing the quality of financial reports and the system of quality control in relation to the ISQC1 are as follows:</p> <ol style="list-style-type: none"> 1. The SEC has a team that monitors and reviews financial statements of listed SOE regularly. If there is any indication of misstatement, the SEC will order listed SOE to correct or restate the financial statements. 2. Under the MOU between the SEC and the OAG in 2012, the latter has agreed to work closely with the former to implement the ISQC1 and allows the former to inspect their
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quality control system as well as review audit working papers of the listed SOEs in order to consistently improve audit quality for all listed companies.

3. OAG has quality control standard named ISSAI 40 which is in line with the ISQC1. The SEC has also reviewed the OAG's quality control system, including ISQC1 manual, audit programs, and monitoring inspection program, and found that it complies with ISQC1 and ISAs.

In 2017 and 2018, there were revisions to the SAA prohibiting the OAG from charging audit fees from the SOEs and to the Fiscal Discipline Act ("FDA") allowing the SOEs to use other auditors to audit their financial statements upon the approval of the OAG's board. Due to these revisions, the OAG is in the process of getting approval from its board to discontinue providing audit services to the listed SOEs for the financial year ended 2019 onwards. Once the OAG announces its resolution on this issue, the SEC will terminate the auto-recognition status of the OAG auditors from the SEC's approved list and listed SOEs would then have to change their auditors to other auditors on the SEC's approved list.

Professional competency

Auditors are required to be qualified and competent pursuant to the minimum requirements before being licensed to perform audits, and to maintain professional competency.

Under SEC Notification Sor. Shor. 39/2553, Clause 10 – 11 stipulates that any person to be approved as an auditor in the capital market shall comply with the following rules:

- (1) Holding a valid CPA license;
- (2) Being a leader or a partner of an audit firm or equivalent;
- (3) Having performed auditing work for not less than 10 years, including as an assistant auditor, engagement quality control reviewer and signing auditing works;
- (4) Have signed audit reports for not less than 3 years within 5 years before applying to be an auditor in the capital market, with some exceptions allowed under the SEC Notification Sor. Shor. 39/2553;
- (5) Have signed audit report in not less than 3 entities in the latest year before applying to be an auditor in the capital market, given that these entities do not operate in the same / similar business and have sufficient business transactions volume as well as complexity to demonstrate the auditor's knowledge, capability and audit quality;
- (6) Being an employee of only one audit firm and such audit firm shall meet the prescribed characteristics (i.e. having an audit quality control system that is sufficient and reliable for supervising its auditors' work performance to comply with the professional standards on a continuous basis);
- (7) Not possessing any prohibited characteristics as prescribed under the SEC Notification Sor. Shor. 39/2553 (Part 3).

To ensure that the approved auditors maintain their professional competency as a CPA, they are required to attend Continuing Professional Development (CPD) courses of at least 40 hours per year. In addition to the qualifications above, the approved auditor also has to renew his / her registration at the end of a 5-year term, the SEC will inspect such auditor's work through firm inspection process or during the renewal process. The SEC has also increased the frequency of communications with the auditors under its approval on audit inspection findings and changes in accounting and auditing standards, believing that more immediate feedbacks would minimize adverse effects of the deficiencies and lead to effective and efficient improvements.

Oversight body

The SEC is the only entity empowered to supervise auditors of securities issuers. It also acts as an independent audit oversight body that operates in the public interest, recognized by the International Forum of Independent Audit Regulators (IFIAR), ASEAN Audit Regulators Group (AARG), and European Commission (EC). The independent composition of SEC Board and the CMSB (SEA Section 9 and 16/2) helps to ensure that the oversight responsibilities are carried out in an independent manner from the auditing profession.

In addition, under the Accounting Profession Act section 60, the operations of the FAP are subject to oversight by the Accounting Profession Supervision Committee (see principle 18), to ensure the FAP's compliance with related laws and objectives.

Oversight process

The SEC has the ultimate and direct responsibility to approve and supervise auditors of securities issuers and entities under the SEC supervision (listed companies, brokers, dealers, asset management companies and collective investment schemes). Apart from the oversight of the individual auditor's quality, the SEC also has a supervisory model of audit firms' oversight of their quality assurance system. In case that a breach of duties or violation of law and regulation is found, the SEC has the power to pursue administrative sanctions on auditors in the capital market.

The SEC has established a process to perform regular reviews on audit procedures and practices of audit firms that audit financial statements of public issuers. The scope of such oversight process covers both individual auditors and audit firms of securities issuers and entities under the SEC supervision.

Individual-level:

For individual auditors, each is required to re-new his /her registration with the SEC every 5 years. The SEC reviews the individual's audit work either during firm inspection or renewal process. The SEC will perform an inspection of individual's audit work at least once every six years for each auditor. For an auditor who receives approval by the SEC but a significant deficiency in his/her auditing performance is found, the SEC may consider granting approval with a term less than

five years and order he/she to implement remedial action. The SEC will then inspect his/her audit engagement files again before renewing him/her as an auditor in the capital market.

Firm-level:

For audit firms, the SEC performs inspections periodically to ensure that the firms have adequate and reliable quality assurance system. The periodic inspections of audit firms are carried out under a risk-based approach on a yearly basis for "Big-4" audit firms and at least every 3 years for small and medium audit firms.

The work of individual auditors will also be subject as part of the SEC's audit firm inspection program and financial statements surveillance program, where reviews of auditors' working papers and audited financial statements are conducted. Moreover, for an individual auditor who has significant deficiencies, their audit firms are required to establish a process to review his / her working papers in the subsequent year. The firms shall then retain the working papers used to scrutinize the work quality of the specified auditors in order for the SEC to review during an inspection of audit firms' quality control system. Such review is carried out regularly to ensure that the auditors perform their audit work in accordance with auditing standards and remain qualified for the track under which they applied.

In case that the SEC found that the quality scrutiny process of the audit firms do not meet ISQC1 or contradict to the prior inspection result or what the audit firms have informed the SEC, the SEC has the right to terminate its approval for the auditors of that audit firm or order audit firm to improve its monitoring process until its reliability is ensured.

The SEC has inspection programs at both firm and individual-levels. The inspections are based on the ISQC1, auditing standards, and code of ethics, which require auditors and audit firms to remain independent, both in fact and in appearance.

Under SEC Notification Tor. Jor. 44/2556, the auditor who signs an audit report for 5 consecutive years is subject to rotation requirements with 2-years cooling off period. To ensure independence at firm-level, audit firms are also required to submit a firm's profile including information on audit fee and non-audit fee. The SEC will then inspect whether non-audit services provided by the audit firms to their audit clients are in fact free from undue influence and the auditors are truly independent from their clients. The SEC follows the IFAC Code of Ethics in order to guide its analysis.

Based on SEC's audit firm inspection for the last 3 years, the SEC found a few independent issues (e.g. safeguard on fee dependency issue, and the implementation of independent declaration process), the result of which are included and disclosed in the firm and activity reports. The SEC oversight process is fully independent; therefore, the SEC does not need to coordinate with FAP on the oversight process of auditors and audit firms in the capital market. FAP is responsible for the ongoing compliance of the Certified Public Accountant (CPA) requirements in Thailand while

	<p>the SEC is the only organization inspecting the auditors and audit firms who provide audit work in the capital market.</p> <p>When performing oversight process, the SEC maintains control over key issues ranging from the scope of the inspection, accessibility to audit working papers and information needed for review, retention of these documents and other information needed to the end of the process where a follow-up on the outcome of reviews and recommendations is conducted.</p> <p>The SEC's reviews are conducted on a recurring basis under RBA and the reviews are designed to determine the extent to which audit firms have, and adhere to, adequate quality control policies and procedures that address all significant aspects of auditing.</p> <p>To ensure that the inspections are performed according to the international practices whilst considering the local practicality, the SEC has set up a Quality Assurance Review Panel ("QARP") to provide guidance on the audit supervision processes, including quality review policies and procedures, overall inspection plan, result from the inspection of audit firms' quality assurance system (grading), and disciplinary sanction. The majority of this panel comprises of auditing experts who are independent of the audit profession and have a cooling-off period of more than 5 years ("non-practitioners"). The remaining includes practitioners from Big-4 and local audit firms who have more than 15 years of audit experiences. The combination of this composition has allowed the QARP to consider issues from both viewpoints, one of which is based on auditing standards and another on practical implications.</p> <p>For auditors under the SEC's approval, the SEC requires them to comply with the SEC Notification Sor. Shor. 39/2553, which stipulates requirements in relation to auditors in the capital market, including qualification criteria and the requirements as follows:</p> <ul style="list-style-type: none"> - The auditors shall be under the audit firm's whose audit quality control system is sufficient and reliable for supervising its auditors' work performance in order to comply with the professional standards on a continuous basis. Such audit quality control system shall also comply with the audit quality control standards established by the FAP, except the matters for which the FAP has not established or revised its standards to comply with the international standards, in which cases the standards established by the IFAC shall apply. - The auditors shall also not have behaviors which lead to lack of professional ethics or violation of or non-compliance with the regulations under the law governing accounting professions and other additional regulations prescribed by the law governing securities and exchange or aiding or abetting thereof. - When giving an opinion on financial statements, they should do so with accountability in accordance with the professional code of ethics, regulations under the law governing accounting professions (accounting and auditing standards), and other additional regulations prescribed by the law governing securities and exchange.
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- When required, the auditors shall provide an explanation or submit any other information regarding audit work to the SEC or take any other actions in cooperation with the SEC.

If a non-compliance is found, the SEC is empowered to pursue administrative sanctions on individual auditors ranging from warning, probation, suspension, and revocation of approval.

For audit firms, the SEC

- periodically performs an inspection under RBA and communicate with audit firms
- carries out an inspection of audit firms' quality assurance system based on the ISQC1 and audit performance based on auditing standards and code of ethics to ensure that the inspections performed by the SEC staffs are fair and up to standard. The key issues include assessment of the leadership responsibility policy, ethical requirements (e.g. independent issues), acceptance and continuance of client relationship, human resources (e.g. quantity and quality of resources spent), engagement performance (e.g. testing of selected audit files), monitoring, and documentation of quality control. When performing an inspection on these areas, the SEC staffs also follow the workflow and inspection manual, all of which are complied with the ISQC1 and ISA 220 and were reviewed and approved by the QARP.
- communicates inspection manuals and programs to the SEC's inspectors and ensures that these manuals and programs are implemented by all SEC's inspectors and apply consistently throughout every audit team
- review and consider previous comments to ensure consistency by using information from the audit inspection unit's database which collects all past inspection results

After carrying out the inspection process, the SEC staff will present the result of inspection to the QARP for review and give a recommendation on the grading result. The SEC will then issue an inspection report to each audit firm stating any deficiency found (i.e. weakness or inappropriate quality assurance) and the grading of each ISQC1 element. To ensure that the deficiencies are satisfactorily addressed, the SEC requests the audit firms to perform a root cause analysis of those deficiencies and submit their action plans to the SEC within 3 months. The action plans must consider a reasonable timeframe (no longer than the next fiscal year) depending on the seriousness of the deficiencies.

Remedial measures and disciplinary proceedings

The auditors of the issuers and the SEC's regulated entities are required to meet the characteristics and criteria as stipulated in the SEC Notification Sor. Shor. 39/2553 (Clause 10-16). Particularly, under Clause 11(1), the audit firm approved as auditors in the capital market shall have an audit quality control system which is sufficient and reliable for supervising its auditors' performance to comply with the professional standards on a continuous basis.

	<p>A grading system has been established by the SEC to assess audit performance at both engagement and firm level. In case of any minor deficiency, the SEC will order an auditor or audit firm to correct it within the specific period of time and follow up with such rectification. In case that no rectification is achieved, or it is found that an auditor or audit firm has major deficiency (i.e. breach of duties), or does not comply with the stipulated requirements (i.e. unable to maintain qualifications, has prohibited behavior, appear to have not met the criteria, being under the audit firm that does not have audit quality control system or there is any ground to suspect that such audit quality control system is defective, and etc.) the SEC is empowered to pursue administrative sanctions, ranging from warning, probation, suspension to revocation of approval.</p> <p>The SEA is empowered by the SEA Section 62, 107, and 140 to withdraw or revoke its approval of an auditor who fails to adhere to the code of ethics, unable to perform audit work or declare his or her opinion according to the provision of the laws relating to auditors as well as additional provisions as specified in the SEC notifications. In case that an auditor performs an audit to give his or her opinion on the financial statements and does not comply with the provisions of the law relating to auditors or additional requirements as specified in the notification of the SEC, or makes false reports or fail to report findings and disclose the facts material to the financial statements and notify such circumstances in his or her report, such auditor shall be liable to imprisonment for a term not exceeding 2 years or a fine not exceeding 500,000 Thai baht (approximately. USD 15,700 at avg. THB/USD 31.7), or both.</p>
Assessment	Broadly implemented
Comments	<p>The reason behind the assigned grade relates to the fact that currently SOEs are audited by the Thai Office of the Auditor General, which is contrary to question 1 of the methodology in relation to the auditor being overseen by a specialized oversight body. The assessors are aware that beginning with the auditing of 2020 annual financial statements, listed SOEs would be required to be audited by auditors regulated by the SEC.</p> <p>An observation not affecting the grade is the fact that the SEC does not consider the use of pecuniary sanctions (fines) applicable to audit firms, but only the use of warnings, suspensions and the revocation of the license. Nevertheless, the use of fines might serve as an effective deterrent of breaches with a medium degree of severity.</p>
Principle 20.	Auditors should be independent of the issuing entity that they audit.
Description	<p>Independence requirements</p> <p>According to the SEC Notification Sor. Shor. 39/2553, the audit firms shall comply with the Thai Audit Quality Control Standards (“TSQC1”) established by the FAP except for the matters for which the FAP has not yet established or revised such standards to comply with the international standards, in which cases the ISQC1 shall apply. The TSQC1, which is mainly equivalent to ISQC1, stipulates requirements for the audit firms to ensure the independence of their subordinated auditors. The SEC Notification Tor. Jor. 44/2556 also put forward requirements to further ensure audit independence by requiring listed entities:</p> <ul style="list-style-type: none"> - To rotate external auditors every 5 years with 2-years cooling off periods, and

- To disclose audit fees and non-audit fees paid to their external auditors

Compliance with independence requirements

To ensure that both individual auditors and audit firms comply with these standards, the SEC conducts regular inspections in this area as described under Principle 19.

The code of ethics established by the FAP, which is mainly in line with the IFAC Code of Ethics, sets out requirements and restrictions regarding financial, business or other relationships with clients. Through its regular inspection program, the SEC ensures that these auditors and audit firms will not pose threats to audit independence as a result of having these relationships either currently or in the future.

The code of ethics established by the FAP address the following issues among others:

- (a) Self-interest: the threat that a financial or other interest will inappropriately influence the professional accountant's judgment or behavior
- (b) Self-review: the threat that a professional accountant will not appropriately evaluate the results of a previous judgment made or service performed by the professional accountant, or by another individual within the professional accountant's firm or employing organization, on which the accountant will rely when forming a judgment as part of providing a current service
- (c) Advocacy: the threat that a professional accountant will promote a client's or employer's position to the point that the professional accountant's objectivity is compromised
- (d) Familiarity: the threat that due to a long or close relationship with a client or employer, a professional accountant will be too sympathetic to their interests or too accepting of their work; and
- (e) Intimidation: the threat that a professional accountant will be deterred from acting objectively because of actual or perceived pressures, including attempts to exercise undue influence over the professional accountant.

To ensure that both auditors and audit firms address these issues and comply with the related requirements stated under ISQC1 and code of ethics, the SEC also inspects the audit firm's policy and its implementation during the regular inspection period.

The findings are formally reported to the firms, requiring them to resolve these issues within a proper specified period. The SEC will follow up these issues within the next inspection cycle to ensure that the firm appropriately resolves all issues.

The FAP's Code of Ethics governs the provisions of non-audit services. For listed issuers and entities under the SEC supervision, the SEC Notification Sor. Shor, 39/3553 states that aside from the FAP's code of ethics, audit firms shall also follow requirements set under the code of ethics established by IFAC, especially for matters where the FAP has not established or revised its standards to comply with that of the IFAC (refer to Principle 19).

	<p>In addition to the IFAC’s requirements, the FAP’s code of ethics has stipulated the prohibited non-audit services regardless of materiality as follow:</p> <ol style="list-style-type: none"> (1) Accounting services: preparing accounting records and financial statements, bookkeeping services, payroll services, and preparing the financial statements and related financial information (2) Internal audit services relating to internal controls over financial reporting, financial accounting systems, or financial statement amount and disclosures <p>In addition to the requirement on compliance regarding the code of ethics, the SEC also requires audit firms to submit firm’s profile including information on fees from audit and non-audit services, which are used to determine whether the non-audit services provided by the audit firms to their audit clients could potentially put undue influence on the auditors and whether the auditors are and remain independent from their clients. Moreover, there is a requirement under Tor. Jor. 44/2556 and form 56-1 for a listed company to disclose the audit fee and non-audit fee paid to external auditors.</p> <p>For listed issuers and entities under the SEC supervision that have appointed an audit committee (“AC”), the SEC has published a handbook as a guidance for the AC to oversee the process of selection and appointment of the external auditor, including determination of the external auditor’s independence.</p> <p>Compliance with independence requirements</p> <p>Based on ISQC1 and local requirements under SEC Notification Sor. Shor. 39/2553 (Clause 11), auditors and audit firms are required to establish and maintain internal systems, governance arrangements, and processes for monitoring, identifying and addressing threats to independence, including the rotation of auditors and/or senior member(s) of the audit engagement team, and ensuring compliance with the standards. From the public issuers’ perspective, the same requirements are stipulated under the regulatory framework governing public issuers and auditors.</p> <p>Audit Committee</p> <p>The issuers and the entities under the SEC supervision are required to have an audit committee (“AC”) to oversee the process of selection and appointment of the external auditor and to monitor whether such external auditor continuously maintains his/her independence from the entity being audited as stated in the AC handbook.</p> <p>Selection, appointment and resignation</p> <p>The SEC has issued guidance for the AC in selecting and appointing an auditor. The procedure in the AC guidance is summarized as shown below:</p> <ol style="list-style-type: none"> 1) Consider the auditors’ qualification, competency, professional skepticism, independence, performance, and propose to the board of director for consideration before the shareholder’s meeting is held;
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	<p>2) Consider the audit quality for both the auditors and the audit firm;</p> <p>3) Consider the implementation of the auditors' rotation;</p> <p>4) Consider the availability and sufficiency of resources of the audit firm, auditor and audit team involvement and also consider the findings of the oversight body:</p> <p>5) Review the auditor independence especially considering non-audit services</p> <p>The Public Limited Companies Act ("PCA") section 120 also requires that an auditor's appointment and determination of audit fees must be approved every year by the shareholders' annual ordinary meeting.</p> <p>Under SET Notification Bor. Jor./Por. 11-00 (Clause 6 (4)), the information regarding the change of an external auditor as a result of resignation, removal, or replacement is required to be disclosed via the SET's portal within 3 working days. If requested, the company must also submit to the SET evidential documents or a copy of the resignation letter of the auditor.</p> <p>The SEC will pursue administrative sanctions, including from warnings, suspensions, and to revocation of approval as stipulated under the SEC Notification Sor. Shor. 39/2553 Clause 21, 27 and 27/1. No sanctions have been imposed on independence matters between years 2013 – 2018.</p>
Assessment	Fully implemented
Comments	The regulation guarantees adequate independence of audit firms and their personnel.
Principle 21.	Audit standards should be of a high and internationally acceptable quality.
Description	<p>Standards required</p> <p>In accordance with SEC Notification Tor. Jor. 39/2559, the SEC requires quarterly reviewed and audited financial statements in:</p> <ul style="list-style-type: none"> (a) Public offering and listing documents which include the registration statement (Form 69-1) and prospectuses and, (b) Publicly available annual reports (i.e. annual registration statement (Form 56-1) and annual reports (Form 56-2)). <p>Approved auditors are required by the FAP to perform their audit work according to the Thai Standards on Auditing ("TSA"). The TSA is a comprehensive set of auditing standards set out by the FAP following the International Standards on Auditing ("ISA") established by IFAC, as prescribed the FAP's "Notification regarding due process of auditing standards".</p> <p>The SEC Notification Sor. Shor. 39/2553 also requires the SEC's approved auditors to perform audit work with accountability and in accordance with the professional code of ethics, regulations under the law governing accounting professions, and other additional regulations prescribed by the SEA.</p>

International quality of auditing standards

According to the procedure stated in the FAP "Due process for standard setting" the TSA is in line with the International Standard of Auditing (ISA), which is an auditing standard of a high and internationally acceptable quality. FAP is responsible for the establishment and timely interpretation of auditing standards as required by the Accounting Profession Act B.E. 2547 Section 7.

Standard setting

A subcommittee on auditing standards is set up by the FAP with the duty to issue and update the TSA in accordance with potential changes to the ISA. The FAP considers a due process for the standard setting as follows:

- In case there is a revision or a change in the ISA the subcommittee must analyze and consider the substance of the revised ISA as well as its potential impact. The FAP's Notification No. 12/2561, which sets out the procedures for issuing auditing standards, requires the FAP to circulate the content summary and associated impacts to the public according to the following:
 - For complex and significant standards, a technical note regarding the change of such ISA is made available on the FAP's website.
 - The FAP publishes all comment letters submitted to the International Auditing and Assurance Standards Board (IAASB) on the FAP's website.
 - The subcommittee conducts a focus group with the stakeholders to discuss the updates and revisions of the ISA that are considered complex and significant.
- To issue the TSA, the subcommittee translates and drafts the ISA into the Thai language from the English language version.
- Upon completion, a public hearing will be held to seek comments on the updates and revisions of standards that are considered complex and significant and communicate the conclusions to the stakeholders to raise awareness of the impending impact and to prepare them in advance for at least one year prior to the effective date of the revised TSA.

Under the Accounting Profession Act section 60, the operations of the FAP are subject to an oversight by the Accounting Profession Supervision Committee (see principle 18).

Mechanisms to ensure compliance with auditing standards

The SEC has mechanisms to enforce compliance with auditing standards through the audit firm and individual auditor inspection process. If an audit firm or an auditor shows deficiencies, the SEC has the authority to impose sanctions.

The auditors of the issuers and the SEC regulated entities are required to meet the characteristics and criteria as stipulated (SEC Notification Sor. Shor. 39/2553 (Clause 10-16)). Particularly, under Clause 11(1), an audit firm approved as an auditor in the capital market shall have an audit quality control system which is sufficient and reliable for supervising its auditors' work performance to comply with the professional standards on a continuous basis.

A grading system has also been established by the SEC to assess the audit performance at an individual auditor and firm level. In case of any minor deficiency is found, the SEC will order the auditor or the audit firm to correct it within the specific period of time and will follow up with such rectification. The SEC will pursue administrative sanctions in case no rectification is achieved, or if it finds that an auditor or an audit firm:

- Shows a major deficiency (i.e. breach of duties), or
- Does not comply with the stipulated requirements (e.g. unable to maintain qualifications, prohibited conducts, lack of adequate audit quality control systems).

Individual inspection results

Score level	Number of auditors					
	2013	2014	2015	2016	2017	2018
1	1	2	2	10	19	31
2	6	10	15	24	22	13
3	20	32	15	28	21	9
4	-	-	-	3	-	-
5	2	2	2	-	-	-

Firm inspection results

Score level	Number of firms					
	2013	2014	2015	2016	2017	2018
Very good	-	1	3	2	3	2
Good	6	1	2	2	6	4
Acceptable	2	5	8	7	8	7
Need Improvement	3	2	3	2	2	3
Not pass	1	1	-	-	-	-

The SEC is empowered to pursue administrative sanctions including warnings, probation, suspension to revocation of approval. However, before any disciplinary sanction is imposed, the SEC will also seek the QARP's guidance to check and balance its decision.

The SEC is empowered by the SEA Section 62, 107, and 140 to withdraw or revoke its approval on an auditor who fails to adhere to the code of ethics, unable to perform audit work or declare his/her opinion according to the provision of the laws relating to auditors as well as additional provisions as specified in the SEC notifications. In case that an auditor:

- Performs an audit on the financial statements without meeting the provisions of the law relating to auditors or additional requirements as specified in the SEC Notifications, or
- Provides false reports, or fail to report findings, or to disclose material facts in the financial statements and notify such circumstances in his/her report, such auditor shall be liable to imprisonment for a term not exceeding 2 years or a fine not exceeding THB 500,000 (approximately. 15,700 USD at avg. 31.7 Baht/USD), or both.

	<p>A summary of enforcement statistics during 2013 -2018 are shown below:</p> <table border="1"> <thead> <tr> <th rowspan="2">Enforcement actions</th> <th colspan="6">Number of auditors sanctioned</th> </tr> <tr> <th>2013</th> <th>2014</th> <th>2015</th> <th>2016</th> <th>2017</th> <th>2018</th> </tr> </thead> <tbody> <tr> <td>Warning</td> <td>5</td> <td>8</td> <td>1</td> <td>1</td> <td>2</td> <td>-</td> </tr> <tr> <td>Suspension</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> </tr> <tr> <td>Revocation of approval</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> <td>-</td> </tr> </tbody> </table>	Enforcement actions	Number of auditors sanctioned						2013	2014	2015	2016	2017	2018	Warning	5	8	1	1	2	-	Suspension	-	-	-	-	-	-	Revocation of approval	-	-	-	-	-	-
Enforcement actions	Number of auditors sanctioned																																		
	2013	2014	2015	2016	2017	2018																													
Warning	5	8	1	1	2	-																													
Suspension	-	-	-	-	-	-																													
Revocation of approval	-	-	-	-	-	-																													
Assessment	Fully implemented																																		
Comments	The auditors approved by the SEC are required to perform their audit work according to the Thai Standards on Auditing set out by the FAP following the ISA standards.																																		
Principle 22.	Credit rating agencies should be subject to adequate levels of oversight. The regulatory system should ensure that credit rating agencies whose ratings are used for regulatory purposes are subject to registration and ongoing supervision.																																		
Description	<p>Regulatory framework applicable to CRAs</p> <p><i>Definition of "credit rating" and "credit rating agency"</i></p> <p>The SEC Notification Kor Shor. 1/2555, which serves as the basis for the rest of the regulations mentioned in this principle, defines the meaning of the credit rating and credit rating agency including the scope of activities for registration and supervision as follows: "Credit rating is the process of assessing capacity of an organization, both of government and private sector in repaying indebtedness of any instruments or making full repayment or fulfilling obligations under preferred shares and use symbol to indicate the result of an assessment"</p> <p><i>Registration</i></p> <p>Although the SEA does not have any reference to the CRAs, the SEA Section 14 provides the SEC with powers to regulate and supervise "organizations related to the securities market" and under this general provision does the SEC issues regulations and oversees the CRAs.</p> <p>According to the SEC Notification Kor Shor. 1/2555, any person who intends to operate a credit rating agency approved by the SEC must file an application for approval with the SEC together with evidentiary documentation according to the guidelines and procedures provided by the SEC.</p> <p>In order to obtain approval to become a credit rating agency, the main requirements the applicant must meet are:</p> <ol style="list-style-type: none"> 1) Being a juristic person established under Thai law; 2) Having a paid-up capital of no less than THB 50 million; 3) Not being subject on any reasonable ground to the presumption that the behavior of its director or executive indicates a lack of responsibility, credibility or trustworthiness in any of the following manners: (a) having a record of being dismissed, removed, discharged or prosecuted as a result of a dishonest act; (b) having an employment record that 																																		

	<p>indicate dishonesty or (c) having a record of management or any other action that caused a severe violation under the SEA in a manner that indicated a lack of responsibility or due care in management;</p> <ol style="list-style-type: none"> 4) Having sufficient number of personnel with adequate knowledge, capacity and work experience applicable to the credit rating activity; 5) Being able to demonstrate systems for monitoring and supervising the compliance of the credit rating process with accepted and reliable standards; 6) Having stringent and reliable procedures that guarantee an independent operation and the issuance of impartial and fair opinions; 7) Having a nomenclature system to identify the credit ratings. <p>The SEC has the authority to collect the necessary data from CRAs or receive the specified information as follows:</p> <ol style="list-style-type: none"> 1) The credit ratings disseminated. 2) The CRA's financial statement for the fiscal year and annual report. 3) Any change, modification or additional symbol or definition of symbols prior to the use of such symbol or definition. 4) Any change of director and executive or qualifications of director and executive. 5) Any material changes in the shareholding structure or in the credit rating process. 6) The information used in the credit rating process that is ready for the SEC to examine. 7) The reports or documents related to the credit rating or any other document as requested by the SEC. <p>The regulatory uses of credit ratings in the Thai capital market are as follows:</p> <ol style="list-style-type: none"> 1. Issuance and offer for sale of debt securities to the public; 2. Rules on investment limits of funds and, 3. Determining a risk weight for calculating "net capital (NC)" which securities and derivatives businesses are required to maintain. <p><i>CRAs not located in the local market</i></p> <p>In accordance with the SEC Notification Kor Shor. 1/2555, the SEC has specified that a CRA established under the foreign law that operates its business in Thailand must comply with:</p> <ol style="list-style-type: none"> 1) Being a CRA that legally undertakes credit rating business in accordance with its home country legislation and subject to the supervision of a supervisory agency which is a member of IOSCO; 2) Not having any form of commercial presence in Thailand except for ownership in a local CRA approved by the SEC;
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	<p>CRAs established under a foreign law can be authorized to provide credit ratings in the following instruments:</p> <ol style="list-style-type: none"> a. Debt securities issued by a Thai juristic person whose parent company is a juristic person established under foreign law; b. Debt securities issued by a Thai juristic person which are simultaneously issued and offered for sale domestically and overseas; c. Debt securities issued by a juristic person established under foreign law, agency or organization of foreign government or international organization. <p>Currently, the approved foreign CRAs are: 1) Standard & Poor's; 2) Moody's; 3) Fitch Ratings; 4) Rating and Investment Information, Inc. and, 5) Japan Credit Rating Agency. Ltd.</p> <p>Ongoing supervision</p> <p><i>Ability to obtain information about a regulated CRA</i></p> <p>To obtain information about regulated CRAs, the SEC has the authority to collect the necessary information from CRAs including the information specified in the SEC Notification Kor Shor. 1/2555, such as:</p> <ol style="list-style-type: none"> 1) The result of the disseminated credit rating; 2) The CRA's financial statement for the fiscal year and its annual report; 3) Any change, modification or additional symbol or definition of symbols prior to their use; 4) Any change of director and executive or qualifications of them; 5) Any material changes in the ownership structure; 6) Information used in the credit rating process. <p><i>Supervision</i></p> <p>A registered CRA must meet on an ongoing basis certain requirement set by the SEC Notification Kor Shor. 1/2555 including: i) issuing credit ratings on a systematic basis; ii) being capable of operating independently and providing impartial and fair opinions; iii) arranging preventive measures to avoid conflicts of interest; iv) ensuring sufficient information and appropriate use of result of credit rating for the benefits of the public and, v) establishing policies and procedures to support the systematic preparation of credit ratings.</p> <p><i>Examination by the regulator</i></p> <p>The SEC has sufficient powers under the SEA to carry out its responsibilities over the securities market, including licensing, supervision, inspection, investigation and enforcement. Section 14 of the SEA provides broad statements of authority for the SEC to formulate policies to promote and develop the Thai securities market, supervise all securities activities and market participants. Specifically, these include the issuance of enforceable rules, regulations, notifications, orders or directions under the SEA.</p>
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The inspections conducted by the SEC include 5 main areas:

- Quality and integrity in the rating process;
- Independence and avoidance of conflict of interest;
- Responsibility to the investing public;;
- Treatment of confidential information; and
- Compliance

Subject to enforcement

If a registered CRA fails to comply with the requirements, the SEC has the authority to suspend or revoke its approval of a registered CRA. The SEC has never suspended or revoked the CRA registration.

Registering authority

The SEC has the authority to revoke, suspend, and withdraw the CRA registration if the CRA is unable to maintain the regulatory requirements specified in this principle or undertakes operations outside the authorized scope. In addition, the SEC may order a CRA to proceed with rectification to comply with a certain requirement within a specified period of time or order to act or refrain from any action.

Oversight Requirements: Quality and Integrity

Methodology

Clause 13 of the SEC Notification Kor Shor. 1/2555 explicitly indicates that CRAs must follow the IOSCO *Code of Conduct Fundamentals for Credit Rating Agencies*, which includes the 8 measures associated with the *Quality of the Rating Process*.

Internal records to support credit ratings

CRA should keep the information that used to consider the credit rating for at least two (2) years since the date of dissemination of credit rating.

Adequate resources

In addition to the minimum paid-up capital of THB 50 million, CRAs are required to have sufficient employees with knowledge, capacity, or work experience. The SEC has indicated that during a 2014 inspection with regards to the employees' sufficiency requirements, it found that both local CRAs had enough qualified resources, as the following results show:

- TRIS Rating:
 - An analyst should not inspect more than 10 companies;

	<ul style="list-style-type: none"> - A member of an analytical team had average working experience in the financial field of 6-10 years. Executive positions are filled with employees with at least 10 years of experiences in the financial area. - A person assigned in the rating committee should have more than 10 years of experience in the credit rating business; - The CRA provides a training program to its employees. • Fitch Ratings: <ul style="list-style-type: none"> - An analyst should not inspect more than 10 companies; - The CRA established the “Fitch Credit Academy” for providing training to its employees; - Analysts and associate directors must attend the fundamental credit rating class, and everyone must pass an exam; - For directors and senior directors, Fitch provides a leadership and coaching class. <p>Oversight Requirements: Conflicts of Interest <i>Requirements that address conflicts of interest</i></p> <p>As indicated above, clause 13 of the SEC Notification Kor Shor. 1/2555 explicitly indicates that CRAs must follow the IOSCO <i>Code of Conduct Fundamentals for Credit Rating Agencies</i>, which includes the 8 measures associated with conflicts of interest.</p> <p><i>Disclosure of conflicts of interest</i></p> <p>As indicated above, clause 13 of the SEC Notification Kor Shor. 1/2555 explicitly indicates that CRAs must follow the IOSCO <i>Code of Conduct Fundamentals for Credit Rating Agencies</i>, which includes the measures associated with the “<i>CRA Policies, Procedures, Controls and Disclosures</i>” in terms of conflicts of interest.</p> <p>Oversight Requirements: Transparency and Timeliness</p> <p>As indicated above, clause 13 of the SEC Notification Kor Shor. 1/2555 explicitly indicates that CRAs must follow the IOSCO <i>Code of Conduct Fundamentals for Credit Rating Agencies</i>, which includes the measures associated with the “<i>Transparency and Timeliness of Credit Rating Disclosure</i>”.</p> <p>Confidential information</p> <p>As indicated above, clause 13 of the SEC Notification Kor Shor. 1/2555 explicitly indicates that CRAs must follow the IOSCO <i>Code of Conduct Fundamentals for Credit Rating Agencies</i>, which includes the measures associated with the “<i>Treatment of Confidential Information</i>”.</p>
Assessment	Fully implemented
Comments	CRAs are supervised and subject to specific regulations that set out requirements in term of resources, transparency, conflict of interests and confidential information, many of which explicitly prescribe that CRAs must follow the IOSCO <i>Code of Conduct Fundamentals for Credit Rating Agencies</i> in those issues.

	<p>It should be noted that the SEA does not have any reference to the CRAs, although it is a common understanding that the same act (Section 14) provides the SEC with powers to regulate and supervise "organizations related to the securities market". Nonetheless, the fact that the SEA does not provide the SEC with explicit authority to regulate CRAs specifically, represents an unnecessary legal risk. Nonetheless the assessors consider that this issue should not affect the grade.</p>
Principle 23.	<p>Other entities that offer investors analytical or evaluative services should be subject to oversight and regulation appropriate to the impact their activities have on the market or the degree to which the regulatory system relies on them.</p>
Description	<p>Regulation of analytical or evaluative services</p> <p>In accordance with the Ministerial Regulation Concerning Granting of Approval for Undertaking Securities Business B.E. 2551 and SEC Notification No. TorLorThor. 8/2557, firms and analysts providing investment advisory services must be supervised by the SEC. Under the SEA and DA, any entity that provides advisory services fall under the definition of "investment advisor" or "derivatives advisor" and must obtain a license or be registered with the SEC. The analysts themselves who produce research reports or provide advice are also subject to approval from the SEC and must be employed by the licensed or registered entities mentioned earlier.</p> <p>To obtain a license, a firm must demonstrate that it is fit and proper in accordance with relevant laws and SEC regulations. The analysts themselves who produce research reports and provide advice are also subject to get approval by the SEC, which must be renewed at regular intervals in order to ensure that they are appropriately qualified in terms of skill, experience and training on an ongoing basis. In addition, analysts must observe professional standards and perform their duties honestly and with prudence and care for the best interest of investors. Investment advisory firms that employ analysts are required to have in place mechanisms for overseeing the analysts' activities, to ensure that their research is of high quality and credibility.</p> <p>Such mechanisms shall at least address:</p> <ul style="list-style-type: none"> - The use of appropriate methods to ensure an adequate basis for analyses and recommendations; - The prevention of conflicts of interest that may impede independent judgement, and - The prevention of inappropriate use of material non-public information and any other potential misconduct. <p>Intermediaries may also provide advice to their clients without having to obtain the "investment advisor" or "derivatives advisor" license, as advice is incidental to the brokerage/agent business and such firms are already subject to supervision through their securities brokerage or derivatives agent license. In addition, since 2017 the SEC has launched regulatory sandboxes for test-running new and innovative financial services, including those that provide analytical and evaluative services such as robo-advisors, providing the SEC to monitor the nature of risks associated with such activities in order to determine an appropriate regulatory and oversight framework.</p>

	<p>Regulation and oversight appropriate to the risks posed</p> <p>The SEC Notification No. TorThor. 35/2556 (Business Conduct Standards), requires all intermediaries providing investment advice which are both investment advisory firms and brokerage firms that employ analysts to have internal control and compliance systems for overseeing the activities of analysts to ensure adequate basis for research and recommendations, and effective management and prevention of conflicts of interest and other actions that may compromise the integrity of their services. Internal oversight must include:</p> <ul style="list-style-type: none"> - Measures to deal with and mitigating conflicts of interest, for example, the prohibition of compensation arrangements that provide adverse incentives and reporting lines that impede the analysts' independence; - Measures to ensure that research is conducted using appropriate analytical methods and up-to-date information from trustworthy sources, such that there is an adequate basis for analyses and recommendations. Research reports must also indicate the risks associated with investment and suitability for investors. - Measures to prevent the inappropriate use/disclosure of material non-public information. <p>The SEC evaluate the effectiveness and adequacy of these internal control systems and measures as part of the routine on-site inspections or theme inspections of securities firms.</p> <p>Sell-side securities analysts</p> <p>According to the SEC Notification No. TorThor. 35/2556, intermediaries are required to have in place policies and measures for managing and mitigating COI. Such policies must be subject to approval by the board of directors, and must include:</p> <ul style="list-style-type: none"> - Identification of actual and potential COI; - Policies, measures and operating systems for managing COI, which are communicated to all personnel; - Mechanisms for monitoring compliance with such policies and measures; and - Measures for undertaking disciplinary actions and providing compensations for damages. <p>In addition, firms must regularly review their COI policies to ensure that they continue to be effective.</p> <p>For analysts, the SEC has imposed rules for supervising that they must have a qualification as capital market personnel and not presenting prohibited characteristics (SEC Notification No. TorLorThor. 8/2557: Clause 23). Those analysts who get approval from the SEC have to perform duties in accordance with the related codes of conduct and professional standards issued by the SEC or related associations or organizations which are recognized by the SEC (SEC Notification No. TorThor. 35/2556: clause 51).</p>
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In this regard, the Association of Thai Securities Companies (ASCO) has published a code of conduct and professional guidelines for its members which include COI, analysts' trading activities, financial interest reporting, compliance, compensation arrangements, and director responsibilities. Firms have to ensure that analysts comply with the above related rules (Clause 2.21 of ASCO Guideline on Professional standard in operating business for the securities firms that are members of the ASCO). In addition, firms must disclose their COI to clients when providing advice or in the research report.

The SEC provides additional guidelines to securities intermediaries in relation to COI (Notification Nor Por. 1/2558). In particular it deals with: i) segregation of work units and personnel; ii) internal control measures; iii) measures to prevent and manage COI, and iv) employees' securities trading.

Analysts' trading activities or financial interests

In relation to analysts' trading activities or financial interests, analysts are prohibited from receiving rewards or benefits other than standard commissions or fees. They are also prohibited from trading or entering into transactions using non-public investment analysis data or inside information for their own benefit or the benefit of any other persons in a manner that takes advantage of other investors. Moreover, if analysts are providing research on securities where they, spouse and minor child hold shares representing together more than 5% of the total number of shares, they must disclose such interest in the research report (clause 2.4 of SEC Guidelines).

As part of their conflict of interest policies, securities firms are required to monitor the activities of analysts, spouse and minor child as well as their personal dealings in securities for any violation of firm policies, including violations in relation to the misuse of inside or non-public information for personal gain. The staff dealing rules also require analysts, spouse and minor child to trade through employer's firm except it has no service provide, if so, they are required to report their trading activities to the employer instead for monitoring.

Trading activities or financial interests of the entities that employ analysts

Securities firms that trade on its own accounts must have in place appropriate operating systems in relation to risk management, investment controls, prevention of dissemination of non-public information to other personnel and departments and for mitigating conflicts of interest. In this regard, the firm's policies have to provide for controls in relation to proprietary dealings in securities on which the firm has produced research, such as appropriate Chinese wall to ensure that the proprietary trading unit does not receive information or research before it is disseminated to any other client, and the firm or its directors' financial interests (holding share more than 5%) in the subject issuer must be disclosed. Analysts are required to behave in accordance with the code of ethics.

	<p><i>Business relationships of the entities that employ analysts</i></p> <p>Clause 49 of the Notification No. TorThor. 35/2556 (Business Conduct Standards) requires securities firms to have measures in place for ensuring the independence of analysts from the influence of their research subjects (issuers) or other person having an interest in investment analysis. This is especially relevant in the case where the firm or analysts have a direct or indirect business relationship with or interest in the issuer such as shareholdings, directorships, acting as underwriter for the issuer or providing any services to the issuer. The research is prohibited in some period when the relationship has existed. For example, if the firm performs the role of the underwriter for the issuer, research on the issuer cannot be disseminated during the period of offering and in the 15 days prior to the IPO (blackout period). In case, where such relationships exist and it is not in the blackout period, the firm must have measures to manage COI with regard to the issuance of research. Moreover, such relationship must also be disclosed in research reports.</p> <p><i>Reporting lines for analysts and their compensation arrangements</i></p> <p>With regard to analysts' reporting lines and compensation arrangements, securities firms are required to have an organizational structure and operating systems with clear reporting lines that allow the firm to deliver its business functions, provide checks and balance, ensure compliance with rules and regulations, and to manage risks and conflicts of interest (Clause 11 - 12 of TorThor. 35/2556). To deal with conflicts, the reporting lines and structure must clearly segregate functions that may present conflicts of interest, such as research and corporate finance, and prevent the flow of inside information between such functions through appropriate Chinese walls. Hence, analysts' reporting line must not contain the same management head as corporate financial advisors, and their compensation must not be linked to the firm's corporate finance business.</p> <p>In addition, ASCO's professional standard specifies that securities firms must have a proper compensation arrangement for their employees which include analysts to ensure that there is no conflict on their duty or responsibility to clients.</p> <p>Compliance systems</p> <p>The SEC's business conduct regulations (TorThor. 35/2556) require securities companies to have a compliance system in place for ensuring compliance with the firm's internal policies and applicable laws, rules and regulations. Senior management has a direct responsibility to abide by and ensure compliance with all applicable regulations as well as the firm's internal policies, and may be punished for failure to do so.</p>
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Controls to manage or disclose actual and potential analyst conflicts of interest

Intermediaries must have written policies and measures for dealing with conflicts of interest, which must be thoroughly communicated to all personnel within the firm. All personnel, including directors and executives, must follow said policies and be subject to continuous monitoring to ensure compliance. The policies include the identification of conflicts of interest that may arise in all areas of business, measures managing, eliminating or disclosing conflicts, mechanisms for monitoring compliance and disciplinary actions that may be taken on those who fail to comply.

Controls to the influence of issuers, institutional investors and other outside parties upon analysts

Analysts must operate with independence and are prohibited from receiving rewards other than the standard commissions or fees obtainable in rendering their services. The organizational structure and reporting lines shall allow analysts to operate independently from other business interests of the firm. Moreover, the compliance system must require analysts to report any circumstances that may affect their independent judgement or to make clear disclosures of such circumstances.

Disclosures of actual and potential conflicts of interest

Where there are conflicts of interest in the business, intermediaries must disclose such conflicts to the public in the appropriate channel with the client at the right time with clear and reliable information without misleading information. In the case where an analyst conducts research on an issuer for whom the firm also acts as underwriter, the research paper must contain a prominent disclosure of the fact and business relationships with the issuer. Therefore, disclosure statements must be written in clear and legible font of the same size as those used for the content of the paper, and be shown on the conclusions page.

Regulation to act honestly and fairly with clients

Through the SEC Notification No. TorThor. 35/2556, the SEC has imposed principles and standards on firms undertaking securities business, including provisions that require firms to act honestly, fairly and with integrity. More specifically, firms must comply with the following standards:

- Serve clients with loyalty, expertise and proficiency;
- Operate in a way that maintains corporate image and reputation, as well as the credibility of the capital market;
- Treat clients fairly and equitably;
- Avoid actions which are subject to conflicts of interest;
- Avoid receipt of rewards, remunerations or other benefits exceeding those that shall be received in normal commercial practice; and etc.

	Moreover, the SEC Notification No. TorLorThor. 8/2557 establishes requirements on capital market personnel, including analysts, also require personnel to perform duties with loyalty and fairness, and in accordance with relevant codes of conduct and laws and regulations.																												
Assessment	Fully implemented																												
Comments	The SEA, the SEC regulation and the ASCO standards define a comprehensive regulatory framework applicable to firms providing advice to investors as well as their personnel. Specific standards are applied to sell-side research analysts and their employers.																												
Principles for Collective Investment Schemes																													
Principle 24.	The regulatory system should set standards for the eligibility, governance, organization and operational conduct of those who wish to market or operate a collective investment scheme.																												
Description	<p>CIS in Thailand may be created as a mutual fund under the SEA or as a trust under the SEA and the Trust for Transactions in Capital Market Act B.E. 2550. The differences in legal structure is discussed in Principle 25. For purposes of Principle 24, the standards are largely the same, unless noted, with the use of different terms for key participants. Mutual funds are managed by a mutual fund operator and an independent mutual fund supervisor/custodian oversees protection of investor interests and portfolio assets. Trusts (primarily REITS) are managed by a trust/REIT manager, and a trustee acts as legal owner and custodian of assets for the benefit of investors.</p> <table border="1" data-bbox="435 968 1539 1257"> <thead> <tr> <th colspan="7">Table. Number of CIS operators licensed to manage mutual fund and mutual fund supervisors</th> </tr> <tr> <th></th> <th>2013</th> <th>2014</th> <th>2015</th> <th>2016</th> <th>2017</th> <th>2018 (Jan-June)</th> </tr> </thead> <tbody> <tr> <td>CIS operators</td> <td>23</td> <td>24</td> <td>25</td> <td>25</td> <td>25</td> <td>25</td> </tr> <tr> <td>Mutual Fund Supervisors</td> <td>10</td> <td>10</td> <td>11</td> <td>11</td> <td>11</td> <td>11</td> </tr> </tbody> </table> <p><u>Note:</u> the number of mutual fund supervisors excludes registered mutual fund supervisors who are currently not operating their business.</p> <p>The Thai regulatory system for CIS is a comprehensive system with separate licenses for the creators/operators of a CIS and for distributors of CIS. The CIS operator's licenses (referred to as mutual fund management licenses) may be held by licensed brokers/dealers/underwriters (BDU License holders), licensed banks and insurance companies, and other companies meeting the licensing requirements. Licensing and personnel registration requirements are explained in more detail in Principle 29. Holders of a licensee for securities brokerage, dealing and underwriting (BDU licenses) are eligible to sell mutual fund units. Intermediaries without the BDU licenses who wish to market mutual fund units must hold a limited (LBDU) license for the brokerage, dealing and underwriting of investment units. (SEA Sections. 90 and 100; Ministerial Regulation Concerning Granting of Approval for Undertaking Securities Business B.E. 2551; TorLorThor. 8/2557). If the mutual fund management company intends to invest in derivatives for the fund, it must also hold a derivatives fund management license.</p>	Table. Number of CIS operators licensed to manage mutual fund and mutual fund supervisors								2013	2014	2015	2016	2017	2018 (Jan-June)	CIS operators	23	24	25	25	25	25	Mutual Fund Supervisors	10	10	11	11	11	11
Table. Number of CIS operators licensed to manage mutual fund and mutual fund supervisors																													
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A separate license (LBDU) is available for companies engaged in sales/distribution of CIS. Banks are the primary distribution channels of CIS in Thailand. To obtain an LBDU license, an applicant must satisfy "8 key components for fair dealing" The 8 requirements are:

- (1) Governance structure for fair dealing culture:
 - Setting policies and strategies concerning fair dealing culture
 - Clarifying line department responsible for product selling
 - Emphasizing fair dealing culture and delegation of duties by top management
 - Having reporting line for top management to monitor the governance;
- (2) Product selection and client segmentation:
 - Having a proper product selection process
 - Having product due diligence in place
 - Evaluating the product appropriateness for clients in each segment by considering the distribution channels and relevant systems;
- (3) Remuneration structure:
 - Setting the remuneration structure by concerning the quality of advice and client's benefit;
- (4) Sales process:
 - Having working system for sales process, which are for pre-sales, point-of-sales, and post-sales:
 - (a) Pre-sale process:
 - Preparing product information for sales persons
 - Preparing educating tools for sales persons
 - Having tools/units available to support sales persons;
 - (b) Point-of-sales process:
 - Having suitability test and asset allocation explained to client and giving advice that suits with client's profile
 - Providing documents, such as factsheets, prospectus, or marketing flyers
 - Explaining characteristics and significant risks of the product to clients
 - Notifying material events that might affect the product to clients
 - Creating control environment – check & balance to prevent risk and error;
 - (c) Post-sales process:
 - Having check & balance as the first line of defense to immediately detect significant risks
 - Solving issues relating inappropriate services and misconduct
 - Record keeping and rechecking selling evidences;
- (5) Communication and training:
 - Having a responsible unit for communicating and educating sales persons, which focusing on:
 - the content/message that is clear, simple, and accurate
 - the proper tools to convey message`
 - the variety of channels to reach out to all staff who involve in sales process

	<ul style="list-style-type: none"> ○ the evaluation of effectiveness and efficiency to improve and develop continuously • Having tools or channel to communicate with CIS operators; <p>(6) Operation and business continuity:</p> <ul style="list-style-type: none"> • Having check and balance to prevent and detect error and fraud • Relevant risks must be taken into account when using IT system • Having business continuity plan in place for continuing services; <p>(7) Complaint handling:</p> <ul style="list-style-type: none"> • Having an independent complaint handling unit • Having a standardized complaint handling process <ul style="list-style-type: none"> ○ The standard process must be able to identify root cause to correctly solve problems and deal with the complaint quickly and properly. • Having a follow-up process • Having preventing measures to avoid repetitive misconduct; <p>(8) Internal control and in-house inspection:</p> <ul style="list-style-type: none"> • Having a responsible unit for follow-up and operational audit in all staff levels, to detect and correct error, as the second and third lines of defense • Having risk management system, that identifies risks by following end-to-end sales process and plans the lines of defense that cover all the relevant risks. <p>All LBDU licensees are required to do a Self-Assessment Questionnaire (SAQ), submitted annually to the SEC. SEC staff also occasionally act as “secret shoppers” by reviewing the contents of the fund’s website and its application materials for new investors.</p> <p>Entities that want to operate a CIS must be in possession of a mutual fund management license (CIS is hereafter referred to as “mutual fund”). Principle 29 provides details on the licensing process and requirements. Where a fund management company wishes to engage in derivatives transactions for investment purposes for the funds, the company must also hold a derivatives fund management license. (SEA Section. 90; Ministerial Regulation Concerning Granting of Approval for Undertaking Securities Business B.E. 2551; KorThor/Nor/Khor. 14/2551). Operators of a trust/REIT must also obtain an underwriter's license (Tor.Jor. 49/2555).</p> <p>The following criteria are required of applicants for as REIT Manager Sor.Chor. 29/2555 Re: Rules, Conditions and Procedures for the Approval of REIT Manager and Standard Conduct (REIT);</p> <ol style="list-style-type: none"> 1) Licensed asset management company (AMC) 2) A company incorporated under Thai law with the criteria such as <ol style="list-style-type: none"> a) paid up capital at least 10 million Baht b) core business is to manage REIT. Other businesses are allowed only those relating to REIT management and no conflict of interest c) one third of the board of directors shall be independent directors.
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- d) major shareholders, board of directors and key executives shall not have the prohibited characteristics
- 3) The applicant shall demonstrate fit and proper operating system to ensure that REIT is managed efficiently and for the best interest of unit holders
- 4) Having at least 3 staff who have knowledge and experiences in real estate investment and management.

Several categories of investment funds have different requirements on the types of investors who may purchase units, on different requirements for investible assets and different standards on permitted risk levels in investment strategy. A chart in the discussion of principle 28 summarizes the different permitted fund characteristics. Also, infrastructure funds that invests more than thirty percent of the net asset value in an uncompleted project, may not be sold to retail investors, only to qualified investors ("qualified investor" means a person who initially acquires units of the fund not less than ten million Baht. In case where such person acquires additional units, the total value in accumulative with the units already held shall not be less than ten million Baht).

A prospective CIS operator is required to have minimum paid-up registered capital of 25 million baht or 10 million baht if it manages investments only for institutional investors .If the company is a licensed brokerage company that also undertakes other securities activities, such as holding client's assets, conducting proprietary trading or is a participant in clearing and settlement system, it must have initial capital of 100 million baht .However, most CIS operators in Thailand operate solely as asset management companies and do not require the higher capital level.

All licensed entities are required Intermediaries to conduct its business and provide services for clients with loyalty, expertise and proficiency, including due diligence and care in the same manner as a professional would exercise in like circumstances and shall comply with rules of conduct as specified in the relevant notifications ("Fiduciary duties of intermediary", Tor.Thor 35/2556 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives intermediaries).

The following chart sets out ongoing capital requirements.

For CIS operators not in the business of managing real estate/ infrastructure fund or trust:

Ongoing capital requirement	Minimum amount	Eligible accounts
a. base capital	20 million baht or 10 million baht if institutional investor ("II") only and does not hold client's asset in custody	Net worth

b. working capital	1/4 of the total expenditures	Liquid capital*
The CIS operator must maintain the minimum amount of capital of the higher value between a and b. If a is higher, the CIS operator must maintain liquid capital of not less than b.		
c. additional capital for operational risk	0.01% of the assets under management ("AUM")	Liquid capital or professional indemnity insurance ("PII"). Excess net worth may be used to cover up to 20% of the required amount.

Note: *Liquid capital is defined as liquid asset less liabilities.

For CIS operators managing real estate fund/trust or infrastructure fund/trust:

Ongoing capital requirement	Minimum amount
a. net worth	20 million baht with the early warning level of 30 million baht
b. PII and insurance against any acts of fraud by officers and directors	If $AUM \leq 25,000$ million Baht and the net worth is below 120 million baht, the claim must cover not less than the different amount of 120 million baht and its current net worth level. Where $AUM > 25,000$ million baht and its net worth is below 220 million baht, the claim must cover not less than the difference between 220 million baht and its current net worth level.

Note: the SEC is in the process of revising the regulations regarding ongoing capital requirement for this kind of CIS operator. The new regulations will be in line with the requirements in the table above (CIS operators not in the business of managing real estate/infrastructure fund or trust)

Application Requirements and Review Factors

In considering an applicant for a mutual fund management license, the SEC fit and proper review process examines major shareholders (10% stock holders), directors, executives and any other person with management power. The fit and proper requirements prohibit persons who:

- Have been subject to a legal action – accused, convicted or penalized – under the securities or derivatives laws or other laws relating to financial business of a similar nature, including unfair securities trading or fraudulent, dishonest or deceitful management; and
- Have been dismissed, terminated, or discharged from work due to dishonesty, or circumstances indicating an implication of dishonesty.

Applicants must demonstrate that they have qualified personnel and appropriate operating systems for carrying out its functions. In considering the sufficiency of human resources, the SEC looks at the company's personnel relevant to the core functions, such as fund managers, risk managers, and compliance officers. Personnel undertaking certain professional or management roles must be approved by and registered with the SEC (TorLorThor. 8/2557). Fund managers are required to have appropriate educational background and knowledge. A fund manager must have either passed the chartered financial analyst (CFA) or certified investment and securities analyst (CISA) Level 3 exams; or passed the CFA or CISA Level 1 exams with at least 2 years of relevant experience in portfolio management. Fund managers for funds investing in derivatives must have a general knowledge of derivatives laws and regulations or have completed a course on derivatives management organized by SET or other approved institutions.

A CIS operator must have an appropriate organizational structure, operational systems for fund management and its supervision –including systems for order handling, back office, record keeping and for monitoring compliance –and internal controls. It must maintain records of investments of all funds under management, deposit assets of the funds into the custody of their respective mutual fund supervisors (TorThor. 35/2556; SorKhor/Nor. 4/2549). It also has a duty to maintain a register of unitholders for each mutual fund.

A REIT manager must perform its duties in accordance with a trust deed that requires:

- maintaining trust assets in good condition and having sufficient insurance;
- providing a full property valuation document by an appraiser, approved by the SEC, every two years and reviewing it once a year.

The trustee has a duty to supervise, monitor and ensure that CIS operator carries out its duties and performs functions in accordance to the trust deed and relevant regulations.

A CIS operator must have appropriate and adequate risk management systems for identifying, managing and mitigating the risk it faces, taking into account the nature and size of its operations as well as the nature of assets. The CIS operator must appoint a Risk Manager with sufficient independence from the CIS operator's main operations to be responsible for risk management. Procedures to ensure that identified risks are closely monitored and that management is kept informed of risk exposures on a continuous and timely basis are required. (Ministerial Regulation Concerning Granting of Approval for Undertaking Securities Business B.E. 2551; OrKhor/Nor. 5/2549). In addition to providing this information in the application process, CIS operators must submit annually a Self-Assessment Questionnaires ("SAQs") on Risk Management and Controlling System (Circular No. Nor.(Wor) 20/2548). (The SEC provided the assessors with a public action taken against an Operator that failed to comply).

	<p>CIS operators are required to comply with investment risk management guidelines set by the Association of Investment Management Companies (AIMC), approved by the SEC. The AIMC guidelines requirements include:</p> <ol style="list-style-type: none"> (1) Governance structure and internal control. For example : <ol style="list-style-type: none"> (a) The CIS operator must have policies and procedures to manage and control investment risk (including liquidity risk). These policies and procedures must be approved and reviewed by CIS operator’s board of directors; and (b) The CIS operator must appoint a risk management function which is independent from investment management function to ensure the day-to-day implementation of the risk management policies and procedures (e.g, risk monitoring, risk limits, scenario analysis/stress testing), and report regularly the results to the CIS operator’s board of directors as well as to the responsible functions (such as investment management function and compliance function). (2) Identification and measurement of liquidity risk. The CIS operator must: <ol style="list-style-type: none"> (a) Determine methods and factors for assessing liquidity risk; (b) Measure the level of liquidity both in term of assets and liabilities of the fund, for example, assessing liquidity of assets and markets, volatility of assets, cash inflows and outflows of the mutual fund, cash projection, concentration and behavior of investors; (c) Determine appropriate proportion of the mutual fund’s liquid assets that matches the mutual fund’s liquidity risk profile and obligations (regarding the proportion of the mutual fund’s liquid assets, the AIMC guideline provides an example that the CIS operator may classify the mutual fund’s assets into different categories based on the number of days within which an asset could be converted into cash or could be liquidated without significantly affecting the market value of the asset); (d) Prepare the contingency plan to deal with possible liquidity problem (e.g., panic redemption in other mutual funds managed by the same CIS operator) and establish crisis communication procedure and person responsible for communicating with relevant parties (such as unitholders, competent authorities, and distributors of mutual fund units); and (e) Conduct scenario analysis / stress test under various circumstances in order to examine the impact on each scenario on the mutual fund and thence integrate such information into the CIS operator’s liquidity management and investment decision; and assess the adequacy the mutual fund’s liquidity and prepare contingency plan accordingly.
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Along with risk management procedures, a CIS operator's operating system must provide for adequate internal controls and compliance arrangements to ensure that business is carried out diligently, effectively, honestly and fairly in compliance with applicable rules and regulations (SorKhor/Nor. 4/2549). The internal control system must include the following requirements:

- (1) To generate a good control environment;
- (2) To assess, administer and manage risks arising from business operations to minimize impact;
- (3) To determine efficient control activities in order to prevent or minimize possible damage.
- (4) To arrange appropriate channels for obtaining information from and communicating with internal and external sources in a timely manner; and
- (5) To monitor the system and report findings to the CIS operator's board of directors or directors assigned by the board to achieve the objective and mission of internal control.

CIS operators and mutual funds are subject to requirements regarding liquidity risk management processes (including for example, internal risk management, cash flow projection, regular stress test, and liquidity contingency plan) and other regulatory measures for addressing liquidity risk ("liquidity risk measures") of the mutual fund. Under SEC rules a CIS operator must not make investments that adversely affect its overall liquidity and capacity to redeem mutual fund's units.

CIS operators are required to establish a compliance unit to monitor compliance with all applicable laws and regulations (TorThor. 39/2555). The reporting lines and operational structure must allow the compliance unit to perform its duty independently from the management and to report its findings directly to the board of directors. The compliance unit's duties and responsibilities include:

- (1) Preparing a compliance manual, providing training and advice, and supervising staff of the company;
- (2) Identifying risks associated with new developments or new transactions carried out by the CIS operator and factors that may cause the CIS operator to fail to comply with laws and regulations;
- (3) Auditing or reviewing compliance with laws and regulations and reporting findings to the board of directors and the CEO;
- (4) Preparing an annual compliance plan to be considered by the board of directors;
- (5) Preparing an annual compliance report for the board of directors and the CEO and submitting such report to the SEC within 2 months from the last day of the calendar year; and
- (6) Coordinating with the SEC where possible non-compliance with the law or SEC regulations is detected.

CIS operators must also comply with product governance requirements in offering investment products and are required to have a product governance policy and systems and measures covering the following four key areas (SorNor. 18/2560; NorPor. 2/2560):

- (1) Organizational structure, roles of the board of directors and responsibilities of senior management – policies, operating systems and procedures for the issuance of mutual funds are documented in writing;
- (2) Product development – the process for developing a mutual fund should: (i) identify the target market; (ii) take into account investors’ interests and preferences; and (iii) test the product before issuance;
- (3) Distribution – the CIS operator must: (i) have processes for the selection of distributors and channels for communication with such distributors to ensure correct understanding of features and risks of mutual funds; and (ii) have means of communicating with investors and providing services in relation to its funds. Note that in case the operator engages in sales and services relating to investment units, the operator is also subject to the requirements regarding sales conduct set out in SEC Guidelines on the Sales and Services relating to Capital Market Products in the Forms of Investment Units and Debt Instruments;
- (4) Monitoring of performance – the CIS operator must monitor the performance of the fund to ensure it remains suitable for the target market and monitor its distributors in offering funds to ensure that the funds are reaching their target market and investors have understanding of the funds before making investment decision.

SEC License Review Process

Section 117 of the SEA covers the CIS application and approval process. A CIS operator is required to submit documents concerning the creation of the mutual fund, a draft commitment between unitholders and the CIS operator and draft agreement for the appointment of a mutual fund supervisor. The SEC reviews all information for completeness and to ensure that adequate is provided to investors. The SEC may also require the CIS operator to disclose additional items or make changes if necessary.

The SEC can refuse authorization of a mutual fund if:

- (1) The fund is being created to evade laws and regulations;
- (2) The fund would be in contravention of public or government policies;
- (3) The fund may affect adversely the overall credibility of the Thai capital market; and
- (4) The fund may cause damage to the interests and rights of investors.

During the licensing application process, the SEC examines the applicant’s application and supporting documents. Where additional information is needed, the SEC can ask the applicant to provide explanations or more supporting information (Ministerial Regulation Concerning Granting of Approval for Undertaking Securities Business B.E. 2551: Clause 14). After approval of a license and before the entity may begin operations, the SEC conducts an interview and on-site visit to confirm that all systems and procedures, described in the application, are functioning.

Additionally, every five years a REIT manager must obtain a license renewal, entailing an interview and submission to the SEC of all relevant documents demonstrating that they meet all criteria.

Standards of Conduct and Avoidance of Conflicts of Interest

CIS operators are subject to principles and standards of business conduct (Notification No. KorThor. 18/2554 and TorThor. 35/2556). CIS operators must act in the best interest of investors and preserve the integrity of markets (TorThor. 35/2556). Specifically, CIS operators must (KorThor. 18/2554):

- (1) Conduct business with honesty, fairness and integrity with consideration of market integrity as a whole;
- (2) Conduct business with skill, care and diligence;
- (3) Comply with proper standards of market conduct;
- (4) Ensure management of conflicts of interest; and
- (5) Put clients' interests first.

The independent fund supervisor is responsible for oversight of compliance by the mutual fund. The mutual fund supervisor is required to SEA Sections 125-128):

- (1) Oversee that the CIS operator manages the mutual fund strictly in accordance with the approved mutual fund project and the commitment made with the unitholders, as well as relevant laws and regulations.
- (2) Report to the SEC in the event where the CIS operator failed to perform its duties in (1) or has caused damage to the mutual fund; and
- (3) Take legal action in court to force the CIS operator to perform its duties or to claim compensation for damages from the CIS operator for the benefit of unit holders as a whole
- (4) Approved connected person transactions

A REIT manager must follow an approval procedure (depends on size and significance of the transaction) before entering into material transaction or related party transactions (Sor.Ror. 27/2557 Re :Regulations relating to Conflict of Interest with Real Estate Investment Trust). For example:

- Material transaction such as acquisition of assets
 - a) must be approved by the board of directors of the REIT manager in case of acquiring additional asset with value at 10% of the total asset value of the REIT or more;
 - b) must be approved by the resolution of the unitholders' meeting with at least three-fourth majority votes of the attending unitholders with the voting right, in case of acquiring additional asset with value at 30% of the total asset value of the REIT or more.

	<ul style="list-style-type: none"> - Related party transaction <ul style="list-style-type: none"> a) in case the value of the transaction exceeds 1 million Baht or 0.03% of the NAV, the approval of the board of directors of the REIT manager is required; b) in case the value of the transaction exceeds 20 million Baht or more than 3% of NAV, the resolution of approval of the unitholders' meeting passed by at least three-fourths majority vote of the attending unitholders with the voting right is required. <p>International Coordination of Application Review</p> <p>The SEC permits cross-border recognition under two regional frameworks, the ASEAN CIS framework of the ASEAN Capital Markets Forum (ACMF) and the Asia Region Funds Passport (ARFP) of the Asia-Pacific Economic Cooperation (APEC). Both frameworks are multilateral arrangements in which regulatory authorities of participating countries must be able to provide mutual assistance and exchange of information in respect of the schemes. In this regard, participating regulators must be a signatory to Appendix A of the IOSCO MMoU and their regulatory framework relating to CIS and enforcement must have been assessed against the IOSCO principles to be "Broadly Implemented" at the minimum. Under the frameworks' requirements on regulatory cooperation, member regulators should be able to provide one another with the fullest assistance permissible and exchange information to facilitate the supervision and investigation of cross-border CIS and related parties, as well as to enforce applicable laws and regulations within their jurisdiction.</p> <p>Ongoing Regulatory Oversight and Independent Oversight of CIS Operators</p> <p>Authorization of a CIS</p> <p>Mutual fund units and trust certificate are securities under SEC Section 4. Authorization by the SEC is required. The SEC has adopted regulations governing the process (Notification No. TorNor .88/2558) .To set up a mutual fund, a CIS operator is required to submit constitutive documents of the mutual fund to the SEC to seek approval. Such documents, which are explained in more detail in Principle 25, The SEC reviews all information contained in the constitutive documents for completeness and to ensure that adequate information regarding the mutual fund is provided to investors .The SEC may also require the CIS operator to disclose additional items or make changes if necessary. The registration statement and the draft prospectus must be filed with the SEC and declared effective by the SEC prior to the unit offering. The SEC may refuse to authorize the application (SEA Section 76, (TorNor. 88/2558) if the SEC has a reasonable suspicion, based upon available facts that:</p> <ul style="list-style-type: none"> a) an applicant or the offer for sale of units has the characteristic or meets the rules and conditions to obtain an approval but there is a certain fact indicating that the purpose or the substance of such offering is to avoid any provisions of the SEA or SEC rules; b) the offer for sale of units may not conform with the public interest or national policies; c) the offer for sale of units may cause an adverse effect to the credibility of the Thai capital market, or;
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- d) the offer for sale of units may cause any damages or an unfair treatment to the investors as a whole or if investors not obtain correct and sufficient information for supporting the decision to invest.

In case there is certain fact appeared to the SEC after an applicant has obtained an approval to offer for sale of units that the deliberation of the SEC would be changed, if such fact has arisen prior to the approval, the SEC is empowered to order the approved person, director or executive of the approved person to elucidate or disclose additional information within a specified period and suspend the approval of the offer for sale of units until clarification or correction has been made within the specified period; or order the approved person to suspend the offer for sale of the newly issued units in the portion which has not been offered or subscribed yet and order to discharge the approval in such portion.

The SEC explained to the assessors that in practice, it has not had to officially refuse authorization of a mutual fund. If the SEC, during its review process, finds any significant concerns regarding the requirements for the authorization, the SEC will issue a written note (i.e., e-mail) to the applicant outlining its concerns. The CIS operator can decide whether to make the necessary changes and resubmit for approval or withdraw the application.

In Thailand mutual funds operate as a contractual entity, with legal protections provided to protect investor assets. While the Operator must have a Board of Directors, the individual fund does not have its own Board. Responsibility for investor protection and regulatory compliance oversight of the fund and its operator is assigned to a CIS Supervisor. The Supervisor must not be a related entity, and operates under a contract with the Operator. The mutual fund supervisor is required by law and regulations to:

- (1) Oversee that the CIS operator manages the mutual fund strictly in accordance with the approved mutual fund project and the commitment made with the unitholders, as well as relevant laws and regulations .
- (2) Report to the SEC in the event where the CIS operator failed to perform its duties in)1 (or has caused damage to the mutual fund; and
- (3) Take legal action in court to force the CIS operator to perform its duties or to claim compensation for damages from the CIS operator for the benefit of unit holders as a whole
- (4) Approve connected person transactions.

An essential responsibility of the Supervisor is close daily oversight of asset valuation policy and implementation and daily NAV calculation. Supervisors are required to calculate NAV daily, independent from the Operator, and confirm the accuracy of the Operator's NAV.

Trusts are overseen by a Trustee that performs the same functions as the mutual fund supervisor.

	<p>Inspections</p> <p>Section 19(2) of the SEA empowers and requires the SEC to supervise regulated entities to ensure compliance with provisions of the SEA and related regulations. Section 264 of the SEA also provides the SEC with powers of inspection, including the ability to enter into the premises of CIS operators, mutual fund supervisors and custodians to examine operational systems, assets and liabilities and any other documents, evidence or information concerning the business.</p> <p>There are three types of on-site inspections: Routine, Theme, and Cause inspection. Routine inspections are selected based on the risk level and impact of each entity. The SEC applies a risk-based approach (RBA) to its on-site inspections of CIS operators and mutual fund supervisors. The RBA consists of four major risk factors: (1) prudential risk; (2) operational risk; (3) customer relationship risk; and (4) portfolio management risk. A rating of 4 in the areas of portfolio management risk will also result in a CIS operator being inspected every year. The outcome of the risk assessment is used in planning scope, high risk focus areas, and frequency of inspections on regulated entities. An RBA risk rating – ranging from 5 (high risk) to 1 (low risk) – is assigned to each CIS operator and is used to indicate the intensity level of supervision. CIS operators with an overall rating between 1 and 3 will generally be inspected every 3 years while those with a rating of 4 or more will be inspected every year.</p> <p>Routine inspections consider the following aspects: Conflicts of interest; investor’s interest and right protection; adequacy of human resources; compliance function; segregation and protection of client assets; performance of fiduciary duties; and accuracy of valuations. Theme inspections examine a particular issue or concern across the majority of CIS operators. Examples of past theme inspections include investments in non-investment grade and unrated fixed income instruments. Cause inspections are used for in-depth investigations into a specific matter.</p> <p>In conducting inspections, the SEC inspectors follow inspection guidelines including workflows and checklists which cover key areas of regulation and high-risk areas. The major regulatory requirements and risks include business conduct, investment and risk management, valuation and disclosure. In addition, inspection guidelines are regularly updated to capture emerging risks. In performing inspections, various methods are used.</p> <p>The inspection team conducts interviews to understand the business as well as its systems of internal controls, oversight and compliance, as well as review the adequacy of policies and procedures. After that, the inspectors review the books and records, minutes of the board/ executives or related committee’s meetings and perform transactional tests on a sampling basis to ensure that controls are effective, and employees are given/ communicated the supervisory procedures. The inspection results are reviewed by RBA committee (consists of a director and assistant directors of the Investment Supervision Department) to ensure that the onsite inspection results and findings are effective, fair and consistent.</p>
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Inspection reports containing inspection results and recommendations are made available to the public on the SEC website. The numbers of inspections carried out on CIS operators licensed to manage mutual fund and mutual fund supervisors over the past few years are provided below

Table. Number of on-site inspections						
	2013	2014	2015	2016	2017	2018
Type of inspection	Number of on-site inspections on CIS operators licensed to manage mutual fund					
Routine (market share coverage %)	15 (40)	9 (79)	7 (49)	8 (14)	9 (28)	8 (68)
Theme	Sales Conduct	Sales Conduct	Unrated invest.	-	Unrated invest. / Foreign invest.	Product Govern. / IT security
Cause	-	-	-	-	1 (Disclosure)	-
Type of inspection	Number of on-site inspections on Mutual Fund Supervisors					
Routine (market share coverage %)	1 (7)	10 (100)	6 (74)	- -	5 (23)	- -

Responsibility for oversight and inspection of trusts/ REITs is under a separate SEC office. Because the legal authority for REITS is recent, and few have been created, the SEC has not initiated an on-site inspection program yet. In the next 3 years, the SEC plans to conduct on-site inspection of 7-8 trust companies each year and will complete the inspection on all 22 REIT managers in 3 years. The on-site inspection will be conducted using the SEC Risk-Based Approach and focus on important areas such as REIT manager's qualification, operating system, outsource examination or conflict of interest management.

Investigations

Section 264 of the SEA provides the SEC with investigation powers, including the ability to enter into the premises of regulated entities, obtain documents or evidence in relation to the commission of offences under provisions of the SEA and to order relevant persons to testify or provide evidence. Where information obtained from off-site monitoring, on-site inspections and other sources indicates the possibility of regulatory violations or misconduct on the part of the CIS operator or the mutual fund supervisor or trust Trustee, the SEC will investigate the matter and take remedial actions if necessary. Examples include:

- Investments in foreign securities (2017): Are CIS operators performing adequate due diligence in selecting foreign securities and are appropriate risk management systems in place.

	<ul style="list-style-type: none"> • Investments in unrated bonds (2015/2017): Are CIS operators performing adequate due diligence in selecting unrated bonds and are appropriate risk management systems in place. • IT and Cyber security (2018): to ensure that CIS operators can identify and manage IT and Cyber security risks which covers government and management of risk, allocation and management of resources and establishment of policies and measures on IT and Cyber security. • Product Governance (2018): to ensure that CIS operators act in the best interests of their clients during all stages of the product lifecycle which covers product development, distributor selection and communication, product and distributor monitoring and sale process. • Advertising (2016-2018): to ensure that the information giving to the public is informative accurate and up-to-date according to the mutual fund project • Churning (2013): to ensure that CIS operators which managed trigger funds have put in place adequate internal control pertaining to appropriate trading and due diligence. • Inappropriate investment management system (2017): to ensure that CIS operator have a sufficient investment management system for the best interest of the clients <p>Books and Records</p> <p>The CIS operator must maintain records of mutual fund management and business operations (Section 125 SEA, Notification OrKhor/Nor. 5/2549). The CIS operator is responsible for preparing accurate and complete accounts of investments for all mutual funds under management and for maintaining a register of the funds 'unitholders .</p> <p>As part of the fit and proper criteria for licensing, CIS operators are required to have appropriate record keeping arrangements which include a system for management and storage of information, documents and other evidentiary information related to business operations which allow information to be used or inspected in a timely manner (TorThor. 35/2556; SorKhor/Nor. 4/2549; OrKhor/Nor. 5/2549) .The system must also safeguard information from being inappropriately modified, misplaced or destroyed and from inappropriate access. Records must be kept for at least 5 years from the date of record or transaction .Client identification information must be kept for at least 5 years from the account closing date. CIS operators are required to keep (OrKhor/Nor. 5/2549):</p> <ul style="list-style-type: none"> • The record of affiliate transaction and the reason/ evidence for that transaction to ensure that CIS operators do that for the best interest of the mutual fund; and • The record of proprietary and staff trading for the inspection to ensure that the trading is according to the SEC and AIMC rules. <p>CIS Investor Protection and Standards of Conduct Requirements</p> <p>CIS operators are subject to principles and standards of business conduct set out in SEC regulations. CIS operators must act in the best interest of investors and act to preserve the integrity of markets.</p>
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Section 126(1) of the SEA prohibits a CIS operator from engaging in any act which is in conflict with the interests of a mutual fund and its unitholders. The regulatory framework also sets out provisions in relation to certain actions that exhibit conflicts of interest (TorThor. 35/2556). The COI policies must be reviewed regularly to ensure that they continue to be effective. Moreover, there must be measures intended to prevent conflicts of interest related to staff dealing as mentioned above, including supervision and monitoring of trading accounts of employees and their affiliated persons (e.g. immediate family) and measures for preventing the use of inside information by employees (SorNor. 14/2558; NorPor. 1/2558).

The SEC has imposed principles and standards of business conduct on firms undertaking securities/derivatives business (including CIS) that require firms to act professionally, honestly and fairly with market integrity and the best interests of clients in mind. Notification No. TorThor. 35/2556 sets out such standards as well as requirements on licensed entities, including CIS operators, in relation to the following areas:

- Management and organizational structure (TorThor. 35/2556);
- Mitigation and management of conflicts of interest (TorThor. 35/2556);
- Communications and provision of services to clients (TorThor. 35/2556);
- Advertising and sales promotion (TorThor. 35/2556); and
- Other requirements for specific activities (TorThor. 35/2556).

In accordance with the standards of professional business conduct, CIS operators are required to observe the following provisions (TorThor. 35/2556):

- Operate business with loyalty, expertise, proficiency as well as diligence and care;
- Operate in a way that maintains corporate image and reputation, as well as the integrity of the capital market;
- Treat clients fairly and equitably;
- Avoid actions which are subject to conflicts of interest;
- Avoid receipt of rewards, remunerations or other benefits exceeding those that should be received in normal commercial practice, etc.

Best execution - CIS operators are required to have clear criteria and procedures for the selection of brokers to ensure best dealing and execution services and to make investment decisions or transactions that yield the best outcome under given circumstances (TorThor. 35/2556; OrKhor/Nor. 5/2549).

Trade allocation - Mutual fund transactions must take precedence over proprietary trades of CIS operators. CIS operators are prohibited from trading for their own benefit using information from their fund management business and are required to have appropriate internal controls in relation to their proprietary trading functions to prevent conflicts of interest. CIS operators are required to have in place measures to ensure fair allocation, such as having a predetermined plan for allocation of trades prior to execution and providing explanations if allocation is not made according to plan. (SorThor. 15/2558; NorPor. 2/2558).

	<p>Churning - CIS operators are required to have clear written procedures to address churning, to ensure that fund managers do not enter into transactions for mutual funds or transact with any particular counterparty more often than necessary (SorNor. 14/2558).</p> <p>Affiliated transactions - Related party transactions are permitted provided that they are carried out at arm's length and are in the best interest of unitholders. Related party transactions must be approved by the CIS Supervisor. CIS operators must make disclosures of affiliated transactions, by reporting such transactions to the SEC and disclosing to the public through its website and in the mutual funds semi-annual and annual reports. Example of transactions that must be disclosed include:</p> <ol style="list-style-type: none"> 1. direct transaction with affiliated persons, including trading of securities or other assets through an intermediary if the CIS operator should be reasonably aware that the other party is an affiliated person; 2. buying newly-issued securities for which an affiliated person is the underwriter, or arranger; 3. buying securities or assets certified, or endorsed or guaranteed by the affiliated person; 4. trading investment units where the affiliated person is the manager 5. trading securities or assets among funds under management (crossing transaction) <p>A CIS operator must take care to ensure that personal investments made by its staff and its own proprietary investments are not in conflict with the interests of funds under management .The CIS operator is required to have in place controls in this regard Notification No. SorThor. 14/2558 and Notification No. SorThor. 15/2558).</p> <p>CIS operators transacting with an underwriter who is its affiliate must obtain prior approval from the mutual fund supervisor, unless the transaction is made at fair value in an organized secondary market. or the transaction price is based on a referable rate consistent with pricing principles set by the Bond Market Association.</p> <p>In mid-2017 the SEC and the Bank of Thailand issued a Joint Policy Statement containing Policy Guideline for Supervising Financial Conglomerates Engaging in Asset Management Business. Under the Guidelines financial conglomerate must have a system in place for ensuring that companies in the conglomerate make decisions putting investors first, and address conflicts of interest between parent banks and investors in the funds in the following areas:</p> <ul style="list-style-type: none"> • CIS operator must have independence in developing mutual fund products and distribution plans. • CIS investments in instruments issued by debtors of an affiliate commercial bank and underwritten by such banks. CIS operator must be assured of the fairness of the price of such instruments, and that the investments are in line with the fund's investment objective and policy and for the benefit of the fund, given the prevailing situation. • CIS operators must be assured that services provided by an affiliate are beneficial to the funds and the fees charged are appropriate.
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- CIS operators exercise voting rights of portfolio shares in the best interest of fund unitholders.

CIS operators are required to have in place investment management procedures which provides for an adequate due diligence process in the selection of investments. The due diligence process should involve both quantitative – e.g. financial statements – and qualitative – e.g. policies and actions of issuers – analyses to enable the CIS operator to determine the risks and expected return of investment. In addition, investment procedures should ensure that investments made are in line with the policy, objective and restrictions of each particular mutual fund. For complex products, the Association of Investment Management Companies (AIMC) has issued standards requiring the CIS operator to carry out sufficient study of product features and risk and return trade-off, and to conduct a self-assessment on product knowledge and suitability.

CIS operators are required to have appropriate operational systems and measures for mitigating and managing actual and potential conflicts of interest, which must include written policies for preventing and managing conflicts of interest subject to approval by the board of directors.

Such policies must cover:

- The identification of actual and potential conflicts of interest;
- Policies, measures and operating systems for managing COI, which are communicated to all personnel;
- Mechanisms for monitoring compliance with such policies and measures; and
- Measures for undertaking disciplinary actions and providing compensations for damages.

The COI policies outlined above must be reviewed regularly to ensure that they continue to be effective. Moreover, there must be measures intended to prevent conflicts of interest related to staff dealing as mentioned above, including supervision and monitoring of trading accounts of employees and their affiliated persons (e.g. immediate family) and measures for preventing the use of inside information by employees.

Fees and Expenses

Regulation of mutual fund fees and expenses is a disclosure-based system. Any fees and charges in relation to subscriptions, redemptions or management of mutual funds must be clearly specified in the mutual fund project and offering documents. Among other requirements, the CIS operator must disclose a maximum rate for total fees and charges and the current rate if it is lower. If a fund seeks to increase the maximum disclosed fee rate, it must obtain a majority vote of unit holders. To avoid this requirement, typically a fund operator discloses a maximum fee substantially higher than the actual planned fee as well as the actual fees that will be imposed. In this way, the Operator may unilaterally increase a fee in the future, so long as the increased fee is below the originally disclosed maximum and investors are provided sufficient advance notification of a change in a fee.

	<p>Trust/REIT fees and expenses are calculated or charged to the REIT must be specified in the trust deed such as acquisition fee and management fee. The expenses which may be charged to the assets of REIT have to be necessary and reasonable and related directly to the management of REIT.</p> <p>A CIS operator is allowed to provide distributors with sales promotion compensation for its mutual funds as long as the CIS operator complies with specified AIMC rules, including advance public notification and not making use of sale promotions to push clients into using the CIS operator's services or investing in a mutual fund without taking into account the information necessary for making an investment decision. The amount of inducement must not exceed 0.2% of the required minimum subscription amount. A CIS operator is prohibited from charging sales promotion expenses to the mutual fund. (TorThor. 35/2556: Clause 46(7), and 48(1), (4), and (5); AIMC Notification No. SorJorKor.Ror. 1/2556)).</p> <p>Whenever a CIS operator receives rebates from a counterparty, the rebates must be considered mutual fund assets. For example, a case where a feeder fund receive rebate from the master fund, the CIS operator must include such rebates back into the feeder fund assets. (TorThor 35/2556: Clause; Circular No. Nor.(Wor) 18/2550).</p> <p>Operators may only utilize "soft-dollar" arrangements that it determines are beneficial to the client. The CIS operator must clearly disclose the terms and conditions for these arrangements. Receiving benefits from the business operation for the CIS operator's own benefit is strictly prohibited.</p> <p><i>Liquidity Risk Management</i></p> <p>CIS operators and mutual funds are subject to requirements regarding liquidity risk management processes (including, for example, internal risk management, cash flow projection, regular stress test, and liquidity contingency plan) and other regulatory measures for addressing liquidity risk ("liquidity risk measures") of the mutual fund. The CIS operator must not make investments that affect the overall liquidity for redemption of mutual fund's unit, and be able to maintain adequate liquidity of funds in changing circumstances (TorNor. 87/2558).</p> <p>In addition, the CIS operator is required to put in place an internal control system to ensure material risks are properly identified, assessed, monitored, and controlled (OrKhor/Nor. 5/2549). The CIS operator must include liquidity risk management as part of the overall investment risk management program. Further, the CIS operator is required to comply with investment risk management guidelines set by the association of investment management companies (AIMC), approved by the SEC (AIMC Notification No. SorJorKor .1/2556). The AIMC guidelines add detailed requirements to assist the CIS operator in implementing their effective liquidity risk management. The requirements include:</p>
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- (1) Governance structure and internal control. For example :
- (a) The CIS operator must have policies and procedures to manage and control investment risk (including liquidity risk). These policies and procedures must be approved and reviewed by CIS operator's board of directors (SorJorKor. 1/2556) and
 - (b) The CIS operator must appoint a risk management function which is independent from investment management function to ensure the day-to-day implementation of the risk management policies and procedures (e.g. risk monitoring, risk limits, scenario analysis/stress testing), and report regularly the results to the CIS operator's board of directors as well as to the responsible functions) such as investment management function and compliance function) (SorJorKor. 1/2556).
- (2) Identification and measurement of liquidity risk .The CIS operator must, for example (SorJorKor .1/2556):
- (a) Determine methods and factors for assessing liquidity risk;
 - (b) Measure the level of liquidity both in term of assets and liabilities of the fund, for example, assessing liquidity of assets and markets, volatility of assets, cash inflows and outflows of the mutual fund, cash projection, concentration and behavior of investors;
 - (c) Determine appropriate proportion of the mutual fund's liquid assets that matches the mutual fund's liquidity risk profile and obligations (regarding the proportion of the mutual fund's liquid assets, the AIMC guideline provides an example that the CIS operator may classify the mutual fund's assets into different categories based on the number of days within which an asset could be converted into cash or could be liquidated without significantly affecting the market value of the asset);
 - (d) Prepare the contingency plan to deal with possible liquidity problem (e.g., panic redemption in other mutual funds managed by the same CIS operator and establish crisis communication procedure and person responsible for communicating with relevant parties such as unitholders, competent authorities, and distributors of mutual fund unit); and
 - (e) Conduct scenario analysis /stress test under various circumstances in order to examine the impact on each scenario on the mutual fund and thence integrate such information into the CIS operator's liquidity management and investment decision; and assess the adequacy the mutual fund's liquidity and prepare contingency plan accord

Since REIT units are non-redeemable (closed- end fund) and traded in Stock Exchange of Thailand so there is less concern about liquidity risk to meet redemption orders. However, a REIT manager has a duty to maintain proper operating systems.

Delegation and Outsourcing

A mutual fund operator may outsource functions to service providers on the condition that the basis for outsourcing is reasonable and provided the CIS operator remains accountable for the performance of delegated functions. While any service function may be outsourced by a mutual

	<p>fund, the SEC prohibits a CIS from outsourcing all business functions. (i.e. a fund that exists in name only with all functions outsourced to other entities).</p> <p>The entities to whom the CIS operator outsources its functions must have adequate human resources and operating systems –including risk management, internal controls, safeguards for preserving data confidentiality and contingency management system –and must not have a financial status that may cause damage or possess a shortcoming or inappropriateness relating to the control and proper operation of the business. A CIS operator may only outsource its investment management function to the following entities:</p> <ol style="list-style-type: none"> (1) A local licensed securities firm in the category of fund management (i.e. mutual fund and private fund management) or a licensed derivatives intermediary in the category of derivatives investment management (in case the outsourced function is related to derivatives investment); or (2) A foreign person (located abroad) who is: <ol style="list-style-type: none"> (a) Capable of operating investment management business legally under the law of the jurisdiction where such foreign person operates business; and (b) Under the supervision of a regulatory agency which is a member of IOSCO and is a signatory to the IOSCO MMoU (Signatory A), or has signed bilateral MoU with the SEC. to an equivalent effect, and such regulatory agency is based in a jurisdiction that has a supervisory regime regarding investment management recognized by the SEC. <p>Outsourcing to a foreign person who meets the requirement under sub-clause (2)(a) does not meet the requirement under sub-clause (2)(b) may be permitted subject to the SEC’s prior approval on a case by case basis .In this regard, the SEC will consider, for example, the financial strength and adequacy of human resources and operating system of such foreign person, the appropriateness of the arrangements between the CIS operator and the foreign person, as well as the supervisory regime of the jurisdiction where the foreign person is based .</p> <p>A CIS operator may outsource both its investment management function and its investment risk management function to the same service provider only if the service provider has functionally and hierarchically separated the investment management function from the investment risk management function.</p> <p>Prior SEC approval of outsourcing arrangements is not required. However, the CIS operator must inform the SEC of the outsourcing arrangements within 15 days from the date of outsourcing or the date where a significant change to the existing arrangements takes effect .In addition, the CIS operator is required to submit a report summarizing its outsourcing arrangements to the SEC at least once a year.</p>
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A CIS operator remains accountable for the performance of the outsourced functions and is responsible for ensuring that the outsourced functions are performed in a proper and efficient manner, in compliance with relevant laws and regulations. In this regard, the CIS operator is subject to the following requirements. In outsourcing any function to a third party, the CIS operator must have appropriate policies, measures, guidelines, systems for the supervision, monitoring, and control of outsourced functions, including:

- (1) Adequate and sufficient resource to effectively supervise the outsourced functions and manage the risks associated with the outsource;
- (2) An outsourcing policy, approved by the board of directors, which must at least contain:
 - (a) The scope and nature of functions to be outsourced;
 - (b) Criteria for selecting a service provider;
 - (c) Criteria for review and change of service provider;
 - (d) Guidelines for case where the service provider subcontracts the outsourced function to another party;
 - (e) Guidelines for risk assessment; and
 - (f) Information security policy for protecting of information of the CIS operator and the clients;
- (3) Measures for ensuring continuity of business operation in case the service provider fails to perform the outsourced function;
- (4) Preventive measures in relation to conflicts of interest;
- (5) Prudent selection of professional service providers; and
- (6) Systems for regular monitoring and review of the appropriateness of the service provider and a requirement to take appropriate actions (e.g., changing the service provider) immediately if the service provider is no longer suitable or lack appropriate qualifications.
- (7) If a function is outsourced to a regulated entity under the SEA or the DA, the SEC has comprehensive powers to monitor, inspect, and investigate the service provider, and is able to access data related to delegated functions directly (SEA Section. 264). If the service provider is not subject to SEC regulation the outsourcing contract must contain the consent of the service provider to allow the SEC to inspect its operations on-site and to retrieve for viewing or examine relevant documents pertaining to the outsourced function. The CIS operator must also supervise the service provider to accommodate an SEC inspection request.
- (8) The SEC can also access information related to outsourced functions indirectly through the CIS operator, as it is required to maintain records of business operations in a manner that allows prompt retrieval for viewing and inspection by the SEC.

The board of directors is required to approve the firm's outsourcing policy and to review the adequacy and effectiveness of such policy at least annually or when any circumstance occurs which may affect the business operations. The CEO is responsible for reviewing summary reports of outsourced functions.

	<p>An outsourcing contract must specify the following duties and responsibilities:</p> <ol style="list-style-type: none"> (1) The service provider's liability to the CIS operator for intentional acts or negligence causing damage to the CIS operator; (2) A requirement for the service provider to ensure continuity of business operations, covering the functions outsourced by the CIS operator; (3) A requirement for the service provider to have appropriate security systems for preserving the confidentiality of information; (4) An obligation for the service provider to comply with relevant regulations prescribed by the SEC and guidelines specified by the CIS operator in accordance with such regulations; (5) The CIS operator's rights regarding the outsourced functions to give instructions and guidelines, to require and access to information, and to inspect and access to premises; (6) A requirement for the service provider to inform any changes of itself that may have material impact on its ability to carry out the outsourced function or its ability to comply with relevant regulations prescribed by the SEC and guidelines specified by the CIS operator in accordance with such regulations; (7) In case the outsourced function is investment management or investment risk management function, a requirement for the service provider to grant the CIS operator's approval prior to subcontracts the outsourced function to another party; and (8) Causes, conditions and procedures for terminating the contract or suspending operations. <p>In case the service provider subcontracts the outsourced functions to another party, the CIS operator must arrange for the service provider to have a written contract between the service provider and the subcontractor containing the abovementioned requirements.</p> <p>In November 2018, the SEC modified its regulation on outsourcing, with the compliance date within 2 years from the effective date. The revised regulation relaxes the rule regarding eligible service providers to whom the CIS operator may outsource functions, except for investment management function. The revised regulation still requires that investment management function may be outsourced only to a service provider who is: (i) capable of operating an investment management business legally under the law of the jurisdiction where such service provider operates and (ii) based in jurisdiction that has cooperation arrangement for supervision with the SEC and has a supervisory regime regarding investment management recognized by the SEC. The revised regulation no longer contains a specified list of eligible entities for each type of function which the CIS operator may outsource. Previously, the regulation required that, e.g., back-office functions may be outsourced to an affiliate or a financial institution; and internal audit functions may be outsourced to an affiliate or audit firm; and risk management functions may be outsourced to an affiliate.</p>
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Continuing Reporting Obligations

The appointment of directors or managers or other persons in control of a CIS operator is subject to the SEC's approval in accordance with Section 104 of the SEA. If it later appears that such persons possess the prohibited characteristics, the SEC has the power to withdraw approval and the securities company shall propose other persons within 15 days from the date of the withdrawal. For changes in organization and operating system that materially affect the operations, the CIS operator is required to inform the SEC of the changes within 7 days after the changes take place.

A CIS operator must notify the SEC in writing within 15 days from the date of any amendment to its by-laws in accordance with Section 101 of the SEA. For material changes to the mutual fund, Section 129 of the SEA requires the CIS operator is required to obtain approval from unitholders and to give notice to the SEC within 15 days of having obtained approval to make changes.

REIT manager (including to AMCs who manage REIT) also have the following duties:

- submit a report with reasons to the SEC immediately when the company suffers serious damage, ceases operating or any incident which affects the rights or the decision-making on investment;
- cooperate with the trustee and the SEC and disclose information which may affect the management significantly or other information which should be notified to them;
- in cases that the CIS operator has acted or failed to act causing damage to the REIT, the trustee shall submit a report to the SEC

in the event that a REIT manager is unable to carry out its duties, the REIT manager must notify the SEC of the situation, the causes, and solutions within 15 days from the day of being aware or should be aware thereof ([Bor.Jor./Por. 11-00](#)).

Required Routine Reports and SEC Off-Site Monitoring

Asset management companies shall submit the following reports:

- securities and assets invested or held by mutual funds by the 20th of the following month;
- status and investment of each fund by the 20th of the following month;
- subscriptions and redemptions of investment unit of each mutual fund by the 20th of the following month.
- status and investment of each private fund by the 20th of the following month.

CIS operators must submit to the SEC a report of non-compliance whenever investments for a mutual fund are not in accordance with the fund's investment policy. Also, mutual fund supervisors must report to the SEC whenever the CIS operator has taken actions or has been negligent resulting in breaches of the mutual fund policies as stated in its prospectus and operating documents, or if it has caused damage to the mutual fund and the fund's unitholders (SEA Section. 127(1) and (4), Section 128).

	<p>In 2017, the SEC required CIS operators to submit SAQs on product governance to review of the product offering process (i.e. the product development, the distribution and the monitoring of performance) to ensure that the process is in accordance with the SEC guideline. In Q4 2018, the SEC will require the mutual fund supervisors to submit SAQs on their operations.</p> <p>Remediation and Sanctions</p> <p>Non-compliance or failure to supervise can result in an administrative and/or criminal sanction. These sanctions are discussed fully in principle 11.</p> <p><u>Administrative sanctions</u> - The SEC may issue a public reprimand, or suspend or revoke the license of an individual or entity depending on seriousness of the violations.</p> <p><u>Criminal sanctions</u> - A CIS operator responsible for a violation may be fined in a criminal action up to a maximum of three hundred thousand baht and, for ongoing misconduct an additional fine not exceeding ten thousand baht for everyday during which the contravention continues. A CIS director, manager or any person responsible for CIS operations can be imprisoned for a term not exceeding six months or a fine not exceeding two hundred thousand baht, or both.</p> <p>Also, pursuant to Section 128 of the SEA, the SEC may order the securities company to correct its actions or to refrain from acting in a way that adversely affect the interest of unitholders .The SEC can also replace the CIS operator as manager of a mutual fund or order a dissolution of the mutual fund .</p> <p>Section 127(5) of the SEA requires the mutual fund supervisor to file a legal action in court to cause the CIS operator to perform its duties or to claim compensation for damage from the CIS operator for the benefit of unitholders. The SEC can direct a CIS Supervisor to initiate legal action.</p>
Assessment	Fully Implemented
Comments	<p>As described above, there is a comprehensive system for licensing of fund operators and approval of funds and for continuing oversight of the activities of the fund and its operator, including regular reporting and onsite inspection.</p> <p>The authority of the MOF to make the final license decision and impose nonregulatory obligations on a fund operator has been discussed in Principle 2 above.</p> <p>The on-site inspection program for mutual funds appears sound. The on-site program for Trust/REITs will be initiated this year.</p>
Principle 25.	The regulatory system should provide for rules governing the legal form and structure of collective investment schemes and the segregation and protection of client assets.
Description	<p>Legal Requirements for Form and Structure That Delineate Participants Rights and Interest Specified, Disclosed to Investors, And Subject to Regulatory Oversight</p> <p>A CIS may be created using 2 separate legal structures: mutual funds and trust funds (primarily for REITS). The mutual fund structure is the most common. It is a contractual agreement</p>

structure. Foreign CIS constituted in other forms such as unit trust or shares of investment company are also allowed to be offered in Thailand under regional cross-border frameworks: ASEAN CIS and the Asia Region Funds Passport (ARFP).

Under section 117 of the SEA all mutual funds must be approved by the SEC and operate in compliance with the SEA and SEC regulations (discussed in principle 24). Mutual funds are created and managed by a CIS operator and the mutual fund must be an entity legally separated from the CIS operator and governed by its organizing agreement. The CIS operator (licensed separately as an asset management company) operates the CIS and is overseen by a CIS Supervisor (also referred to as the CIS or mutual fund trustee). (TorNor. 88/2558 Clause 23). The Supervisor must be legally independent of the Fund management company. It must be a bank or other financial sector company licensed and regulated by the SEC. (SorThor. 60/2558; SorNor. 14/2544) The Thai legal structure for CIS does not require creation of a Board of Directors for each fund. The Supervisor has legal responsibilities under the SEA to act in the best interests of the fund unitholders and oversee the operator, with explicit duties to review asset pricing in the portfolio and the daily calculation of NAV. The SEA also requires a CIS to have an independent custodian of the fund, The Supervisor and the custodian are usually the same entity.

CIS structured as a trust are governed by a separate law (The Trust for Transactions in Capital Market Act B.E. 2550 (2007)). When a CIS is structured as a Trust (typically a REIT), the trust instrument must contain all covenants regarding to its legal form, structure and management mechanism, as required by the applicable SEC regulation (Notification No .Sor.Ror .26/2555). The following is required:

- Trustee shall appoint REIT manager to manage REIT;
- Trustee and REIT manager shall perform their duties within the scope of authority, duty and responsibility;
- REIT manager has the authority, duty and responsibility to principally manage REIT and undertake REIT to invest in principal asset;
- Trustee has the authority, duty and responsibility to supervise principally the operation of REIT manager and other assigned person (if any) to conduct their functions in accordance with the trust instrument and the relevant law, and preserves the trust property;
- Additionally, in case that REIT has determined the policy to invest in other assets aside from the principal asset, the management of investment in such property may be proceeded by Trustee, REIT manager or any person assigned by Trustee or REIT manager as stated in the trust instrument.

There are numerous differences in the legal structure of a mutual fund and REIT. These differences are summarized in the Table below. The most significant difference concerns portfolio diversification. Given the nature of real estate investing diversification is limited. Another legal, but not practical distinction concerns the existence of a fiduciary duty between the operator and the investor. A fiduciary duty exists in a trust as a matter of law. As a mutual

fund in Thailand is a contractual agreement, no such fiduciary duty exists under the law. However, the SEA and SEC regulations have created the functional equivalent of a fiduciary duty in the requirements for functioning as a mutual fund operator. Amendments to the SEA enacted by the National Legislative Assembly but not effective as of the date of this assessment address this matter.

Mutual Fund Supervisor

The mutual fund supervisor must be a commercial bank or financial institution on the SEC's list of approved mutual fund supervisors. As conditions of granting approval, the SEC considers the company's business operations and financial status. It also reviews its organizational structure and internal controls to ensure it is able to fulfill a Supervisor's responsibilities. The CIS supervisor must be independent from the CIS operator (no affiliated or related party relationships are permitted).

The mutual fund supervisor has a legal obligation to exercise all due care and diligence in carrying out its duties and responsibilities in accordance with Section 127 of the SEA as follows:

- (1) To ensure that the CIS operator:
 - (a) Manages the mutual fund strictly in accordance with the approved mutual fund project and the commitment made with unitholders;
 - (b) Deposits assets of the mutual fund into the custody of the mutual fund supervisor;
 - (c) Prepares correct and complete accounts of investments for the mutual fund;
 - (d) Prepares investment reports for the mutual fund supervisor as required by the SEC;
 - (e) Prepares and maintains a register of unitholders;
 - (f) Arranges for the collection of returns on investments in the assets of the mutual fund to be deposited into the custody of the mutual fund supervisor;
- (2) To hold custody of mutual fund assets and keep them separate from other assets as well as to ensure that disposition of assets is carried out in accordance with the mutual fund project;
- (3) To prepare accounts of assets of the mutual fund;
- (4) To report to the SEC if the CIS operator fails to perform its duties in (1) or has caused damage to the mutual fund; and
- (5) To take legal action in court to force the CIS operator to perform its duties or to claim compensation for damages from the CIS operator for the benefit of unit holders as a whole. Expenses incurred from such legal action are paid from assets of the mutual fund.

The mutual fund prospectus must contain a statement that the approved mutual fund supervisor has a legal obligation to protect the interests of the unitholders (SorNor. 88/2558 Clause 11(4)(d)). The powers and responsibilities of the mutual fund supervisor must be disclosed in the commitment agreement between unitholders and the CIS operator that is attached to the prospectus SorNor. 88/2558 Clause 6; TorNor. 19/2560 Clause 3(11)). Section 120 of the SEA prohibits the mutual fund commitment or the Supervisor appointment agreement from

containing any unfair limitation of liabilities of the CIS operator and of the mutual fund supervisor towards the unitholders.

Rights and Interests of Participants

The mutual fund's constituting documents are submitted to the SEC as part of the application package. They describe (i) details of the mutual fund; (ii) the draft commitment between unitholders and the CIS operator; and (iii) the draft agreement for appointment of the mutual fund supervisor. The mutual fund project must specify, the structure of the scheme, its investment objective, fund type and any applicable investment restrictions. The draft commitment between the unitholders and the CIS operator outlines the obligation between unitholders and the CIS operator with regard to the management of the mutual fund.

Section 119 of the SEA requires that the following be disclosed in the mutual fund commitment, provided to the SEC and to unitholders:

- (1) Powers, duties and responsibilities of the CIS operator;
- (2) Appointment, conditions for replacement, and remuneration of the mutual fund supervisor;
- (3) Rates and payment procedure of fees and remuneration for fund management;
- (4) Rights of unitholders;
- (5) Dissolution of the mutual fund either by expiration of the mutual fund project or due to any other reason;

As explained above, the SEC requires inclusion of this information in the application package that it reviews prior to authorizing the fund and ensures that it is provided to investors in the fund by requiring inclusion of the constituting agreement and the Supervisory agreement in the prospectus provided to unitholders.

Disclosure of Material Changes to Regulator and Investors

Under section 129 of the SEA, material changes in the CIS or CIS management must be approved by a majority vote of all unitholder shares. A modification is considered material if it alters the basic nature of the mutual fund, affects its management, or which significantly affects the rights of unitholders (TorNor. 87/2558). Examples include a change to the investment policy, a change in the CIS operator, an increase in the maximum fees charged to the fund beyond 5 % of NAV per annum, or a merger of funds. Changes to the commitment between unitholders and the CIS operator are considered to be material if (i) they affect the returns of capital of the unitholders and (ii) they significantly affect the unitholders' rights as determined by the fund supervisor. (TorNor. 19/2554). The CIS operator must inform the SEC of a material change, as well as notify all unitholders, within 15 days from the date of the resolution.

	<p>Non-material changes can be made to the mutual fund project by obtaining SEC's approval, without having to consult unitholders first .A modification is considered non-material if:</p> <ol style="list-style-type: none"> (1) It is necessary to comply with the SEC's rules and regulations as well as statutory/official requirements; (2) It does not prejudice unitholders 'interests, release the fund supervisor, CIS operator, or any other person from any liability to unitholders to any material extent, or increase the costs and charges payable by the mutual fund; or (3) It is necessary to rectify an error. <p>Once the SEC grants approval for a modification to the mutual fund project, the modification made is binding on all unitholders, and the CIS operator is required to notify all unitholders of the change within 15 days. If the SEC relaxes a regulation, the CIS operator may forgo obtaining unitholders approval by obtaining SEC approval. A change will be effective 60 days after unitholders have been notified, allowing them opportunity to sell their units.</p> <p>Amendments to a Trust CIS are slightly different. Any amendment to the trust instrument which affects the right of the unitholders, has to be approved by the unitholders. The SEC has the authority to direct the trustee to add such particulars and statements to the trust instrument within a reasonable period of time, as long as it is appropriate for the benefit of the beneficiary, and not contrary to the purpose of the creation of trust.</p> <p>In the case where the amendment of a trust instrument significantly affects the benefits or investment decision, REIT manager shall disclose the amendment to the Stock Exchange of Thailand.</p> <p>Authority to Ensure CIS Compliance with Regulatory Investment Requirements</p> <p>CIS operators must comply with any investment and borrowing restrictions specified by the SEC (SEA Section 126). SEC requirements on investments for mutual funds include provisions on eligible assets, diversification, leverage, investment concentration, etc (TorNor. 87/2558); and provisions on maximum borrowing limits for different types of fund (KorNor. 11/2552; SorNor. 2/2560). The investment and borrowing policies and restrictions of each mutual fund are required to be disclosed in the main document of constitutive documents and prospectus (SorNor. 27/2554 Clause 3; SorNor. 88/2558).</p> <p>The SEC monitors compliance through its review of fund applications, its review of periodic disclosure filings (off-site inspection) and its on-site inspection programs. All asset management companies must have a compliance function which is responsible for ensuring that the CIS operator complies with all applicable laws and regulations including the investment and borrowing regulations. The mutual fund supervisor also oversees fund compliance with its stated policies and SEC regulations.</p>
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A REIT is required to submit a report with the reasons for the amendment to the SEC immediately, when any incident affects or is likely to affect the rights and interests of securities holders or the decision-making on investment or the change in the securities price of REIT (SEC Notification No. Sor.Jor. 21/2561). A REIT is also required to report to the SEC immediately when one of the following circumstances occurs (Notification No. Sor.Ror. 26/2555):

- REIT suffers serious damage
- REIT cannot take advantage of all or part of REIT asset
- REIT alters its objects or the investment policy
- Any circumstance that may affect REIT to be dissolved.

The report shall present the following details:

- general information of REIT which is name, term, date of creation and the amount of capital of REIT including name of REIT manager and name of trustee;
- details of the circumstances such as date of occurrence and cause of such circumstance;
- measures for solving possible effect on REIT;
- any other information necessary for making decision of unit holders (if any).

Segregation of CIS Assets and Regulatory Safeguards

Following SEC approval of the application, and an SEC on-site inspection, the funds raised in the IPO and all assets purchased must be deposited into the custody of the mutual fund supervisor, along with any returns on investments of the assets (SEA Section 125). The mutual fund supervisor/custodian is required to keep the assets separate from other assets and ensure that any disposition of such assets is in accordance with the mutual fund project (SEA Section 127(2)).

The mutual fund supervisor must not hold shares of the CIS operator greater than 5 % of total outstanding shares, have any common shareholder with the CIS operator holding more than 10 % of shares nor have any common director, and not be involved in the management of any mutual fund in such a way that may cause a lack of independence.

The mutual fund supervisor has a duty to provide safekeeping of mutual fund assets. The mutual fund supervisor is also required to segregate the deposited assets from its own assets, in case of insolvency of the mutual fund supervisor, a court may appoint a receiver. Mutual fund assets will not be deemed the property in a bankruptcy action and will be protected from a Supervisor's insolvency.

If the mutual fund supervisor delegates custody of assets to a third party, the SEC requires the fund supervisor to have a written contract with the third-party custodian detailing the rights, duties, and responsibilities between the two parties. Moreover, the contract must not contain any statement discharging the custodian of responsibilities to any loss or damage to assets as a result of its actions or negligence.

	<p>The mutual fund supervisor is allowed to delegate custody of assets to a third party if the supervisor: (i) has assessed that the third-party custodian has appropriate systems and capacity to perform custodian function as required by rules and regulations (ii) has an arrangement for coordination with the third-party custodian, and (iii) has a system in place for supervising the performance of delegated functions (SorThor. 60/2558) .The third-party custodian must be either: (i) an approved mutual fund supervisor (ii) an approved private fund custodian, or (iii) a foreign entity eligible to operate custodian business under the laws of the country where the mutual fund has an investment. The third-party custodian is not allowed to appoint a sub-custodian unless the mutual fund has investments in foreign securities or assets (SorThor. 60/2558) .</p> <p>CIS structured as trusts are not required to appoint an independent supervisor/custodian to safeguard trust assets. Instead a Trustee must be appointed. For safekeeping of trust property, the trustee shall maintain the following systems (Notification No. Kor.Khor. 1/2553 Re: Work System, Contact with Investors and General Business Operation of Trustees):</p> <ul style="list-style-type: none"> - Separation of assets of the trust property from private assets of trustee; - Safekeeping, verification, caring, releasing and preparation of books of assets of the trust property, as well as monitoring and tracking the benefits arisen from assets of the trust property. - For risk management, the trustee shall maintain the following systems: <ul style="list-style-type: none"> - Assessment of risks that arise or may arise from business operation; - Oversight of risk management. <p>The SEC also requires (Notification No. Sor.Ror. 26/2555) that:</p> <ul style="list-style-type: none"> - In managing a trust, a trustee shall have appropriate operating systems to <ol style="list-style-type: none"> a) record the ownership or right over the trust property, incomes, expenses and debts of the trust and any relating accounts of the trust b) segregate the trust property from those held in its own capacity and any property in its possession. In cases where Trustee manages several trusts, Trustee shall segregate the trust property of one trust from another. - A trustee shall prepare an account of trust property separately from any other accounts under its responsibility. In cases where a trustee manages several trusts, trustee shall prepare the account of trust property of each trust separately. In doing so, trustee shall keep such account correct and up-to-date. <p>Termination and Winding Down</p> <p>Mutual funds that are structured as "term funds", with a defined end date, must specify if a termination of the fund is contemplated (e.g. term funds), (SEA Section. 119(5); TorNor. 19/2554) .Termination in any other circumstance not specified in the commitment document will require a resolution of unitholders.</p>
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To terminate a mutual fund (SorNor. 87/2558), the CIS operator must:

- (1) Notify the mutual fund supervisor and the SEC, and, in cases where investment units of such mutual fund are securities listed on the Stock Exchange, the Stock Exchange, in writing at least 5 business days before the termination date;
- (2) Inform unitholders and general investors of the termination using any appropriate method at least 5 business days before the termination date; and
- (3) Liquidate the fund's assets prior to the termination date.

Upon termination, the CIS operator must appoint an approved liquidator to collect and distribute assets to unitholders, and to take any other action necessary to complete the liquidation process. Any expense incurred from liquidation must be deducted from the assets of the fund. Liquidation must be completed within 90 days from the termination date. The liquidator must then file for registration of the termination with the SEC and submit a report on the results of liquidation within 30 days from completion. However, if unitholders fail to collect money or assets or fail to draw the money paid in the distribution of the assets, the liquidator may extend the liquidation period upon approval by the SEC. The liquidator must deposit the undrawn/uncollected distribution with deposit office, and file for registration of the termination with the SEC within 1 year after the completion of the liquidation process, unless where it is necessary and reasonable and the SEC's approval is obtained. (SEA Sections. 130-131; TorNor. 76/2552; Circular No. KorLorTor.Nor.(Wor) 4/2541).

If the CIS is a trust and the manager is unable to perform its duties, the regulatory system provides protection of client assets by the following rules:

- Trustee has to manage REIT in lieu of REIT manager in case there is no REIT manager or there is a ground which causes REIT manager to be unable to perform its duties;
- Trustee has to manage REIT as necessary to prevent, desist or limit severe damage to the interest of REIT or the entire unitholders. In this regard, during such time, Trustee may assign other persons to manage REIT instead.

As part of the unitholders' interests and their related rights, the SEC requires (Notification No. Sor.Ror. 26/2555) that the trust instrument shall contain at least the following:

- being a unitholder does not cause a legal relationship in term of agent and principal between the unitholder and trustee, or in term of partnership or other legal relationship among the unitholders;
- being a unitholder does not cause them liable in case the assets of REIT are insufficient for repayment of debt to trustee, a REIT manager or the creditors of REIT. In this regard, trustee, REIT manager and the creditors of REIT have the right to claim only from the assets of REIT;

Unitholders have the right to claim for (1) distribution on the amount not exceeding the profit after deducting reserves, and (2) the return of investment on the amount not exceeding the capital of REIT adjusted by the excess or the undervalued of units. In case units are divided into

classes, such right of each class has to be in conforming to terms and conditions as stated in the trust instrument for each class as well.

The Thai Trust Law contains provisions governing termination of a trust (Section 25(3), 51,52, 53 and 60 of The Trust for Transactions in Capital Market Act B.E. 2550 (2007)). A trust shall be terminated as specified in the trust instrument and in the following cases:

- a purpose of the trust instrument has been accomplished;
- a court gives a judgement or grants an order to terminate the trust or as requested by a trustee or a beneficiary;
- trustee remains the only beneficiary;
- the causes of alteration of trustee.

A trustee shall perform its duty in order to collect, dispose and allocate property upon termination of trust, except where dissolution, liquidation or bankruptcy of trustee causes the termination of trust, a liquidator or an official receiver of Trustee, as the case may be, shall perform such duty.

The payment of debts and expenses upon termination of trust shall be in the following orders:

- (1) the expenses accruing from collecting, disposing of and distribution of property;
- (2) the fees and tax that have to pay or due;
- (3) the expenses in taking legal action having been borne by a beneficiary and the expenses accruing in the management of the trust which Trustee can rightfully claim from the trust property, and consideration of trustee;
- (4) other debts.

If the trust property is insufficient expenses or debts in any order, the payment shall be allocated proportionally in such order. The remaining of the trust property after the payment above shall be allocated to the persons specified in the trust instrument or to the beneficiary.

In order to prevent or cease the damage to a trust or the public, the SEC Office shall have the power to direct a trustee to act or refrain from acting within the prescribed period of time, in case where its director, manager, officer, employee, agent or delegate acts or causes trustee to act as follows:

- fail to perform the duty of Trustee under the trust instrument or this Act;
- manage the trust property inappropriately or cause damage to the trust;
- fail to submit reports or documents specified by the SEC's notification;
- fail to meet the conditions where it is necessary to maintain integrity or trustworthiness of the system of trust business.

In case where Trustee is dismissed, suspended from its undertaking of trust business or whose approval to undertake trust business revoked by the SEC, the former trustee shall perform its duties only to protect the benefits or exercise the right over the trust property to prevent the

	trust property from damage, depreciation or uselessness until the new trustee is completely vested with the trust property.
Assessment	Fully Implemented
Comments	The regulatory scheme developed by the SEC for the two separate legal structures (mutual fund and trust) appears to result in substantially the same investor protections under the two legal schemes. The recent amendment to the SEA codifies the duties of a mutual fund operator to act in the best interests of unit holders already included in SEC regulation.
Principle 26.	Regulation should require disclosure, as set forth under the principles for issuers, which is necessary to evaluate the suitability of a collective investment scheme for a particular investor and the value of the investor's interest in the scheme.
Description	<p>Requirements for disclosure to investors</p> <p>The CIS operator must disclose or ensure adequate and timely disclosure of information necessary for making investment decisions .Such information must be accurate, up-to-date, easy to understand and presented in plain language .It must present neither misleading, distorted facts, nor material content that differs from the information filed with the SEC) .SEA Section. 123, SorNor. 88/2558 Clause 4).</p> <p>All matters material to an evaluation of a mutual fund and the value of an investor's interest must be disclosed in the mutual fund's constitutive documents and in the prospectus, including information concerning the procedures for pricing mutual fund units and fees and charges.</p> <p>There are three constituting documents (SEA Section 118): (i) the mutual fund's main document, (ii) the draft commitment between the unitholders and the CIS operator, and (iii) the draft agreement appointing the mutual fund supervisor .</p> <p>The main document, the written commitment between the fund management company and the investor must be filed with the SEC as part of the application process using an electronic template available on the SEC website. (SorNor. 27/2554): It, must contain the following information:</p> <p>(1) Key characteristics and a summary of the key information — for example:</p> <ul style="list-style-type: none"> • The name of the fund, CIS operator, and mutual fund supervisor • Type, objective, and maturity of the fund • Type of investor the fund can be offered to (eligible investor(s)) (e.g., retail investors, institutional investors, high net worth investors, or ultra-high net worth investor) • Par value of investment unit • Classification of different type of units (unit classes) with the details on: rules and methodology used for classification; and, for each unit class, rights, returns, dividend policy, or allocation of other interests (if any) which the unitholders will received • Restrictions on unit holding (if any)

	<p>(2) Investment policy — includes at least the following information:</p> <ul style="list-style-type: none"> • The details on eligible assets and investment ratios which correspond to the investment policy • Additional disclosure depending on specific type of fund. For example, the constitutive documents for a principal protected fund must consist of details as follows: (i) asset class and the minimum investment ratio in that certain asset class which can demonstrate that the fund is able to achieve capital preservation; (ii) details concerning the condition and the level of capital preservation, duration and mechanism to achieve the principal protected features <p>(3) Borrowing policy (if any)</p> <p>(4) Mutual fund asset value — includes at least the following information, for each unit class:</p> <ul style="list-style-type: none"> • Net asset value calculation and announcement • Investment unit value and subscription and redemption prices • Procedure for incorrect pricing of investment unit value and subscription and redemption prices <p>(5) Procedures for subscription and redemption of investment unit — includes at least the following information, for each unit class:</p> <ul style="list-style-type: none"> • Trading day (dealing day) of investment unit • Minimum subscription amount and minimum redemption amount (if any) • Reservation condition in selling or repurchasing investment unit, suspension of accepting subscription or redemption order, and deferral of redemption payment <p>(6) Restrictions on allocation and transfer of investment units (if any) — includes at least the following information, for each unit class:</p> <ul style="list-style-type: none"> • Eligible investor(s) and qualifications of such investor(s) • Condition concerning allocation of investment units <p>(7) Requesting a resolution from unitholder — includes at least the following information:</p> <ul style="list-style-type: none"> • Transactions that must obtain ordinary or special resolution from unitholders <p>(8) Provisions concerning conditions and procedures for requesting a resolution from unitholders, including for example:</p> <ul style="list-style-type: none"> • Where investment management functions are outsourced to other investment management firms, disclosure of information regarding the scope of the outsource, and the name of the outsourced firms must be provided • The appointment of any person/entity involved in the fund management operations, e.g., investment adviser, financial adviser, legal counsel, and auditor <p>(9) Binding obligations — including at least the following provisions:</p> <ul style="list-style-type: none"> • The CIS operator must abide by the mutual fund commitment documents, the commitment between the unitholder and the CIS operator, and the relevant laws and regulations • The CIS operator appointment of a mutual fund supervisor, and the commitment between the unitholder and the CIS operator
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	<ul style="list-style-type: none"> • When the unitholder expresses an intention to invest in the investment units of the mutual fund, the unitholder agrees to the provisions of the mutual fund and the commitment between the unitholder and the CIS operator <p>(10) In case the fund provides a list of investment assets that it intends to invest in or the investment ratio of such assets, the fund may include a provision to reserve the right to change the investment assets or the investment ratio if the following conditions are met: (i) it is necessary to change in order to maintain the benefits of investors; and (ii) there is a statement of reservation of such right and supplement messages on the same page with the information concerning investment assets or investment ratio.</p> <p>(11) Amendment of mutual fund project — the CIS operator may include provisions that it may amend details of the mutual fund project, in the case that deemed to receive a resolution from the unitholder or other similar provisions, only in the following cases: (i) amendment which results in the increase of benefits to all unitholders; (ii) amendment in accordance with the SEA, along with notifications, regulations, and orders issued by the power under the SEA; (iii) amendment to correct name and personal information.</p> <p>(12) Fees and expenses — includes all fees and expenses charged to the fund (e.g., annual management fees, mutual fund supervisor fee, registrar fee, investment advisory fee) and charge to the unitholders (e.g., front-end fee, back-end fee, switching fee).</p> <p>(13) Information on arrangements for any other CIS operator to manage the mutual funds in case the CIS operator fails to maintain capital as required by the SEC capital requirements regulations (please see Principle 30 for a discussion of the requirements on maintenance of capital of CIS operators).</p> <p>The commitment between the unitholders and the CIS operator outlines the obligations of the CIS operator with regard to the management of the mutual fund .The commitment must at least contain the following material provisions (SEA Section 119):</p> <ol style="list-style-type: none"> (1) Powers, duties and responsibilities of the CIS operator; (2) Appointment, conditions for replacement, and remuneration of the mutual fund supervisor; (3) Rates and payment procedure of fees and remuneration for fund management; (4) Rights of unitholders; (5) Dissolution of the mutual fund either by expiration of the mutual fund project or due to any other reason; <p>Each fund must have an independent supervisor, a bank or licensed financial company, that oversees the operation of the fund to protect the interests of investors. Investors must be provided with a copy of the agreement between the fund operator and the fund supervisor. The agreement must contain the following (TorNor. 19/2554 Clause 9):</p> <ol style="list-style-type: none"> (1) Powers and duties of the mutual fund supervisor in accordance with Section 127 of the SEA, including the duty to protect the interests of the unitholders and, in case where the mutual fund supervisor has been replaced, the duty to take necessary actions to enable the new mutual fund supervisor to perform its duties.
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	<p>(2) In cases where the mutual fund supervisor omits to act, or neglects or fails to perform its duties to protect the interests of the unitholders, the rights of the unitholders under Sections 47 and 132 of the SEA to file a case against the mutual fund supervisor.</p> <p>(3) The mutual fund supervisor must not take any action that is contrary to the interest of the fund and unitholders, except: receiving remuneration of the mutual fund supervisor for conducting its duties; or such action has been conducted in a fair manner and information regarding the action has been disclosed to the unitholders prior to such action being taken and the unitholders who acknowledge the information do not have any objections.</p> <p>(4) In case where the mutual fund supervisor has acted in a manner which is contrary to the interest of the fund or unitholders and such action is not subject to any exception, is significant, and cannot be remedied, the CIS operator has a power to terminate the appointing agreement</p> <p>(5) If any action required a resolution from the unitholders and the CIS operator does not seek such resolution, power of the mutual fund supervisor to perform necessary actions to seek such resolution.</p> <p>These documents must be kept up-to-date. If there is any significant change, the CIS operator must update constitutive documents without delay with the SEC.</p> <p>Investors and potential investors must be provided with a fund prospectus. The prospectus is divided into 3 parts: (i) factsheet, (ii) main prospectus, and (iii) certification of accuracy and completeness (SorNor. 88/2558 Clause 5).</p> <p>The factsheet is the first part of the prospectus .The SEC has specified a standard format for the information to be presented:</p> <p>(1) What are you investing in?</p> <ul style="list-style-type: none"> • Investment policy :details on type of assets that the mutual fund may invest in, for example, equities, fixed incomes, derivatives and so on. • Investment Strategy :description of the fund's investment strategy, for example, passive management /index tracking or active management. <p>(2) For whom is this mutual fund suitable? For whom is it not suitable?</p> <ul style="list-style-type: none"> • A brief description of the risk and return trade-off that allows investors to assess compatibility with their risk and return preferences .For example, in an equity fund, the factsheet may specify : <ul style="list-style-type: none"> ○ This mutual fund is suitable for : <ul style="list-style-type: none"> - Investors who can accept fluctuation in price of stocks, in which the fund invests in, which may increase or decrease below the value of initial investment and thus results in a loss. - Investors who have medium to long term investment horizon and expect better return in a longer term than investment in general fixed-income instruments .
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	<ul style="list-style-type: none"> ○ This mutual fund is not suitable for : <ul style="list-style-type: none"> - Investors who need fixed return or principal protection. • A recommendation to investors who do not understand the policy and risk of the fund to contact the CIS operator or selling agent for more explanation, or a warning not invest in the fund if the investor does not fully understand the fund's risk and return profile . <p>(3) What are the fund's key risks?</p> <ul style="list-style-type: none"> • Important warnings with respect to investment in the mutual fund . • Risk spectrum that represents the risk level of the mutual fund .The risk level of a retail fund ranges between 1 to 8 .The risk level of UHNW fund) hedge fund (is 8 + due to higher leverage. • Important risk factors :explain the risk dimensions in the scale format .Examples of risks are market risk (e.g .portfolio duration, standard deviation, credit risk (credit rating), and exchange rate risk (i.e., hedging policy –fully hedged, discretionary hedging or unhedged.) <p>(4) Asset allocation</p> <ul style="list-style-type: none"> • Proportion of investment in specific types of assets (pie chart) • List of top 5 holdings, and in case of investment in debt instruments including deposits, credit ratings must be disclosed . • Figure showing investment in debt instruments categorized by credit ratings. <p>(5) Fees and Charges, including a comparison between the maximum fee level specified in the main prospectus and the actual fee charged, and fees charged directly to the unitholders, in a tabular format.</p> <p>(6) Fund performance</p> <ul style="list-style-type: none"> • Fund performance for the calendar year against a benchmark in a figure format (at least 10 years or since inception if the fund has less than 10 year's performance) • Risks of the fund e.g., maximum drawdown, standard deviation, and tracking error • Peer performance (for comparison) • Rolling fund performance against benchmark :rolling performance such as 3-month, 6-month, 1-year, 3-year, 5-year, 10-year performance. <p>(7) Other useful information – e.g .dividend policy, fund supervisor, registration date, subscription and redemption terms, names of fund managers, portfolio turnover, contact details of selling agents, and link for details of conflict of interest transactions.</p> <p>The factsheet must be updated semi-annually)or quarterly for money market funds (within 45 days from the ending period date .If there is any significant change, the factsheet must be updated without delay.</p> <p>A CIS operator may present the factsheet in an interactive format –via an application or web link –or in a non-interactive format .In addition, the SEC has provided a factsheet preparation system, where companies can submit the required information in a structured format into the system in order to generate the factsheet .The information is filed in a machine-readable format</p>
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and can be systemically analyzed, aggregated and compared across different funds .The factsheet must be updated semi-annually (or quarterly for Money Market Fund) within 45 days from the ending period date. If there is any significant change, the factsheet must be updated without delay. (TorNor. 3/2556 Clause 6).

The main prospectus must contain the following information (SorNor. 88/2558 Clause 10):

- (1) Key features :fund type and investment policy of the mutual fund including the expected return on investment for investors;
- (2) Q&A section covering the following items:
 - Key characteristics of the mutual fund, such as type of the fund, investment policy and returns
 - Provisions for transactions in investment units, such as subscription and redemption procedures, terms for suspensions and deferrals, and places where unitholders can receive the value of the investment units, NAV, and prices
 - Rights of the unitholders
 - Persons involved in the management of the mutual fund
 - Channels where investors can obtain additional information;
- (3) Relevant risk factors and how such risks are managed;
- (4) Summary of investment ratios e.g .single entity limit /group limit /product limit in deposits, equities, debt instruments – in accordance with Form 123-2;
- (5) Fees and expenses collected from the mutual fund over the past 3 years in accordance with Form 123-3;
- (6) Warnings regarding the investment;
- (7) Information on probable holdings of investment units in excess of applicable limits, indicating the number of persons or group of persons who might hold units in excess of such limit, including the procedures for verifying information on the percentage of unit holding by such person or group of persons;
- (8) Other useful information necessary for making investment decision;
- (9) Additional items that the SEC may require to be disclosed on a case by case basis.

The main prospectus must be updated annually within 60 days from the accounting period date .If there is any significant change, the CIS operator must update the main prospectus without delay (SEA Section 123).

The end of the prospectus must contain a message indicating that the information in the prospectus has been reviewed by the CIS operator and that the CIS operator certifies this information to be accurate and complete .The message must be signed by an authorized director.

In the distribution of any mutual fund, the CIS operator and distributor must provide the factsheet to investors at points of sale or by any other means to ensure that investors have access to information prior to making investment decisions.

	<p>Once the mutual fund project is authorized, the CIS operator must file the offering documents with the SEC no later than one day before dissemination for initial offering. The SEC has the power to hold back the offering documents if they are inaccurate, misleading or fail to meet requirements. The SEC can also suspend the offering of mutual fund's investment units if the CIS operator fails to comply with the relevant rules and conditions. In addition, the SEC can revoke authorization of a mutual fund project if the offering/sale process is not in accordance with applicable rules or with the approved project. (TorNor. 88/2558 Clause 19)</p> <p>For established mutual funds, the SEC has the power to order the CIS operator to take appropriate actions or suspend the offering if the management of such funds adversely affects unitholders' interests, fails to treat unitholders fairly or do not provide correct/sufficient information to make investment decision. The SEC can also order the CIS operator to provide explanations or disclose additional information, to amend the mutual fund project to rectify the problem or to suspend offerings of units.</p> <p>Information presented in advertisements must be correct, balanced, complete, and presented in easy to understand language. (Notification No. Shorthorn. 10/2558) In particular, where information about the opportunity to gain returns is presented, negative information or information about risks from investing in the mutual fund must be presented as well. Advertisements must avoid technical terms or jargons, difficult language, complicated sentences, ambiguous statements and complicated or misleading presentation style. They must also contain appropriate warning statements depending on the characteristics of the fund. The SEC does not approve individual advertisements but expects the CIS operator to implement internal systems and procedures to ensure that each time it advertises a mutual fund, the advertisement complies with applicable rules. In cases of non-compliance, the SEC may order the CIS operator to rectify the matter or to take any action depending on the circumstances. In addition, misleading or deceptive advertising is prohibited under Section 98 of the SEA, and the SEC may impose sanctions in case of violation. The AIMC has published guidelines for its members on advertising but the AIMC does not review fund advertisements. The SEC periodically reviews mutual fund advertisements and sales materials. During the period 2016-2018, 22 fund operators and 18 fund distributors were subjected to this form of off-site inspection.</p> <p>The SEC requires a mutual fund to disseminate at least two reports in each financial year – an annual report and a semi-annual report. An annual report for each accounting period must be submitted to unitholders and to the SEC within 3 months from the end of that accounting period. It must contain:</p> <ol style="list-style-type: none"> (1) Audited financial statements — including a balance sheet, profit and loss account, and schedule of investments) and auditor report, presented in accordance with the Accounting Guidelines for Investment Management Business issued by the Association of Investment Management Companies (AIMC) (2) Details of investments, borrowings, and encumbrances — classified in accordance with the fund's investment policy as described in the SEC's electronic system
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- (3) Fund performance — prepared and presented in accordance with the AIMC rule
- (4) Total amount of brokerage fees — presented as a list of the top 10 brokers with highest brokerage fees paid, the percentage of brokerage fees received by each of the 10 brokers and the percentage received by other brokers
- (5) Fees and expenses charged to the mutual fund — presented in a tabular format as described in the SEC’s electronic system, including the following items (shown as Baht amount and percentage of the fund net asset value): management fee, mutual fund supervisor fee, registrar fee, advisory fee, other expense, and total fees and expenses
- (6) Portfolio turnover ratio — calculated by taking either the total amount of assets purchased or the total amount of assets sold, whichever is lower, over the past accounting period, divided by the fund average net asset value over the same accounting period
- (7) Opinion of the CIS operator on the fund’s investments made over that accounting period and any changes during that accounting period as compared to the previous accounting period.
- (8) Opinion of the mutual fund supervisor on the management of the fund by the CIS operator
- (9) In cases where the CIS operator is in breach of its investment policy regarding the average investment exposure used for classifying type of fund during that accounting period, information about such breach and reasons must be disclosed
- (10) Information about transactions with related persons (if any)
- (11) Information about any recording of impairment of debt instrument in case the obligor fails to repay its obligation of having condition of being so (if any)
- (12) Information about any receipt of other assets as a means of debt repayment (if any).
- (13) Information about votes casted in the name of the mutual fund at shareholders’ meetings over the most recent calendar year.
- (14) Information about any holding of investment units in excess of restrictions on unit holding restriction (if any).
- (15) A list of fund managers.

A semi-annual report must be submitted to unitholders whose names appear in the register of unitholders and to the SEC within 2 months from the end of the 6-month period. It must contain at least items (1) – (9) above, except that financial statements as specified in (1) are not required to be audited and commented on by an auditor.

The CIS operator must disclose details of investments, borrowing, and encumbrances of each mutual fund on its website on a quarterly basis. The disclosure must be made within 60 days from the end of the period. In the case of a money market fund, the CIS operator must also prepare and disclose the average duration of the assets invested by each mutual fund, and the proportion of high liquidity investment assets to the net asset value of each mutual fund.

The CIS operator must disclose the following information with respect to each mutual fund on its website on a monthly basis:

- (1) Fund performance prepared and presented in accordance with the AIMC rule (please see Key Question 1 under the heading “fund performance” subheading “factsheet”).
- (2) Specific disclosure about investments for each type of fund and for certain asset class:
 - (a) For equity funds, details of the top 5 securities with highest investment value;
 - (b) For fixed-income funds, details of the top 5 debt instruments with highest investment value, including their credit ratings;
 - (c) For mixed funds, details of the top 5 securities with highest investment, including their credit ratings for debt instruments;
 - (d) For mutual fund with investment in units of a foreign CIS of more than 20% of the NAV, information about investments made by such foreign CIS as far as is accessible by the CIS operator;
 - (e) For mutual fund with investments in debt instruments, hybrid instruments, or deposits, the following information must be disclosed:
 - (i) Amount of investment in such instruments, and their proportion to NAV, categorized as follows:
 - (A) Instruments issued by the Thai government and instruments issued by a foreign government;
 - (B) Instruments issued, drawn, accepted, granted, endorsed, or guaranteed by a bank established by virtue of a specific law, a commercial bank, or a finance company;
 - (C) Instruments rated as investment grade; and
 - (D) Instruments rated below investment grade or non-rated;
 - (ii) Details and credit ratings of hybrid instruments or deposits invested in or held on an individual basis or based on the instrument’s category set forth in sub-clauses (e)(i)(A) – (D); and
 - (iii) The proportion of the upper investment limit to NAV as determined by the CIS operator in the investment plan for the instruments under sub-clause (3)(i)(D).

Disclosure of the information above must be made:

- In the case of (1) and (2)(a) - (c), within 15 days from the last business day of each month;
- In the case of (2)(d), within 15 days from the first day the investment information is made available by the relevant foreign CIS; and
- In the case of (2)(e), within 15 days from the end of each month.

Financial statements of a mutual fund must be prepared in accordance with the Accounting Guidelines for Investment Management Business issued by the Association of Investment Management Companies (AIMC), which must be approved by the SEC. The guidelines adopted are consistent with IFRS, with only one minor adjustment – the amortization of setup fee – in consideration of the practicality for investment management business. If the setup fee is

	<p>expensed at once, the unitholders who buys mutual fund units at the initial IPO would bear the entire cost while those purchasing later would not have any. Financial statements must be audited by an approved auditor.</p> <p>If all investment units are offered to persons not domiciled in Thailand, the CIS operator may prepare the financial statements in compliance with the IASB (International Accounting Standards Board) or the AICPA (American Institution of Certified Public Accountants) or the FASB (Financial Accounting Standards Board). If a mutual fund is terminated within fifteen months from the registration date, or where the final accounting period of a fund is longer than 12 months but less than 15 months, the CIS operators may prepare the financial statements for such accounting period upon the dissolution date of the fund.</p>
Assessment	Fully Implemented
Comments	The documents creating a mutual fund, and the documents for a REIT contain all material information that an investor should consider. The updated and periodic reports to the SEC and investors are similarly complete.
Principle 27.	Regulation should ensure that there is a proper and disclosed basis for asset valuation and the pricing and the redemption of units in a collective investment scheme.
Description	<p>Regulatory Requirements on CIS Asset Valuation and NAV Disclosure</p> <p>All mutual funds must calculate net asset value (NAV) in accordance with Association of Investment Management Companies (AIMC) guidelines, adopted by the SEC. Details of the methodology for asset valuations are prescribed in AIMC Notification No. SorJorKor.Ror. 5/2545 and SEC guidelines (Circular No. KorLorTor.Nor 319/2549).</p> <p>The AIMC Notification on NAV methodology provides a waterfall series of pricing methods:</p> <ol style="list-style-type: none"> (1) Investments in assets that are traded in an active market must be valued at fair price in the following order: <ol style="list-style-type: none"> (a) Closing price on the calculation date. (b) Last closing price prior to the calculation date if there is no significant change in the Market between the last trade date and the calculation date. (c) Last bid price on the calculation date. (2) Investments in assets not traded on an active market: <ol style="list-style-type: none"> (a) Equity instruments: <ul style="list-style-type: none"> - Estimate fair value using multiple valuation techniques, such as price to earnings ratio, enterprise value to EBITDA, price to book value, price to net asset value, or other multiples that is appropriate to the type and features of that particular equity instrument. - Bid price quoted by dealer. - Estimate fair price by comparing changes in fair value of a similar equity instrument (i.e., similar type, features) that is traded in active market.

(b) Bond, debentures, and other transferable debt instruments:

- For debt instruments with less than 90 days to maturity, the CIS operator may estimate the fair price by using amortized cost if there is no significant change in the condition of the issuer or the market remains normal.
- For debt instruments with more than 90 days to maturity, the fair price can be obtained from the TBMA. Fair price must be estimated using:
 - Market yield in the order of executed price or quoted price from at least 3 dealers.
 - Model yield in case there is no market yield.

(3) Mutual fund units – fair price estimated using net asset value per unit.

Where the CIS operator finds that the price estimated using the above methods is not representative, the CIS operator may use its own estimate for the fair price, and must obtain approval from the mutual fund supervisor. When alternative pricing methods are used, a record must be maintained.

To estimate the fair value, the CIS operator must diligently collect all the necessary information and consider the following factors:

- (1) Financial status of the issuer.
- (2) Business plan and financial plan of the issuer.
- (3) Investment cost at the investment date.
- (4) Ratio of the amount of fund invested to total investment. And liquidity of the investment.
- (5) Any restriction by contract or law of the investment.
- (6) Similar instrument of the same issuer that is being offered to the public.
- (7) Any action in relation to restructuring of the issuer that may impact the fair value of the investment, e.g. tender offer for merger, takeover, or debt restructuring.
- (8) Price and trading volume of the similar instrument of the same issuer or comparable issuer
- (9) Capacity of issuer in raising fund if necessary.
- (10) Any change in economic factors that may impact the issuer.
- (11) Any resources obtained or paid in order to acquire business interest in the latest (assist in assessing liquidity of the business).
- (12) Price of similar instrument from other dealers.
- (13) Financial statement of the issuer.

Open-ended funds must calculate the NAV, NAV per unit and subscription/redemption prices at the end of each trading day, and disclose the NAV and prices of the latest trading day within the next day. Close-ended funds must calculate the NAV and NAV per unit at end of each business day, and disclose the NAV and NAV per unit (i) at the end of the month on the following business day, (ii) and on the business day following the day when the unitholders registry is closed for dividend payments; and (iii) on the business day before the offering day of additional investment units SEC Notification SorNor. 87/2558.

A CIS operator may be exempt from requirements on the routine valuation and pricing of mutual fund units:

- (1) when the CIS operator does not sell or repurchase investment units, or ceases to accept subscription or redemption orders. (i.e. exceptional circumstances in which the routine valuation and pricing can be suspended are periods during which the CIS operator suspends the subscription or redemption orders (discussed below under the heading "Suspension").
- (2) when the mutual fund is to be terminated.

Amortized cost may be used to value debt instruments maturing within 90 days from the date of investment and non-extendable. Such cost should not be significantly different from the instrument's fair value, and the CIS operator may use this method only if there is no significant change in the financial condition of the issuer, or the market remains normal (AIMC Notification No. SorJor.Kor.Ror. 5/2545). Thailand does not permit a mutual fund, including money market funds, to use stable value pricing.

Disclosure may be made through any appropriate means that informs investors in a timely manner, for example, publication in local newspapers or disclosure on the CIS operator's website. In addition, information on NAV and prices must be available at the premises of the CIS operator and distributors. Open-end funds must publish its NAV daily in the newspaper and closed-end funds must publish weekly, on the next business day. There are a small number of interval fund that do not redeem shares daily. These funds must publish NAV on a monthly basis, next business day.

Mutual funds are required to apply Thai accounting standards for CIS, which are largely consistent with IFRS, except as to (an exception is discussed above in principle 18. The SEC requires that the annual financial statements (the accounting period report) of the mutual fund must be audited and commented on by a qualified independent auditor approved by the SEC. The independent supervisor reviews the daily NAV calculation and must be in agreement with the NAV calculation of the Operator before the Operator may publish the NAV.

Fund Redemption, Pricing Errors, Correction Process and Suspension of Redemption

Information describing the process for investor redemptions and redemption valuation basis (e.g., subscription/redemption days, minimum subscription value, settlement period, and, if any, circumstances under which the CIS operator may not accept redemption requests, or suspend or defer redemptions) is contained in the mutual fund prospectus, and constitutive documents (SorNor. 88/2558 Clause 11(2)). The subscription and redemption prices of a mutual fund at the end of each trading day must be calculated based on the NAV per unit as of the end of such trading day (SorNor. 87/2558 Clauses 10(1)-(2)). Correct valuation for redemption and for daily NAV valuation is ensured by the requirement that the independent fund supervisor must confirm and agree with the fund operator daily calculation. Additional validation is provided by the annual financial statement required to be audited by a qualified independent auditor

approved by the SEC. The auditor is also responsible for ensuring that the valuations of mutual fund assets and calculations of NAV comply with the relevant rules and regulations. In addition, when the SEC conducts an on-site inspection of the CIS operator and mutual fund supervisor, it examines the valuation of assets and the calculation of the NAV of the mutual funds, by doing an independent calculation for selected days on a random basis.

Under SEC rules, if a fund fails to apply AIMC pricing guidelines and it results in a pricing error greater than 0.5 percent of the true price, then the fund operator must compensate injured investors:

- (1) If value of the error is less than 0.01 THB or 0.5% of the correct value:
 - The CIS operator must produce and submit a report on the error to the fund supervisor within 7 days. The report must include the incorrect value/price, the correct value/price, the cause of the error and measures for preventing incorrect pricing.
 - The CIS operator must make necessary corrections to the incorrect value/price on the day of discovering the error.
- (2) If value of the error is greater than 0.01 THB or 0.5% of the correct value:
 - The CIS operator must recalculate the values/prices for the dates whose values/prices are incorrect.
 - The CIS operator must produce a correction report on the recalculations within the day after discovering the error, and have the mutual fund supervisor approve the recalculations within the following day.
 - The CIS operator must make corrections to the incorrect values/prices within one day of when the fund supervisor approves the recalculations.
 - Once corrections have been made, the CIS operator must ensure that investors are informed within 3 days of the names of the mutual funds whose values/prices have been revised and the date of the correction.

In addition, for open-ended funds, the CIS operator must also produce a price compensation report. Investors who subscribed or redeemed units during the incorrect pricing must be informed of the correction and compensated within 5 days from the correction date. The CIS operator must submit a copy of the correction report to the SEC within 7 days from the correction date, along with measures for preventing incorrect pricing or a copy of a document stating that the incorrect pricing was a result of factors outside of the CIS operator's control (approved by fund supervisor). The CIS operator is not permitted to charge the associated costs to the mutual fund, unless the incorrect pricing was a result of factors outside of the CIS operator's control.

	<p>A CIS operator may postpone a redemption payment to a unitholder who submits a redemption order only under the circumstances specified in the prospectus and confined to the following cases:</p> <ol style="list-style-type: none"> (1) Situations beyond the control of the CIS operator that result in: (i) the CIS operator not being able to deal, disburse or transfer securities or assets of the mutual fund in a reasonable manner; or (ii) the mutual fund not receiving payments from its investments (subject to approval of the mutual fund supervisor). (2) Redemption requests made during the period of incorrect pricing which has yet to be corrected, and the mutual fund supervisor has not yet certified the price correction and price compensation report. <p>The deferral must not exceed 10 days from the date of request unless permitted by the SEC.</p> <p>Funds are permitted under SEC rules to suspend redemption for one business day under specified circumstances. Longer redemption suspensions require approval of the SEC or may be ordered by the SEC. A CIS operator may cancel submitted redemption orders or suspend acceptance of subscription or redemption orders only under the circumstances specified in the prospectus and confined to the following cases:</p> <ol style="list-style-type: none"> (1) The Stock Exchange of Thailand is unable to operate as normal. (2) Situations beyond control of the CIS operator that result in the CIS operator not being able to deal, disburse or transfer securities or assets of the mutual fund in a reasonable manner or not being able to calculate fair and suitable asset values. (3) Such action is necessary for the protection of unitholders. (4) The mutual fund experiences significant impact arising from its investments abroad. <p>The SEC has the power to order the CIS operator to temporarily suspend the acceptance of subscription or redemption orders for a period of not more than 20 consecutive business days when it finds this necessary to protect the interests of unitholders, maintain the country's economic and financial stability or maintain stability of the financial market,</p> <p>The CIS operator must immediately report to the SEC in writing whenever a suspension occurs, describing the reasons for the suspension and the plans/process for the suspension. Where the suspension period is greater than 1 day, the CIS operator must inform the SEC in writing when it proposes to resume redemptions, including information regarding its investment portfolio, and the date of the proposed resumption.</p> <p>Where a CIS operator fails to comply with rules regarding incorrect pricing, the SEC has the power to use enforcement remedies and sanctions to deal with non-compliance. As discussed under Principle 24, Section 264 of the SEA provides the SEC with comprehensive powers to monitor, inspect, and investigate (e.g., inquiry, access to their records, request documents, on-site and off-site inspections) both CIS operators and mutual fund supervisors to ensure compliance with the applicable rule relating to asset valuation, pricing and suspension of redemptions/subscriptions. In cases where management of a mutual fund is not carried out in</p>
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	accordance with the mutual fund project (constitutive document), has caused damage to investors or is deemed to be in violation of the SEA or any of its accompanying laws and regulations, the SEC has the power to use enforcement remedies and sanctions
Assessment	Broadly Implemented
Comments	<p>The Thai regulatory system for CIS valuation, pricing, redemption and suspension is comprehensive and addresses all key questions specified for this Principle. The assessors have concluded that Broadly Implemented is the appropriate assessment because of concerns over the reliability of TBMA pricing information that is the benchmark for daily pricing of debt securities held by mutual funds.</p> <p>The TBMA pricing information has become the standard utilized by all mutual funds. The TBMA pricing model for debt securities is based upon the daily yield curve it constructs. This yield curve utilizes non-binding indicative quotes submitted after the close of trading to provide data points for thinly traded issues of government securities. This is not sound practice as indicative quotes have little if any meaning in a secondary market. The low interest rate environment that currently exists in Thailand has motivated so-called yield chasing. Relying upon non-binding indicative quotations to price thinly traded assets in a mutual fund may result in an inaccurate NAV.</p>
Principle 28.	Regulation should ensure that hedge funds and/or hedge funds managers/advisers are subject to appropriate oversight.
Description	<p>Regulatory System for Hedge Funds</p> <p>Anyone who acts as a manager of an asset manager fund must register with the SEC under its Investment Advisor rules (discussed in principle 29). All investment management funds (except private family funds that are not marketed to others) must register as an investment fund (application process discussed above in principle 24). In 2017, the SEC adopted specific regulations for hedge funds. However, to date no one has applied.</p> <p>Registration of Hedge Funds and Hedge Fund Operators</p> <p>All UI fund, whether designated as a hedge fund must apply for registration with the SEC. All operators of this vehicle must also apply for an SEC license. The SEC review and approval process is the same as the process described in Principles 24 and 25 for retail mutual funds. The SEC requires the application to include a detailed description of the hedge fund, a draft of the commitment agreement between the investors and the HF operator, and a draft of the agreement between the asset management company and the fund supervisor. (SEA Section. 118)</p> <p>In addition to the information required for a retail mutual fund, the SEC has additional requirements for hedge funds. For example, if a HF plans to invest in derivatives, to borrow for investment, to engage in repurchase agreement, or short selling, the HF manager is required to disclose its expected return under a worst-case scenario and its maximum exposure limit (SorNor. 11/2560 Clauses 4-5). The SEC may also require additional items to be disclosed on a case by case basis.</p>

Applicants must demonstrate that they have qualified personnel and appropriate operating systems for carrying out its functions. In considering the sufficiency of human resources, the SEC looks at the company's personnel relevant to the core functions, such as fund managers, risk managers, and compliance officers. Personnel undertaking certain professional or management roles must be approved by and registered with the SEC. Fund managers are required to have appropriate educational background and knowledge. A fund manager must have either passed the chartered financial analyst (CFA) or certified investment and securities analyst (CISA) Level 3 exams; or passed the CFA or CISA Level 1 exams with at least 2 years of relevant experience in portfolio management. Fund managers for funds investing in derivatives must have a general knowledge of derivatives laws and regulations or have completed a course on derivatives management organized by SET or other approved institutions.

Internal Organization, Operational Conduct, and Business Conduct Rules

Because HF managers are subject to the same regulatory framework as traditional CIS operators, the requirements on internal organization and operational conducts, risk management, segregation of client's funds and assets, management and disclosure of conflict of interest, and prudential requirements described in Principle 24 apply.

An HF operator must have an appropriate organizational structure, operational systems for fund management and supervision –including systems for order handling, back office, record keeping and for monitoring compliance –and internal controls. It must maintain records of investments of all funds under management, deposit assets of the funds into the custody of their respective mutual fund supervisors. It also has a duty to maintain a register of unitholders for each mutual fund.

An HF operator must have appropriate and adequate risk management systems for identifying, managing and mitigating the risk it faces, taking into account the nature and size of its operations as well as the nature of assets. The HF operator must appoint a Risk Manager with sufficient independence from the operator's main operations to be responsible for risk management. Procedures to ensure that identified risks are closely monitored and that management is kept informed of risk exposures on a continuous and timely basis are required. In addition to providing this information in the application process, HF operators must submit annually a Self-Assessment Questionnaires ("SAQs") on Risk Management and Controlling System. Operators are required to comply with investment risk management guidelines set by the Association of Investment Management Companies (AIMC), approved by the SEC. (These are described in Principle 24.)

All mutual funds, including HF, must have operating system that provide for adequate internal controls and compliance arrangements to ensure that the fund is operated diligently, effectively, honestly and fairly in compliance with applicable rules and regulations (Ministerial Regulation Concerning Granting of Approval for Undertaking Securities Business B.E. 2551: Clause 16(1)(b)). All CIS operators are required to have a system of internal controls, which must be approved by senior management (SorKhor/Nor. 4/2549: Clause 1(4) and 5). The system must cover the following requirements:

- (1) A good control environment;
- (2) Assess, administer and manage risks arising from business operations to an acceptable level to minimize impact;
- (3) Determine efficient control activities to prevent or minimize possible damage. In this case, the responsibilities of personnel and units must be appropriately separated;
- (4) Arrange appropriate channels for obtaining information from and communicating with internal and external sources in a timely manner; and
- (5) Monitor the system and report findings to the CIS operator's board of directors or directors assigned by the board to achieve the objective and mission of internal control.

SEC regulations on hedge funds requires managers that engage in significant transactions involving derivatives, borrowings for investment, repurchase agreements, or short sales to put in place more stringent operating and risk management systems that are appropriate for the level of risk taken .

CIS, including HF, operators are also required to establish a compliance unit responsible for monitoring compliance with all applicable laws and regulations (TorThor. 39/2555). The reporting lines and operational structure must allow the compliance unit to perform its duty independently from management and to report its findings directly to the management company board of directors (In Thailand individual funds, including HF, do not have its own Board). The compliance unit's duties and responsibilities include:

- (1) Preparing a compliance manual, providing training and advice, and supervising staff of the company in relation to laws and regulations;
- (2) Identifying risks associated with new developments or new transactions carried out by the CIS operator and factors that may cause the CIS operator to fail to comply with laws and regulations;
- (3) Auditing or reviewing compliance with laws and regulations and reporting findings to the board of directors and the CEO;
- (4) Preparing an annual compliance plan to considered by the board of directors;

Conflicts of Interest

A CIS operator, including HF, is prohibited from engaging in any act which is in conflict with the interests of a mutual fund, including HF, and its unitholders (SEA Section 126(1)). Specific SEC regulations apply to conduct frequently associated with a conflict of interest, for example, front running, churning and affiliated transactions (TorThor. 35/2556: Clause 4). Operators are prohibited from obtaining benefits at the expense of a mutual fund or exploiting information for its own benefit obtained from fund management business. Affiliated party transactions must be in the best interest of the mutual fund, suitable to its investment policy, carried out at arm's length. Transactions between a CIS operator and a mutual fund under its management may be carried out only after the mutual fund supervisor has approved the proposed transactions in writing.

Operators must report affiliated transactions to the SEC and disclose them to the public through its website and in its semi-annual and annual reports (SorThor. 14/2558: Chapter 3). Example of

transactions that must be disclosed include (SorThor. 14/2558: Clause 17; Connected Persons Transaction Form under Clause 17 of SorThor. 14/2558):

1. direct transactions with affiliated persons, including trading of securities or other assets via other persons acting as an intermediary for which the CIS operator should be reasonably aware that the other party is an affiliated person;
2. buying newly-issued securities when an affiliated person is the underwriter, or arranger;
3. buying securities or assets certified, endorsed or guaranteed by an affiliated person;
4. trading investment units where an affiliated person is the manager
5. trading securities or assets among funds under management (crossing transaction).

The operator must take care to ensure that personal investments made by its staff and its own proprietary investments are not in conflict with the interests of funds under management. The CIS operator is required to have in place controls in this regard, in accordance with Clause 19 of Notification No. SorThor. 14/2558 and Notification No. SorThor. 15/2558.

Disclosure to the Regulator and to Investors

SEC regulations for AI, UI, and HF require substantially all of the same disclosure requirements and SEC reporting requirements as retail mutual funds (see Principle 26) on the topics of managing conflicts of interest, and risk assumed when investing. HFs must provide investors with additional disclosures to ensure that investors are aware of the funds' higher risk profile and can assess the suitability of the fund for their investment requirements. The name of a HF must state its investment policy or investment strategy and must be followed by a statement indicating that the fund is "not for retail investors" (TorNor. 15/2560 Clause 3/1).

The HF manager is required to disclose: (1) actual investments/exposures; (2) management analysis report and explanation relating to risk and return; and (3) the amount of Value-at-Risk to the unitholders and the SEC for every accounting period, with the exception of HFs that offers redemption, which must disclose such information for every 6 months and annual accounting period or calendar year .If a HF invests abroad, the HF manager must also have additional due diligence processes to ensure adequate investor protection.

Additional information is required from a HF that invests in derivatives, borrowing for investment, engaging in repurchase agreement, or short selling. A HF that engages in complex investment in derivatives, that uses value at risk models (VaR) in in the calculation of leverage limits (global exposure) must disclose its expected gross leverage and its actual average level of leverage (SorNor. 88/2558 Clause 49(6)). The HF manager is required to disclose expected return under the worst-case scenario, as well as, maximum exposure limit (SorNor. 11/2560 Clauses 4-5). The SEC may also require additional items to be disclosed on a case by case basis.

Prudential Supervision, Supervision and Enforcement

As with all SEC-licensed CIS, the SEC has full authority to require disclosure of business operations, conduct inspections and require periodic or special reports. The SEC has the same enforcement powers that apply to retail mutual funds. It has comprehensive authority to require an HF to provide any books or records and can require persons to testify in an SEC investigation.

The SEC can obtain information relating to HF's exposure to counterparties via monthly reports submitted by HF managers, which provide information on HF's status and investments, including the positions in the fund's portfolio and its counterparties. Monthly reports are required from all mutual fund managers, as described in Principle 24. (SorNor. 87/2558 Clause 40; Circular No. GorThor.(Wor) 2/2558). The SEC may also seek information through cooperation with other regulators as necessary (as described in the answer to Key Question 9 above). There are no restrictions on the capacity of the SEC to obtain confidential information from HF and, when appropriate, the SEC has the authority to share this confidential information with other regulators in Thailand, and as appropriate with foreign entities under the IOSCO MMOU or other bilateral MOUs. In Thailand a HF is not permitted to be structured as a partnership.

The SEC has adopted specific requirements for HF based upon the type of persons permitted to invest in the fund. The only investors permitted to invest in an HF are ultra-high net worth accredited investors ("UI") and institutional investors ("II"). Mutual funds are classified based on the type of investors that are permitted to invest in the fund. The table that follows provides the definition of each category of investor, and identifies which investors are permitted to invest in a type of fund. Different prudential requirements apply to each of the categories of mutual fund, including hedge funds.

Mutual fund types and requirements

Type of investors	Description
Big retails	Investors that invest in AI fund with minimum subscription of 500,000 baht
High net worth investors	Investors that meet the following conditions: <ul style="list-style-type: none"> - An individual with at least 50 million baht in total assets (excluding primary residence), 4 million baht in annual income or 10 million baht direct investments in securities or derivatives (20 million baht if including deposits); or - A juristic person with at least 100 million baht of shareholders' equity or 20 million baht direct investments in securities or derivatives (40 million baht if including deposits)
Ultra-high net worth investors	Investors that meet the following conditions: <ul style="list-style-type: none"> - An individual with at least 70 million baht in total assets (excluding primary residence), 7 million baht in annual income (or 10 million baht if combined with spouse's) or 25 million baht direct investments in securities or derivatives (50 million baht if including deposits); or - A juristic person with at least 200 million baht of shareholders' equity or 40 million baht direct investments in securities or derivatives (80 million baht if including deposits)
Institutional investors	The SEC provides a list of investors qualified as institutional investors (e.g., commercial bank, mutual fund, provident fund) in notification KorJor. 4/250 Clause 4.

Rule	Type of mutual fund		
	Retail mutual fund	AI fund	UI fund
1. Eligible investor	No restriction	<ul style="list-style-type: none"> • Big retails • High net worth investors • Ultra-high net worth investors • Institutional investors 	<ul style="list-style-type: none"> • Ultra-high net worth investors • Institutional investors
2. Investment rules:			
(1) Eligible assets (except for money market fund)	Transferable securities		All types of financial instruments/transactions
(2) Diversification requirements and product limits (except for money market fund):			
- Single entity limit	≤ 5-35% of NAV		No restriction
- Group limit	≤ 25% of NAV		
(3) Aggregate investments in unlisted securities and securities that are not registered in the regulated market	≤ 15% of NAV		
(4) Borrowing	Borrowing must be temporary, for managing liquidity only, and not exceed 10% of NAV		May borrow for investment purpose but must not exceed 50% of NAV
(5) Leverage limit (via derivatives)	<ul style="list-style-type: none"> • For hedging purpose, must not exceed risk exposure • For non-hedging, global exposure must not exceed: <ul style="list-style-type: none"> - 100% of NAV (commitment approach); or - Twice the VaR of its benchmark (relative VaR approach) or 20% of NAV (absolute VaR approach) 		No restriction
Assessment	Fully Implemented		
Comments			

Principles for Market Intermediaries	
Principle 29.	Regulation should provide for minimum entry standards for market intermediaries.
Description	<p>Industry and regulatory background</p> <p>There are 44 intermediaries operating in Thailand, 35 of which perform as both securities brokers and derivatives agents, 4 of them solely performs as securities brokers, and 5 solely performs as derivatives agents. Among the 39 securities companies that perform as securities brokers, they can be classified into 3 types: bank subsidiaries, foreign subsidiaries, and stand-alone entities. The majority of securities brokers are foreign subsidiaries and represent a market share of 50%.</p> <p>There is one related organization, the Association of Securities Companies (ASCO), which has been established and registered with the SEC since 1992 with its main purpose to develop the securities industry.</p> <p>Licensing</p> <p>A market intermediary undertaking securities and/or derivatives business must be licensed or registered as specified in the SEA Section 90 or DA Section 16. Under the SEA, licenses are granted by the Minister of Finance upon recommendation of the SEC, with the licensing criteria set out in the Ministerial Regulation Concerning Granting of Approval for Undertaking Securities Business B.E. 2551, in accordance to Section 90 of the SEA. Regulated activities subject to licensing include:</p> <ol style="list-style-type: none"> (1) Securities brokerage; (2) Securities dealing; (3) Securities underwriting; (4) Investment advisory service; (5) Mutual fund management; (6) Private fund management; (7) Securities financing; (8) Securities borrowing and lending; (9) Venture capital management; and (10) Inter-dealer brokerage. <p>Under the DA, licenses are granted by the SEC in accordance with section 16 of the DA. However, intermediaries engaging in the derivatives business which deals solely with institutional investors, excluding derivatives fund management for investment funds, are required to register, but no to license, with the SEC. Regulated activities subject to licensing under the DA include:</p> <ol style="list-style-type: none"> (1) Derivatives brokerage; (2) Derivatives dealing; (3) Derivatives advisory service; and (4) Derivatives fund management;

	<p>Individuals who act as representatives of a licensed intermediary must also obtain approval from the SEC to be registered as "capital market personnel". The SEC makes available the names and information of all licensed firms and approved capital market personnel to the public on its website.</p> <p>Minimum standards or criteria that all applicants for licensing must meet</p> <p>According to the relevant ministerial regulation (Ministerial Regulation B.E. 2551: "Granting of Approval for Undertaking Securities Business") and SEC notification (Notification KorThor/Nor/Khor. 14/2551 "Authorization for derivatives business"), an applicant applying to obtain a securities or derivatives business license must fulfil the following criteria:</p> <ol style="list-style-type: none"> (1) Sufficient paid-up registered capital; (2) Ability to maintain capital and set aside reserve capital, in accordance to relevant laws; (3) Sound financial status with no evidence of inadequacy or inappropriateness relating to business operations and control; (4) Directors and senior management responsible for the intermediary's undertaking of securities or derivatives business, as well as major shareholders, do not have any prohibited characteristics, as set out in Section 103 of the SEA, Section 24 of the DA, and relevant notifications; (5) Readiness in terms of operating systems and qualified personnel for carrying out regulated activities; and (6) Appropriate policies and measures for internal controls, risk management, dealing with of conflicts of interest, and for preserving confidentiality of non-public information. <p>The above criteria as well as other rules, requirements and procedures relating to the licensing of market intermediary is publicly available in the ministerial regulations and SEC notifications. By law, these are required to be published in the Royal Thai Government Gazette and posted on the SEC's website. In addition, details of the application process are provided in public manuals on the Government Service Information Website.</p> <p><i>Assessment of applications for license and registration</i></p> <p>The processes and criteria for securities and derivatives licensing application are clearly set out on the Ministerial Regulation B.E. 2551, SEC notification KhorThor 14/2551, and the Administrative Procedure Act, B.E. 2539, and applied to all applicants in an equitable basis. The licensing processes which are summarized in public manuals and the relevant regulations are publicly available in the SEC and relevant websites. In considering applications, the SEC has a qualification checklist to ensure that the criteria are consistently applied to applicants. The rejection of the application for a license must be clarified while any refused applicant who disagrees with the rejection can appeal before the Ministry of Finance or the SEC, depending on the type of license.</p>
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	<p><i>Capital requirements</i></p> <p>The criteria for licensing include an initial capital requirement in the form of paid-up registered capital in accordance with the SEA and relevant notifications. The capital requirements are based on the market intermediary's activities and risks undertaken. Section 96 of the SEA empowers the SEC to specify initial capital requirements for any category of securities business. However, for those engaging in securities dealing or underwriting, or carrying out the custody of client assets, undertaking proprietary investments or operating in the securities clearing and settlement systems, the specified requirement must be no less than THB 100 Million. Apart from the initial requirements, intermediaries must also maintain the required levels of capital on an ongoing basis. (More details under principle 30)</p> <p><i>Competence</i></p> <p>The SEC conducts an on-site assessment of the applicant as part of the licensing process before it commences operation to ensure that market intermediary meets the licensing requirements, which include operating systems and qualified personnel resources mentioned above.</p> <p>The SEC's assessment of the applicant's qualifications also includes consideration of the suitability of major shareholders, directors, management and other persons in control of the business. Personnel of market intermediary are subject to regulatory oversight, as prescribed in the Sec Notification TorLorThor 8/2557 "Rules on Capital Market Personnel", which requires that persons performing specified duties have the appropriate qualifications, possess no prohibited characteristics and have obtained approval from the SEC, if required.</p> <p>According to the above-mentioned Notification, "Capital Market Personnel" are the persons performing their duties in any of the following functional fields:</p> <ol style="list-style-type: none"> 1. Managing, determining, controlling and supervising business policy of an intermediary; 2. Controlling, supervising and managing business units relating to investment advice, investment planning, analysis of investment or capital market products, investment management, management of the intermediary's branch office, or supervising account of clients and making decision for clients; 3. Controlling, supervising and managing business units relating to operational function, compliance function, internal audit or risk management; 4. Managing investment in capital market products, financial instruments or other specified assets; 5. Providing analysis, advice or planning of investment for clients, or supervising account of clients and making decision for clients. <p>These persons must possess no prohibited characteristics and obtain an approval from the SEC. The approval is related to meet with the following requirements: i) have ability and work experience, ii) attend training courses or pass the examination of courses provided by the SEC</p>
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	<p>or the organizations recognized by the SEC and iii) have a certain scope of duties. The Sec Notification TorLorThor 8/2557 establishes a set of training and educational requirements as well as working experience depending in the specific functional role of the applicant. For example, directors and chief executives with a bachelor’s degree must have at least three years of relevant work experience and have received training on corporate governance. A general investment advisor must have at least ten years of work experience, have attended training courses and passed examinations on 1) knowledge of investments basics, 2) relevant regulations and appropriate investment advice and, 3) non-complex capital market products. The ASCO Training Institute (ATI) is the educational organization dependent from ASCO to support the securities industry in training and examinations.</p> <p>There are overarching requirements on capital market personnel to perform their duties professionally, honestly and fairly, with care, prudence and the best interest of investors. They also have the duty to comply with all the applicable rules and regulations, as well as ethical codes of conduct and professional standards set by industry associations.</p> <p>Appropriate qualifications generally include suitable work experience and training, Past conduct is a factor of consideration in determining whether a person possesses prohibited characteristics as explained below in <i>Steps to prevent the employment of persons who have committed securities violations</i>.</p> <p>Major shareholders of market intermediaries (direct & indirect holdings exceeding 10%) must also be approved by the SEC and not possess any prohibited characteristics as stipulated in relevant Acts and notifications.</p> <p><i>Internal controls</i></p> <p>Apart from the qualifications of personnel, the SEC also undertakes inspections to assess the adequacy of the applicant’s internal organization and systems to ensure i) sound and effective management arrangements; ii) effective policy and measures dealing with conflicts of interest, inside information, internal control and risk management as well as measures for monitoring compliance; and iii) sufficient operational system and human resources. Having acquired a license, the intermediary must have written policies and procedures mentioned above, and continue to maintain the initial qualifications and comply with any other ongoing requirements imposed by the SEC.</p> <p>The SEC Notification TorThor 35/2556 (“Standard Conduct of Business, Management, Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries”) is the main source of regulation in terms of business conduct, including internal controls required. The following is a non-exhaustive list of the conditions of operation imposed by this Notification:</p>
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- Management Structure, Operating System and Personnel
- Strategies, policies, objectives and operational procedure
- Organization structure, roles, authority and responsibility of directors, executives and other personnel
- Appropriate, reliable and efficient operating system to support an intermediary's business continuously
- Systems for communication with and providing services to a client
- Internal audit and control system
- Systems and measures for preventing conflict of interests
- System for protecting the client's assets
- Arranging and keeping information, document or evidentiary documentation,
- Systems for the prevention and management of conflicts of interest
- Systems for providing investment analysis and providing consultation to a client

To ensure that the market intermediary meets the licensing requirements mentioned above, on-site assessment will be conducted as part of the licensing process before the market intermediary commences operation. In addition, where any material change is made to its operations, the intermediary must immediately inform the SEC of the change, after which the SEC will conduct off-site and on-site examinations to ensure that necessary qualifications are still being complied with.

Authority of Regulator

Assessment of applications for license and registration

In the process of granting securities/derivatives business licenses, the SEA and the DA set out the requirements in relation to the licensing application process, including the procedures involved and timeframe for the review of application. The processes are summarized in public manuals as follows:

1. Submission of application form, supporting documents and payment of application fee.
2. Review of application
 - 2.1 The SEC staff examines the validity and completeness of the application form and supporting documents;
 - 2.2 The SEC staff reviews all information along with applicable rules and regulations;
 - 2.3 Request are made to the applicant to provide explanations on specific issues or further supporting information for the application. If necessary, the SEC staff will also access the premises of the applicant to obtain information;
 - 2.4 All information is consolidated into a report, which is submitted to the SEC for consideration.

This process must be carried out within 90 days for securities business license and 60 days for derivatives business license.

	<p>3. Decision</p> <p>3.1 For a securities business license, the SEC submits the case to the MOF with a proposed decision, as agreed upon by the SEC Board. The MOF then grants or refuses the application within 60 days;</p> <p>3.2 For a derivatives business license, the SEC Board considers all information and decides to grant or refuse to grant license within 30 days;</p> <p>Before the market intermediary commences operation, the SEC conducts on-site inspections as part of the licensing process. Such activation process includes the assessment of its management, measures for preventing conflict of interests, operational system and personnel.</p> <p><i>Refusal of application</i></p> <p>Licenses can be refused on the grounds that the applicant does not meet all of the authorization requirements. Where this is the case, the SEC will recommend the MOF to refuse the, or, in the case of derivatives business license, it will refuse the application itself.</p> <p><i>Revocation/suspension of license/registration</i></p> <p>Once a license is granted, the market intermediary must continue to comply with the requirements and conditions prescribed in the Ministerial Regulations and SEC notifications. The SEC must be notified of any material change in the company's operations or control to ensure continued compliance. Any changes in the intermediary's control (e.g. changes of directors, managing directors, or major shareholders) must obtain prior approval from the SEC. Where such changes result in a failure to meet specified conditions or where its condition of operation may cause serious damage to public interest, the SEC has the power to order the intermediary to rectify its actions or take/refrain from taking certain actions in order to achieve compliance.</p> <p>Where it is evident that any securities company has major shareholder not approved either by disqualifying characteristics or by revocation of approval, such securities company must rectify such matter within ninety days from the date on which it is notified of such matter by the SEC Office. If such securities company fails to rectify such matter within the aforementioned period, the SEC it's the power to order such securities company not to expand or suspend its business either wholly or partially until it rectifies such matter. Also, the SEC has power to order the securities company to undertake any step aimed at honoring its settlement obligations, or protecting and preserving the customers' interests.</p> <p>In addition, the MOF upon recommendation of the SEC or the SEC (in the case of derivatives intermediaries) has the power to revoke the intermediary's license as a result of failure to rectify its operation or take appropriate actions as ordered by the SEC. As an example, the MOF, upon recommendation of the SEC, has revoked the securities investment advisory license of an</p>
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investment advisory firm (February 2017). At the same time, the SEC has also revoked the firm's derivatives investment advisory license. These actions are undertaken as a result of the firm's failure to maintain appropriate operating systems and sufficient qualified personnel in relation to both its front-office and back-office operations.

Steps to prevent the employment of persons who have committed securities violations

The personnel of a market intermediary, including directors, managing directors, major shareholders (with greater than 10% shareholding) and capital market personnel, are required to meet certain qualifications and be subject to approval by the SEC. An important consideration is to ensure that such persons do not possess any prohibited characteristics (in accordance to Section 103 of the SEA, Section 23 of the DA and relevant notifications), including past involvement in securities violations, that undermine their honesty and integrity.

According to Section 104 of the SEA, Section 24 of the DA and relevant notifications, if any director, senior management personnel, other persons with material influence on the firm and other personnel in the capital market business is found to be in possession of any prohibited characteristics, the SEC has the authority to suspend or revoke the approval of such persons for a specified period of time, effectively resulting in their removal from the duty as a capital market personnel. Where the market intermediary fails to remove the unqualified directors/ executives or removes but fails to appoint the other qualified persons, the SEC with the approval of the CMSB have power to remove those and appoint new qualified persons to replace such removed persons. The removed persons must no longer have a material influence on, be involved in, or operate directly on core services/ material functions as specified in the Rules on Capital Market Personnel (TorLorThor. 8/2557) of that securities company.

Obligation to update information required for licensing

Licensed intermediaries must immediately report to, and in certain cases seek approval from, the SEC if there are any material changes to their business conditions. The SEC conducts off-site and on-site examinations to ensure that necessary qualifications are still being complied with.

Moreover, in accordance with Sections 106 and 109 of the SEA, the intermediary must publish the audited semi-annual and annual financial statements and submit any periodic or one-time report as required by the SEC. Specifically, the following periodic reports must be submitted to the SEC on a monthly basis:

- 1) Report on the intermediary's financial position and performance, to be submitted by the 14th of the following month;
- 2) Transactions report, to be submitted by the 14th of the following month;
- 3) Report on client assets, to be submitted by the 7th of the following month
- 4) Report on net capital, to be submitted by the 7th of the following month

The SEC also provides standard formats for the submission of the above reports.

Public disclosure of licensed intermediaries

Relevant information about all licensed market intermediaries is available on the SEC website and through the SEC open Application Programming Interface (API), including their names, branches in operation, registered and paid-up capital, type of license obtained, activities permitted under the license, current status, and the names of directors, managing directors, major shareholders and other personnel. Furthermore, financial statements, records of wrongdoings and inspection reports for each intermediary as well as their status on Thailand's Private Sector Collective Action Coalition Against corruption (CAC) are also available on the website.

Investment Advisers

Under SEA Section 96 and DA Section 16, any entities that provide advisory services fall under the definition of "investment advisory service" or "derivatives advisor" and must obtain a license or be registered with the SEC. The analysts themselves who produce research reports or provide advice are also subject to approval from the SEC and must be employed by the licensed or registered entities as mentioned earlier.

Under the definition of "investment advisory service" or "derivatives advisor", the entities can only offer or provide the advice services relating to securities or derivatives to clients, which excludes services relating to dealing on behalf of clients and having custody of client assets. They are required to have paid-up capital of at least one million Baht and be supervised under the rules and regulation on business conduct and others operative controls as any other intermediary.

However, the entities which obtain a brokerage, dealing or private fund management license can offer investment advice as incidental business. They are able to deal on behalf of clients and are subject to initial capital and other operational requirements as defined above, as well as ongoing requirements prescribed in relevant SEC notifications. In accordance with Section 96 of the SEA, brokers and dealers, which deal on behalf of clients and hold client assets in custody, are required to have an initial paid up capital of at least THB 100 million and to maintain net capital as elaborated in Principle 30. Private fund management licensees, which do not hold client assets, are required to have paid-up registered capital of no less than THB 25 million or THB 10 million for those that only serve institutional investors.

All licensed entities, including investment advisors, are subject to the same general requirements in relation to standards of business conduct and may be subject to additional requirements depending on the nature of the services offered.

Custody of client assets

There are regulatory requirements in relation to the custody of client assets to ensure protection, including requirements on the permitted vehicles for such assets (e.g. deposits, debt

securities, equities), the segregation of the asset custody function from the dealing function and requiring that different employees be in charge of the safekeeping of assets and the recording of accounts (see details in principle 31). All market intermediaries which have custody of client assets are subject to client asset protection regulation without any limitation.

In addition, the regulatory framework also provides protection in the case of the failure of an intermediary, providing the SEC with the power to segregate client assets from those of the intermediary in accordance with the SEA (see principle 32). Intermediaries must also submit a report on holdings of client assets to the SEC on a monthly basis. The SEC undertakes regular inspections on all intermediaries based on a risk-based approach and undertakes theme inspections on particular issues of concern from time to time.

Investment advisers who manage client portfolios

Under SEA Section 96 and DA Section 16, any entities that provide advisory services fall under the definition of "investment advisory service" or "derivatives advisor" and must obtain a license or be registered with the SEC, being therefore subject to business conduct requirements covering, among other things, record keeping, disclosure and conflicts of interest, in special those stipulated by the SEC Notification TorLorThor. 8/2557.

Regarding record keeping, records in relation to the investment advisory business must be kept readily available for at least two years for securities investment advisors or five years for derivatives investment advisors. However, where an investment advisor also deals on behalf of clients and have custody of client assets, transaction records must be kept for at least five years.

In giving investment advice, investment advisors must provide clients with sufficient information to make sound investment decisions in a timely manner. Such information must be correct, up-to-date and not misleading. Moreover, the contract between the firm and clients must clearly indicate the client's rights to receive relevant information relating to the advisory service. In case of providing services to a non-institutional investor, before opening a derivatives trading account or before trading derivatives, the derivatives intermediary and investment advisor in derivatives must arrange a process ensuring that its client is aware of risks relating to trading derivatives by means of risk disclosure statement.

As part of the initial criteria for operating any securities or derivatives business, the business operator must have in place appropriate policies and measures dealing with conflicts of interest. These include the identification of actual and potential conflicts, for example, front-running, inappropriate use of material information which has not yet been publicly disclosed, or recommendation of certain products based on inside information in a manner that takes advantage of general investors. There must be measures for eliminating or managing the identified conflicts. Where conflicts may not be eliminated, clients must be informed of them before entering into an agreement.

	<p>Derivatives market intermediaries</p> <p>Derivatives market intermediaries are regulated under the DA as derivative agents. To operate a derivatives business, the market intermediary must obtain a derivatives license, or in the case of intermediary dealing only with institutional investors (excluding derivatives fund management), register with the SEC. There is no separate treatment for an intermediary dealing solely in OTC derivatives transactions.</p>										
Assessment	Fully implemented										
Comments	The SEA and the SEC regulation establish licensing requirements applicable to securities intermediaries including minimum paid-up capital, sound financial status and policies and measures for internal controls, risk management, dealing with conflicts of interest, and preserving confidentiality. They also contemplate requirements to all directors, managers and major shareholders of the intermediaries.										
Principle 30.	There should be initial and ongoing capital and other prudential requirements for market intermediaries that reflect the risks that the intermediaries undertake.										
Description	<p>Initial capital requirements</p> <p>In accordance to Section 96 of the SEA, as part of the requirements for obtaining a license, the SEC sets out an initial capital requirement for companies undertaking securities or derivatives businesses. The minimum level of paid-up registered capital required for different types of securities companies is designed to reflect the nature of activities to be undertaken and their associated risks.</p> <p>The initial capital requirements applicable to licenses for market intermediaries, as set out in notifications Kor Thor. 25/2560 (for securities) and Kor Thor. 26/2560 (for derivatives), are as follows:</p> <table border="1"> <thead> <tr> <th>Regulated Activity</th> <th>Minimum Paid-up Registered Capital (THB)</th> </tr> </thead> <tbody> <tr> <td> <p>Securities Businesses</p> <p>Undertaking of at least one of the following:</p> <ul style="list-style-type: none"> • Securities dealing business; • Securities underwriting business; • Other securities businesses (e.g. brokerage, mutual fund management, private fund management, etc.) <p>in which the operator engages in any one of the following activities:</p> <ol style="list-style-type: none"> 1. Hold clients' assets in custody; 2. Engage in proprietary trading; or 3. Bear responsibility for securities clearing and settlement </td> <td>100 Million</td> </tr> <tr> <td>Undertaking of securities businesses other than the above</td> <td>1 Million</td> </tr> <tr> <td colspan="2">Derivatives Businesses</td> </tr> <tr> <td>Undertaking of derivatives businesses and bearing responsibility for derivatives clearing and settlement</td> <td>100 Million</td> </tr> </tbody> </table>	Regulated Activity	Minimum Paid-up Registered Capital (THB)	<p>Securities Businesses</p> <p>Undertaking of at least one of the following:</p> <ul style="list-style-type: none"> • Securities dealing business; • Securities underwriting business; • Other securities businesses (e.g. brokerage, mutual fund management, private fund management, etc.) <p>in which the operator engages in any one of the following activities:</p> <ol style="list-style-type: none"> 1. Hold clients' assets in custody; 2. Engage in proprietary trading; or 3. Bear responsibility for securities clearing and settlement 	100 Million	Undertaking of securities businesses other than the above	1 Million	Derivatives Businesses		Undertaking of derivatives businesses and bearing responsibility for derivatives clearing and settlement	100 Million
Regulated Activity	Minimum Paid-up Registered Capital (THB)										
<p>Securities Businesses</p> <p>Undertaking of at least one of the following:</p> <ul style="list-style-type: none"> • Securities dealing business; • Securities underwriting business; • Other securities businesses (e.g. brokerage, mutual fund management, private fund management, etc.) <p>in which the operator engages in any one of the following activities:</p> <ol style="list-style-type: none"> 1. Hold clients' assets in custody; 2. Engage in proprietary trading; or 3. Bear responsibility for securities clearing and settlement 	100 Million										
Undertaking of securities businesses other than the above	1 Million										
Derivatives Businesses											
Undertaking of derivatives businesses and bearing responsibility for derivatives clearing and settlement	100 Million										

Undertaking of derivatives businesses relating to agricultural commodities and bearing responsibility for derivatives clearing and settlement	50 Million
Undertaking of derivatives businesses in which the operator engages in hold client's assets in custody or undertake derivatives fund management for general investors without bearing responsibility for derivatives clearing and settlement .	25 Million
Undertaking of derivatives fund management for mutual funds established under the SEA without custody of clients' assets nor responsibility for derivatives clearing and settlement	10 Million
Undertaking of derivatives businesses other than the above	1 Million

It should be noted that market intermediaries cannot reduce their paid-up registered capital without previous approval from the CMSB.

Ongoing capital requirements

In accordance to Section 97 of the SEA and Section 49 of the DA, market intermediaries must maintain adequate capital on an ongoing basis. The level of ongoing capital requirement depends upon the nature of activities undertaken and the associated risks. There are two capital requirement rules applicable to regulated activities, which are designed to ensure that market intermediaries must have sufficient liquidity to operate their businesses properly and be able to meet their financial obligations, as follows.

Net capital rule (NCR)

Market intermediaries undertaking the following regulated activities are subject to the NCR:

- Securities brokerage, dealing, or underwriting
- Securities brokerage, dealing, or underwriting limited to debt securities and sukuk
- Securities brokerage, dealing, or underwriting of investment units ("LBDU"), which
 - o engages in proprietary trading, or
 - o trades investment units which are registered as listed securities for clients through a member of SET
- Securities financing
- Derivatives business with responsibility to the derivatives clearing and settlement system or custody of client assets

Under the NCR, market intermediaries are required to maintain "net capital (NC)" – liquid assets less liabilities and risk haircuts – to ensure that there are sufficient liquid assets to absorb losses, maintain stable financial status and, in the event of insolvency, prevent damage to client assets and the system. Requirements on the maintenance of NC, both in level and as percentage of general liabilities (NC ratio), are as follows:

1. Level of NC of no less than
 - a) THB 15 million for those operating securities or derivatives business only
 - b) THB 25 million for those operating both types of businesses

- c) THB 1 million for those operating securities and/or derivatives business without engaging in any of the following: (1) hold client assets (2) engage in proprietary investments or (3) bear obligations to the securities clearing and settlement system
2. NC ratio of no less than 7%

Other ongoing capital rules

Brokerage, dealing or underwriting of investment units (LBDU other than above)

Ongoing capital requirement	Minimum amount (THB)	Eligible account
a .Base capital	3 million or 10 million in case of holding client's assets in custody.	Net worth
b .Working capital	One-quarter of the total expenditures	Liquid capital
The operator must maintain the higher between a and b. In case where a is higher, the operator must maintain liquid capital of not less than b.		
c .Additional capital for operational risk	12 %of the average 3-year income.	Liquid capital or professional indemnity insurance coverage ("PII"). The operator may use excess net worth of not more than 20% of the required amount to maintain this capital requirement.

Note: Liquid capital is defined as liquid asset less liabilities.

Investment advisory business (securities & derivatives) are required to maintain the highest among the following as liquid assets:

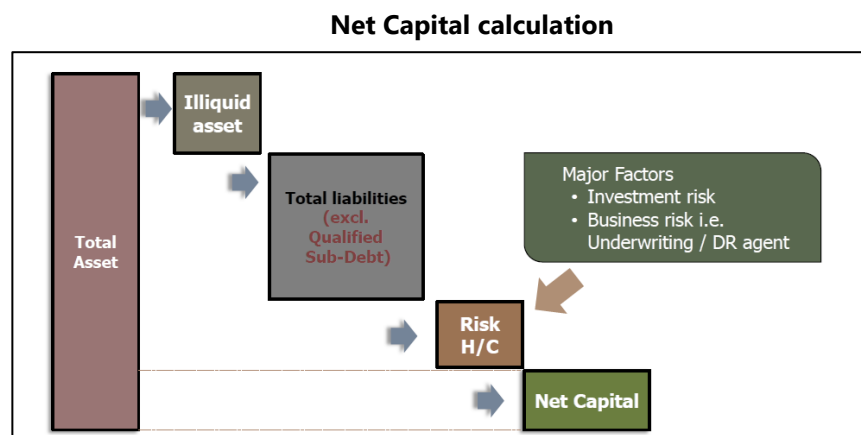
Ongoing capital requirement	Minimum amount (THB)
a. Base capital	100,000
b. Working capital	One-quarter of the total expenditures
c. Capital for operational risk	10% of the average 3-year income, capped at 5 million.

Investment advisors may replace a portion of the required amount of liquid assets by PII only in the case where it has to maintain capital for operational risk. The amount replaced by PII cannot account for more than the difference between c and b.

Range of risks covered

The capital requirements for different types of licenses reflect the scope of operations and are designed to cover different types of risks to which regulated entities are exposed.

As shown in the diagram below the NCR covers a broad range of risks affecting securities and derivatives businesses through the deduction of risk haircuts in the calculation of the NC. The value of liquid assets is deducted by market, credit and liquidity risks associated with each asset. Additional deduction is also made for concentration risk if there are significant concentrations in securities holdings, and for business risk that may arise from certain business activities such as firm commitment underwriting or derivatives agent business.



Source: SEC

The minimum requirements for the level of NC and NC ratio is designed to cover i) risks from normal business operations; ii) liabilities to clients and other creditors and iii) any expenses that may be incurred to wind down the business over a short period of time. These requirements are designed to provide a cushion to absorb losses during adverse market conditions and to maintain the continuity of business operations. In addition, the liquid assets that make up the NC must be readily and quickly convertible into cash, so that intermediaries can self-liquidate them without impacting clients, other intermediaries and the overall capital market.

To address other risks such as operational risk, the level of the NC required varies depending on the amount of general liabilities, which directly reflect the volume of business undertakings by an intermediary. Client and clearinghouse payables, in particular, are key proxies of risks arising from business operations.

The level of NC may fluctuate based on two factors: (1) changes in marked-to-market values of liquid assets and (2) changes in the level of risks arising from business activities such as proprietary trading, margin lending or underwriting. In addition, the NC ratio (ratio of NC to general liabilities) will vary according to the amount of liabilities as well as exposures of derivatives outstanding each day. Consequently, both the NC level and ratio can deteriorate significantly in the event of large market movements, in which case the intermediary must increase capital to maintain the required NC level and ratio.

For LBDUs not subject to the NCR, private fund management firms and investment advisors, the capital requirements reflect the minimum amount of capital required given the scope of their operations and the types of risks to which they are exposed. For these intermediaries, the most prominent risk is operational risk, which is fully captured in the capital adequacy requirement as clients of such intermediaries will have minimal exposure to losses in the event of failure, considering that for an LBDU that hold client's assets, such assets are segregated and recorded in client accounts as investments in mutual fund units, in which actual client assets are in the custody of the mutual fund supervisor.

Furthermore, clients of such intermediaries will have minimal exposure to losses in the event of failure. For an LBDU who hold client's assets, such assets are segregated and recorded in client accounts as investments in mutual fund units, in which actual client assets are in the custody of the mutual fund supervisor.

Capital requirements sensitive to risks

The level of NC may fluctuate based on two factors: (1) changes in marked-to-market values of liquid assets and (2) changes in the level of risks arising from business activities such as proprietary trading, margin lending or underwriting. In addition, the NC ratio (ratio of NC to general liabilities) will vary according to the amount of liabilities as well as exposures of derivatives outstanding each day. Consequently, both the NC level and ratio can deteriorate significantly in the event of large market moves, in which case the intermediary must increase capital to maintain the required NC level and ratio.

Loss absorption and business wind down

The minimum requirements for the level of NC and NC ratio is designed to cover)i (risks from normal business operations,)ii (liabilities to clients and other creditors and)iii (any expenses that may be incurred to wind down business over a short period of time .This requirement provides cushion to absorb losses during adverse market conditions and to maintain continuity of business operations. Moreover, the liquid assets that make up the NC must be readily and quickly convertible into cash, so that intermediaries can self-liquidate without impacting clients, other intermediaries and the overall capital market.

Record keeping and reporting

As prescribed by the SEC Notifications Sor Thor. 50/2560 (NC calculation – securities) and Sor Thor. 51/2560 (NC calculation – derivatives), intermediaries are required to generate a report on the calculation of NC on a daily basis (each report to be completed within the next business day). The daily reports must be certified by an authorized person assigned by the company, and must be kept available for inspection, or submission to the SEC when requested, for at least 1 year. The company is also required to submit such reports to the SEC on a monthly basis. Intermediaries that are not subject to the NCR, are required to produce a capital adequacy report on a monthly basis and submit the report to the SEC within 5 business days. The report must be certified by an authorized person, and kept available for inspection for at least 5 years.

The SEC regulations also require intermediaries to submit a full report on a monthly basis using the specified standard format. The information presented in the report includes details of the NC calculation, the list of liquid assets, the risk haircut calculations, and the list of liabilities of the company. Monthly reporting of such information provides the SEC with adequate information to regularly monitor intermediaries' capital levels and risks.

Furthermore, whenever a company's NC in any particular day falls below 1.5 times the minimum requirement (early warning level), the company must also submit reports for such days until it could maintain an amount of NC greater than 1.5 times the minimum for at least 2 consecutive days.

Independent audit

Market intermediaries must prepare financial statements illustrating the performance and financial position of the intermediary in accordance to the relevant accounting standards. The SEC requires submission of semi-annual and annual financial statements, which must be audited by an independent auditor who has been approved by the SEC. Information used to produce these statements are used in the calculation of capital requirement.

Monitoring by regulator

The SEC routinely reviews the capital levels of all market intermediaries based on the submitted reports to monitor their financial status and reports such information to SEC executives on a monthly basis.

The SEC also carries out stress tests to analyze the impact of significant market volatilities, such as a substantial increase in securities trading volume or the company's margin lending, on the net capital ratio of market intermediaries. Findings from such stress tests have indicated that intermediaries are generally able to withstand volatilities induced by the scenarios used without significant deterioration in net liquid capital.

Regulator's powers of intervention

Net capital deficiencies are regulated by the SEC Notifications Sor Thor. 31/2557 (NC deficiencies-securities) and Sor Thor. 84/2558 (NC deficiencies – derivatives) under the powers given to the SEC by the SEA Sections 141-146 and DA Section 50. Where significant change or deterioration in the capital level of any particular entity is evident (NC/NC ratio falls below early warning level of 1.5 times), the SEC will seek an explanation for the deficiency and the company's plans for restoring NC. The company must also submit the full NC calculation report on a daily basis, so that the SEC can closely monitor the situation.

If an intermediary's capital deteriorates and falls below the minimum NC requirements as described above, the company is prohibited from expanding its business which would impose further risks to the company's financial status, including opening new client accounts, increasing securities trading allowance in cash accounts, making new proprietary portfolio investments and

	<p>undertaking new securities underwriting commitments. During this period, it must also continue to submit daily NC reports.</p> <p>In addition, the company would be required to submit (within 30 days) a rectification plan to restore NC within 90 days.</p> <p>In accordance with the above-mentioned SEA and DA Sections, where it is found that the condition and operation of any intermediary is such that damage may be caused to the public interest, the SEC has the power to order rectification, remove and replace the management, and recommend to the MOF to revoke the license if it fails to comply with the SEC order.</p> <p>Furthermore, if the company (i) fails to submit an appropriate rectification plan, (ii) is unable to rectify the problem within 90 days or the amount of time specified in the rectification plan, (iii) has net capital lower than zero for more than 5 consecutive business days or (iv) has defaulted on payment or delivery of securities to the clearing house or clients, then it must cease all business operations, close out all derivatives positions and transfer all client assets to another securities company within 10 business days. The company must not resume operations until it is able to maintain the required amount of net capital and has obtained approval from the SEC to do so.</p> <p>During the last approximately 20 years, intermediaries have generally been able to maintain sound financial status. For instance, since 2017 there has been only one case in which NC fell below the early warning level and the company was able to provide explanations for the deficiency and to promptly restore NC.</p> <p>There was a case of failure to maintain NC by a derivatives brokerage company in 2016 and the company was required to proceed in accordance with the requirements outlined above. However, the company had not yet acquired clients nor started providing derivatives trading services in the TFEX, so the deficiency had minimal impact on the market.</p> <p>Risks from outside the regulated entity</p> <p>The NCR approach also addresses external risks that may affect the capital adequacy of market intermediaries. For example:</p> <ul style="list-style-type: none"> • For investments in affiliates as a strategic partner – as determined based on number of voting shares, major shareholder status and number of personnel acting as directors of the affiliate – the amount of such investments would be translated into a risk haircut of 100%, so that the operations of such affiliates do not affect the intermediary's NC. Moreover, for an affiliate that experiences continuing losses to the extent that it has negative equity or fails to maintain capital in accordance to the laws of another regulator, then the intermediary must deduct from NC an amount equal to the negative equity or the discrepancy from minimum capital level.
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	<ul style="list-style-type: none"> Any off-balance sheet obligations of the intermediary, for example, the provision of guarantees, are included in the liabilities portion in the calculation of NC, and any increase in such obligations would lower the NC ratio.
Assessment	Fully implemented
Comments	Prudential and solvency requirements are regulated by the net capital rule, which takes into account financial risks, liquidity risks and operational risks on a continuous basis.
Principle 31.	Market intermediaries should be required to establish an internal function that delivers compliance with standards for internal organization and operational conduct, with the aim of protecting the interests of clients and their assets and ensuring proper management of risk, through which management of the intermediary accepts primary responsibility for these matters.
Description	<p>Management and supervision <i>Management and internal controls</i></p> <p>According to the SEC Notification No. Tor Thor. 35/2556 which set standards for business conduct of intermediaries undertaking securities and/or derivatives businesses, they must have in place appropriate management and organizational systems, as well as sufficient personnel to be able to operate efficiently and responsibly, taking into account the nature and size of the business and associated risks. The management and organizational structure must, at a minimum, consist of the following:</p> <ul style="list-style-type: none"> The formulation of strategic plans, policies, objectives and operational procedures; The formulation of an organizational structure where the roles, powers and responsibilities of directors, executives and other personnel are clearly defined; An appropriate, reliable and effective operating system, including a system for dealing with clients; An effective internal check and balance system; Effective internal audit and internal control systems; A comprehensive risk management framework; An appropriate operational system and measures for mitigating potential conflicts of interest; Appropriate supervision of the company's proprietary trading system; An appropriate system for the protection of client assets; An internal compliance system; Effective IT systems; Appropriate record keeping arrangements; and Any other systems required for undertaking specific activities. <p>Where an intermediary seeks to outsource any activity in relation to its securities and/or derivatives business, it must comply with the SEC Notification No. Tor Thor. 25/2556, which sets out the regulatory requirements in relation to the outsourcing of operational functions to third</p>

parties. The intermediary remains fully responsible for the performance of delegated functions and must ensure, by written contract, that the third party complies with applicable laws and can be subject to inspections by the SEC in areas relating to the performance of such functions.

In addition, the same SEC Notification prescribes that intermediaries must ensure that directors, management and personnel perform their duties in accordance with the regulatory requirements, as well as their responsibilities in this respect. The intermediary must have appropriate measures in place for dealing with such persons in the case where their actions result in non-compliance by the intermediary. The measures must allow the intermediary to take corrective actions, to take control and to penalize such persons based on the seriousness of their actions.

Specifically, an intermediary's directors and management shall be liable to criminal sanctions under Section 283 of the SEA or administrative or criminal sanctions under Sections 119 and 135 of the DA, if the intermediary fails to comply with applicable laws as a result of their actions or negligence. Moreover, as these persons are subject to the SEC's approval, the SEC can also take actions in this regard, including probation, suspension or withdrawal of approval.

Management of information

According to Section 108 and 109 of the SEA and Section 19 of the DA, the SEC has powers to require intermediaries to publicly disclose information as well as to submit reports and documents to the SEC within a specified time period. The details of the information required and time period are specified in the SEC Notification No. Sor Thor 50/2559.

In accordance to clause 14 of the SEC Notification No. Tor Thor. 35/2556, the intermediary's record keeping arrangements must include a robust and organized system for management and storage of information, documents and other evidentiary information related to business operations that allow information to be used or inspected in a timely manner. Such system must be able to prevent information from being inappropriately modified, misplaced or destroyed and from inappropriate access or use of information, especially with regard to clients' personal information and non-public information.

As stipulated in clause 3 of the SEC notification No. Or Thor 21/2543, intermediaries must have systems for information management which include: 1) Systems which cover significant information, such as financial and non-financial information and operational risk, for the management's acknowledgment and application of such information to ensure efficient and up-to-date management; and 2) Early warning systems for maintenance of the financial position to allow the securities company sufficient time for preparing or taking any action to solve any financial issue, including those arising from operational risk.

In term of reporting duties, an intermediary is required to provide all relevant information regularly, timely and in a readily accessible way. Examples of the reports regularly submitted include:

- Daily: a status report – includes information on the intermediary's financial position and amount of margin calls and bad debts.
- Monthly: NC calculation report, client assets report, activities report, financial status and performance report
- Quarterly: investor complaints report
- Annually: compliance report
- Financial reports – every 6-month period and financial year.

Internal controls

Evaluation of internal controls and risk management

As stipulated in clause 11-12 of the SEC Notification No. Tor Thor 35/2556, an intermediary must have internal controls and risk management processes, and personnel appropriately and sufficiently in order to be capable to operate the business efficiently, responsibly and in compliance with applicable laws and regulations, including relevant standards of business operation

The SEC allows market intermediaries to design their own management structure, operating system and personnel by considering the appropriateness and sufficiency taking into account the nature, scale, quantity, complexity and diversity of businesses and services, as well as the acceptable level of risks relevant to such businesses and services. The compliance unit has the responsibility to evaluate the internal controls and risk management processes to ensure of its appropriateness and efficiency to comply with the specified duty and responsibility of compliance unit stipulated in clause 5 (5) and (6) of the SEC Notification No. 39/2555 which include:

- identifying and assessing, as necessary and suitable, factors that may cause the intermediary to fail to comply with the regulations and proposing the respective solution, and
- auditing or reviewing the compliance with the regulations of the intermediary and reporting the result of such auditing or reviewing [i] to the board of directors or to the designated committee and [ii] to the chief executive of the intermediary.

In case of reporting on the result of auditing or reviewing day-to-day operation, the report could be proposed to the chief executives prior to being proposed to the board of directors or designated committee. Those reports must be conducted in respect of the guideline set out by the board of directors or designated committee. For setting out the guideline, the board of directors or designated committee must take into account [i] the benefit of rectifying the defect, [ii] the consequences of not complying with regulations and [iii] potential damage;

In addition, the SEC evaluates and assess the intermediaries' operational systems and personnel under a Risk Based Approach (RBA) supervision model, which considers 3 macro factors:

- 1) Prudential Risk: evaluation of financial stability and risk management

	<p>2) Operational/Management Risk: evaluation of:</p> <ul style="list-style-type: none"> • attitude and ethics of senior management towards good corporate governance and compliance culture • operational structure, operational systems and internal control • compliance and internal audit (in terms of efficiency, sufficiency, and independence) <p>3) Customer Relationship Risk: evaluation of services provided to customers in terms of the protection of client assets, fair treatment, and complaint resolution.</p> <p>Organizational requirements <i>Compliance function</i></p> <p>According to the SEC Notification No. Tor Thor 35/2556 (“Providing Compliance Unit of an Intermediary”) the intermediary’s management and its organizational structure must provide for an effective compliance function that oversees the firm’s compliance with relevant rules and regulations. The compliance function must be able to perform duties with independence and reports directly to the board of directors or a designated committee. It must also be equipped with adequate resources, including in terms of qualified personnel, taking into account the size and complexity of the business. The head of compliance must possess appropriate qualifications and training, with none of the prohibited characteristics.</p> <p>The SEC uses a risk-based approach (RBA) in supervising market intermediaries, where the intermediary’s compliance function is inspected as part of the RBA management/operational risk. This includes an assessment of the efficiency, sufficiency and independence of the compliance unit as well as the role of the senior management in supporting a compliance culture.</p> <p>Systems of client protection, risk management and internal and operational controls <i>The integrity of the firm’s dealing practices</i></p> <p>Intermediaries are required to have in place and to maintain appropriate management and operational systems, including client protection and risk management systems and internal controls. Specifically, Chapter 5 of Notification Tor Thor 35/2556 sets out the requirements on dealings with clients, intended to ensure that clients are treated in a fair and professional manner. According to this regulation, in providing services, the intermediaries must exercise diligence and care, and act towards the best interest of their clients, with consideration of their characteristics and requirements. An intermediary must disclose all necessary information for decision making to the clients. In this regard, the intermediary’s operational systems must include systems for the documentation and monitoring of communications with clients and beneficial owners, determining the client’s type and assessing suitability for investment. The same requirements are also stipulated in clauses 1 and 8 of the SEC Notification No. Kor Thor 18/2554.</p>
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Segregation of duties

Intermediaries must, according to chapter 4 of the SEC Notification No. Tor Thor 35/2556, segregate certain duties and functions in the operation of their businesses. This principle of segregation of duties prescribes that an individual employee should not be in a position to initiate, approve, and review the same task. This practice prevents undetected errors, and also mitigates misconduct and potential conflicts of interest as well as preserve confidentiality of non-public or inside information. Examples of such segregation requirements are as follows:

- In providing brokerage or dealing services, the front-office and back-office functions must be clearly segregated, with measures in place to ensure that no particular employee is responsible for all functions within the whole process, which could be susceptible to abuses.
- The department responsible for the safekeeping of client assets must be segregated from the brokerage or investment advisory functions. In addition, employees responsible for custody of assets and keeping of accounts should be separated and should not have the authority to approve the payment or transfer of such assets.
- Departments and personnel which provide investment advice to clients must be segregated from the department and personnel in charge of making investment decisions for the firm's proprietary portfolio.

Apart from the physical separation of said functions, the intermediary's internal control systems must prevent any inappropriate flow of information between the departments and the access of information by authorized persons.

DMI

At present, there are 8 Licensed DMIs and 50 Registered DMIs which participate in the OTC derivatives market while all DMIs are subject to the same general standards of business conduct as all intermediaries regulated under the SEA and the DA. The regulatory framework (SEC Notification TorThor. 35/2556), allows services in relation to OTC derivatives transactions to be provided only to institutional investors and to corporate clients solely for the purpose of risk management. In this regard, the application of the business conduct standards in detail need not be the same for all intermediaries but could involve a variety of approaches or measures depending on the nature of the clients or counterparties and the associated risks, for instance in relation to suitability requirements.

As outlined before, the intermediary's management and organizational systems must have, among other things, a comprehensive risk management framework – involving the identification and management of risks relating to all business functions including OTC derivatives business if applicable, effective internal and operational control and compliance systems for the supervision of OTC derivatives operations and appropriate record keeping arrangements. Transaction records must be kept for at least 5 years.

Conflicts of interests

As defined in the notification Tor Thor. 35/2556 (chapter 4 Prevention and Management of Conflicts of Interest), conflicts of interest (COI) encompass situations where there is discord between the interests of an intermediary and a client or between the interests of different clients of an intermediary. For example:

- An intermediary receiving financial benefits at the expense of a client;
- An intermediary entering into transactions using material non-public information;
- An intermediary favoring the interest of one client over the interest of another similarly situated client (i.e. priority of order placing or information disclosing, possibly as a result of receiving rewards or other benefits other than standard commissions);
- An intermediary entering into transactions with a related party on behalf of a client.

In this regard, policies for preventing and managing conflicts of interest should be made in writing and subject to approval by the intermediary's board of directors. They should cover:

- The identification of actual and potential conflicts of interest;
- Policies, measures and operating systems for managing conflicts of interest, which are communicated to all personnel;
- Mechanisms for monitoring compliance with such policies and measures; and
- Measures for undertaking disciplinary actions and providing compensations for damages.

In addition, COI policies must be reviewed regularly to ensure that they continue to be effective.

In addition, clause 17-18 of the SEC notification No. Tor Thor. 35/2556 stipulates that an intermediary must have a policy in place in order to prevent and manage conflicts of interest which include at least the following rules:

- a. Ensure that any client is treated fairly and with the best interest for such a client.
- b. Be able to exhaustively prevent illicit exploitation of information or opportunities as a result of the intermediary's services;
- c. Separate units and their personnel when their functions constitute or may give rise to conflicts of interest between them;
- d. Imposing a code of conduct to prevent operations that may give rise to conflicts of interest.

An intermediary also must follow these actions in case directors, executives or other personnel fail to perform pursuant the conflict of interest rules and policies:

- a. Punish directors, executives or other personnel who were involved in the breach;
- b. Reimburse damages or compensate the client;
- c. Provide an action plan for the improvement of the prevention system to prevent
- d. Report the actions as prescribed in (a) to (c) to the SEC immediately.

Direct Electronic Access

To provide direct market access (DEA) services, the intermediary must obtain approval from the exchanges (SET or TFEX) which are included mainly in the document "Standard of Trading of Securities through Trading System", a public guideline. The conditions for approval include appropriate controls over orders through DEA to prevent significant risks to the trading system. The intermediary is required to have a risk management system with minimum pre-trade risk control requirements which include an auto-checking system that monitors credit line, maximum volume order size, maximum daily volume, maximum value order size, maximum daily value, order price range, the speed of orders, and inappropriate orders. In addition, the intermediary must have an end-of-day surveillance system, an officer that monitor trades through the DEA, and an appropriate contract between the intermediary and the DEA client. The client must be notified of and agreed to the relevant conditions and prohibitions in placing an order through DEA.

Protection of client funds and assets

The SEC Notification No. Tor Thor. 43/2552 ("Custody of Clients' Assets by Securities Companies") an intermediary must have an appropriate system in place for the custody and safekeeping of client assets. Clients' assets and accounts for each individual client must be segregated from the intermediary's own assets and accounts (clause 17). The same Notification sets out specific requirements for the protection of client assets including the following:

- The intermediary must set up a business unit responsible for the safekeeping of client assets, which must be independent of the brokerage or investment advisory units.
- The intermediary must put in place a good internal control system for the protection of client assets, which must at least separate the person in charge of keeping accounts of assets from one in charge of custody of such assets.
- The payment or transfers of client assets must be approved by an employee with a position of power, whose responsibilities do not include custody and keeping of accounts of client assets.
- There must be written internal guidelines and processes in relation to (1) asset transfers; (2) the keeping of records and accounts; and (3) management of information.
- The intermediary must inform clients regarding its arrangements for the custody and safekeeping of assets and must provide a written contract which indicates the rights, duties and responsibilities of both parties.
- Assets of a particular client must not be used for the benefit of another client, the intermediary or any other party, unless consent has been given by the client for each individual case.
- The segregation of assets of different types must be carried out as follows:
 - (1) Money: deposit with a commercial bank, or segregating under self-safekeeping which must be done in such a manner that can clearly identify without suspicion that such money belongs to the client;
 - (2) Securities: segregating by depositing with a securities depository center or the Bank of Thailand by clearly indicating that such securities are deposited by the securities

	<p>company for the client's benefit, or segregating under self-safekeeping which shall be done in the manner that can clearly identify without suspicion that such securities belong to the client. In practice, almost most of the securities under the intermediaries' custody are in TSD and therefore in a separate individual account at the TSD for each client.</p> <p>(3) Other assets: segregated within the custody of the firm, should be clearly identifiable as clients' assets.</p> <p>In the event of financial insolvency of an intermediary, the SEC has the authority to administer the segregation of client assets for the return or transfer to another intermediary. In this case, the items and amount of assets shown in the accounts for client assets, prepared by the intermediary in accordance with SEC regulations, will be deemed to be assets of clients for segregation.</p> <p>Accurate and up-to-date records and accounts of client assets</p> <p>In keeping client assets in custody, an intermediary must prepare a separate account of all assets for each client and may be used as an audit trail, which must contain the following details:</p> <ol style="list-style-type: none"> (1) The date of receipt or transfer of assets; (2) Amount and type of assets; (3) The reason for receipt or transfers of assets. <p>Where assets recorded in a client's account belong to a third party, the intermediary must also record the name of the third party. Reports on assets in custody as at the end of each month must be disseminated to clients within 5 days of the end of the month. However, where a client has not made any transactions for over 1 year, the intermediary may disseminate a report once a year. All information and documents relating to the custody of client assets must be kept available for at least 5 years, with data for the latest 2 years instantly accessible by the SEC when requested.</p> <p>Client assets held or placed in a foreign jurisdiction</p> <p>Before taking custody of client assets, intermediaries must inform clients about custody arrangements, including the procedures for making a deposit or withdrawal of assets, safekeeping arrangements and any fees charged for the custody of assets, in which clients must sign for acknowledgement of such information. This includes the case where client assets are to be placed in a foreign jurisdiction. More precise requirements in relation to the disclosure of foreign custody arrangements and associated risks are set out in the Association of Thai Securities Companies' (ASCO's) "Guidelines on Risk Disclosure Statement", which has been approved by the SEC. Intermediaries must inform their clients of the risks associated with the custody of their assets abroad and that the clients' assets protection and/or insolvency regimes of that foreign jurisdiction may be the difference from Thailand's, as well as information on the arrangements and conditions for the protection of assets in that jurisdiction. The disclosures</p>
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above must also be made in writing in legal documentation prior to providing any services to clients, using clear language, legible font size, and where appropriate, emphasis on important statements such as caution of risks.

Segregation of collateral for centrally cleared OTC derivatives transactions by DMI

Currently central clearing for OTC derivatives transactions is not mandatory in Thailand (see principle 37).

Investor complaints

Intermediaries must have a system in place for handling client's complaints in relation to actions taken by the firm, its employees or its representatives in undertaking securities/derivatives business. When a complaint is made to an intermediary by any means, it must be recorded in writing and signed by the client for verification before the intermediary can proceed to deal with the complaint. The intermediary must submit quarterly reports to the SEC on the number of complaints received and of those, the number of cases solved successfully.

Client information, know your client and suitability rules

Client identity

In accordance with SEC Notification No. Tor Thor. 35/2556, prior to providing services to a client, the intermediary must gather information about the client for the purpose of knowing the client (KYC/CDD), categorizing the client's type and assessing suitability for investment. The information required includes personal information of the client or the beneficial owner (in case the client is a juristic person) and any representatives, sources of income, financial status, investment experience and knowledge, risk tolerance and purpose of investment.

For the purpose of knowing the client, the intermediaries must verify the information received to identify the real client or beneficial owner. As indicated by the SEC, in practice, they will use information from official documents, such as national ID, passport or driving license, and check with a reliable source. If a client refuses to give personal information, the information obtained is insufficient or outdated or there is a reason to believe that the real client or beneficial owner has not been identified, the intermediary must deny provision of services.

Know your customer

As explained above, information to be gathered by the intermediary prior to providing any service to a client includes personal information, sources of income, financial status, investment experience and knowledge, risk tolerance and purpose of investment. Apart from identifying the client, information is used to assess the type of client (retail investor, institutional investor, high net worth investor), suitability for an investment in capital market products and financial capability.

	<p><i>Suitability</i></p> <p>The same SEC Notification No. Tor Thor. 35/2556 states that, before providing specific advice to a client, the intermediary must consider the client's suitability for investment based on the client's information and results of assessments described above. In this regard, intermediary must only propose suitable products or services taking into account the client's type (e.g. retail, non-retail) and its suitability in order to provide general recommendation on the importance of asset allocation and making investments in suitable products. The intermediary must categorize the client (e.g. retail, non-retail) and assessing suitability for investment. To classify a client as retail, institutional or high net worth, intermediaries will consider the client's nature, financial status, and expertise, experience and knowledge in relation to investment products/transactions.</p> <p>The Notification states that in case a client's suitability to invest in or enter into a transaction of capital market products is unable to be assessed, the intermediary shall refuse to provide any service. Also, in case the result of assessment shows that is not appropriate for the client to invest in or enter into a transaction of capital market products, the intermediary must notify the client and, if the client insists to invest, provide additional consultation involving features and the risk and return profile of the investment or transaction for the client's reviewing or reconsidering and, if after giving additional consultation, the client still insists, the intermediary must arrange the client to sign a confirmation that the client accepts the risks arising from such investment or transaction.</p> <p><i>Records</i></p> <p>The intermediaries must have in place an appropriate system for maintaining records of information, documents or evidentiary documentation relating to business operations in a concise and orderly manner, such that the records can be used or inspected within a reasonable amount of time. Furthermore, the system must be designed to prevent improper modifications, loss or destruction of records, as well as inappropriate use or disclosure of such information. The SEC has specified time frames for the maintenance of the different sets of records, for example:</p> <ul style="list-style-type: none"> • Transaction records: at least 5 years after the date of transaction • KYC information: at least 5 years after termination date • Client assets: at least 5 years after termination • Complaints: at least 2 years after having resolved the issue. <p><i>Contract of engagement</i></p> <p>Section 112 of the SEA requires that in operating the business of securities brokerage, a securities company must enter into a written agreement with the customers who appoint it to act as securities broker. The SEC Notification No. 35/2556 (clause 44) also requires market intermediaries, securities brokerage and derivatives agent to engage in an agreement with the</p>
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client before beginning the service. This should have at least the following qualifications: (1) using proper language and size of font in order to be legible, explicit and consist with document format; (2) using statements without misleading language or distortions; (3) not having exploitative terms and conditions; (4) covering characteristics, scopes, and conditions of the services including channels to contact for the services; (5) having terms and conditions relating to rights, duties and liabilities of both the intermediary and the client; (6) having all the information, cautions, restrictions, prohibitions and risks in relation to the services; (7) arranging for the acknowledgement and acceptance of the client about conditions or limitation of providing services as specified by the intermediary, for instance, for the purpose of preventing or inhibiting the action of market abuses or improper investment or transaction; (8) having information relating to the process for dispute resolution arising from the provision of services. Moreover, the ASCO has issued a standard that prescribes the intermediary to inform their clients regarding their rights to receive the agreements and facilitate them in case receiving the agreement requests.

Disclosure to clients

The SEC Notification No. 35/2556 prescribes that, in case an intermediary provides the service of analysis and advising relating to the investment to its client, the intermediary must disclose enough information relating to investment products proposed to its client who is interested in the products. In this regard, such information must not be distorted and misled. While checking accuracy of information affecting the decision of the client, the intermediary must control and prevent not to circulate the information which have not been yet confirmed correctness by concerned persons and must also provide the prospectus, factsheet and other relevant documentation in relation to the offering of the product to the client in accordance to relevant product offering regulations. This Notification (clause 42) requires at least the following disclosure: (1) characteristic, structure, conditions and returns of capital market products; (2) risks affecting investment in or entering into a transaction of capital market products; (3) liquidity of capital market products; (4) information i) relating to issuers who issue capital market products or ii) of counterparties who is entering into transaction of capital market products (if any); (5) information relating to service providers concerning capital market products; (6) commission and other relating servicing fees (if any); (7) information relating to conflicts of interest arising from providing services (if any); (8) information relating to performance of a mutual fund, proposed to a client, compared with other mutual funds in the same investment policy. In this regard, the information of other mutual funds shall present highest, lowest and average performance and be compared with the performance benchmark of the proposed mutual fund (if any); (9) other information which are necessary to make a decision for investment or entering into a transaction (if any).

	<p><i>Reports to clients</i></p> <p>Intermediaries must distribute statements of accounts to each client on a monthly basis, providing details of the client's assets held by the intermediary as of the last working day of each month. The statements must be distributed within 5 working days from each month's last working day, unless there have been no transactions which result in changes in the client's assets. In the case where there is no movement a particular client's account for more than one year, intermediary may provide statements to the client once a year. However, the confirmation statement can also be sent to customer upon request.</p> <p>Customer access to terms and conditions of services</p> <p><i>Information about remuneration</i></p> <p>Once an intermediary has carried out any investment or transaction as instructed by a client, the intermediary must inform the client of the result of the transaction by providing a confirmation statement. In accordance with ASCO's guidelines on details of the confirmation statement which has been approved by the SEC, the confirmation statement must include details of any commissions and fees associated with each transaction made.</p> <p>Best interests of clients</p> <p>Clause 7 of the SEC Notification No. Tor Thor. 35/2556 has imposed principles and standards on firms undertaking securities/derivatives business, including provisions that require firms to act honestly and fairly with market integrity and the best interests of clients in mind. More specifically, firms must comply with the following standards:</p> <ul style="list-style-type: none"> • Serve clients with loyalty, expertise, proficiency as well as diligence and care; • Operate in a way that maintains corporate image and reputation, as well as the integrity of the capital market; • Treat clients fairly and equitably; • Avoid actions which are subject to conflicts of interest; • Avoid receipt of rewards, remunerations or other benefits exceeding those that should be received in normal commercial practice, etc. • When trading for its own account (proprietary trading) it should prudently and by taking into account the interests of its client before its own interest. <p>Supervision</p> <p>The SEC has a supervision program for monitoring compliance by market intermediary, including both off-site monitoring and on-site inspections.</p> <p>(1) Off-site monitoring is one of mechanisms to monitor market intermediary based on information received through periodic reports and various other sources as follows;</p> <ul style="list-style-type: none"> • Information from intermediaries: <ul style="list-style-type: none"> ○ Periodic reports such as annual compliance report, quarterly complaint handling report, capital adequacy report, client's assets report and transactions report
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	<ul style="list-style-type: none"> ○ Significant changes in market intermediary such as change in major shareholders, key management and personnel as well as key business model; • Information from SET (e.g. warnings on inappropriate trades, disciplinary actions and any concern from SET's member supervision); • Information from other government agencies (e.g. the AMLO, the BOT) and, • Environmental scans (e.g. news) <p>Based upon the above information, if the SEC finds any issue or concern, the SEC will take the issue or concern into consideration in its plan for on-site inspections or take immediate action if necessary.</p> <p>(2) On-site inspection, which consists of Routine, Theme and Cause inspection, to assess and evaluate intermediary's management and operational systems, internal controls and business conduct to ensure compliance with rules and regulations. A risk-based approach (RBA) is used to determine a routine inspection plan, focusing on the risk of intermediary. The SEC also considers factors from off-site monitoring to determine the inspection. RBA is assessed in 3 key areas: prudential risk, operational & management risk and customer relationship risk. A risk rating – ranging from 5 (high risk) to 1 (low risk) – is assigned on each intermediary and use to indicate the intensity level of supervision. Intermediary with an overall rating between 1 and 3 will generally be inspected every 3 years while those with a rating ≥ 4 will be inspected every year. Furthermore, a rating of 4 in the areas of operational & management risk or customer relationship risk will also result in an intermediary being inspected every year. The outcome of the risk assessment is used in planning scope and risk focus area</p> <p>Apart from routine inspections, the SEC also carries out theme inspections in order to examine a particular issue or concern across many intermediaries, such as KYC and CDD or sales conduct. In addition, cause inspections are performed when an in-depth investigation into a specific matter is required.</p> <p>There are about 40 staffs in the Intermediaries Supervision Department. The duration of onsite-inspections can vary from 3 to 20 days depending on the size and complexity of the business. The inspectors follow an inspection guideline including workflow and checklist which cover key areas of regulations and high risk. The inspection results are reviewed by the RBA committee (a director and assistant directors of the Intermediaries Supervision Department) to ensure that the results, findings and issues are effective and fair.</p>
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	Statistics on the number of inspections carried out over the past 5 years are provided below:					
		2014	2015	2016	2017	2018
	No. of mkt intermediaries	42	46	44	45	46
Routine inspection (on-site)	Full scope	15	18	8	3	5
	Follow-up	4	3	1	1	1
Theme inspection	On-site	14 (Proprietary Trading) / 4 (Call Force on derivatives)	30 (Inappropriate trading)	30 (KYC/CDD)	14 (Debt offering & sales conducts)	5 (IT audit) / 7 (Debt offering & sales conducts)
	Off-site	-	3 (Program trading)	32 (DW)/ 37 (Research)	-	12 (Debt offering & sales conducts)
	Cause inspection (on-site)	-	1	1	-	-
	KYC: Know your Customer/ CDD: Customer Due Diligence/ DW: Derivatives warrants					
Assessment	Fully implemented					
Comments	The SEC establishes standards for business conduct of intermediaries undertaking securities and derivatives businesses, in relation to appropriate management and organizational systems, as well as sufficient personnel to be able to operate efficiently and with due care, taking into account the nature and size of business and associated risks. Supervision is carried out with appropriate resources and methods.					
Principle 32.	There should be a procedure for dealing with the failure of a market intermediary in order to minimize damage and loss to investors and to contain systemic risk.					
Description	<p>Plans for dealing with failure of regulated firm</p> <p>The SEC has internal plans and procedures in order to mitigate the impact of the eventuality of a firm's failure. It covers a range of activities including an early warning system, procedures for monitoring intermediaries' capital levels and stress tests to identify signs of weaknesses that should be addressed. The internal plan and procedures applicable differentiate between systemic and non-systemic risks situations.</p> <ul style="list-style-type: none"> • If the intermediary it is not considered systemically important, the SEC will impose an order for the failure firm not to expand its business (see principle 30) and it will require the intermediary to submit (within 30 days) a rectification plan to restore NC within 90 days. • If the intermediary is considered systemically important (according to intermediary's size and substitutability of such entity), in addition to the above-mentioned actions, the SEC 					

will consider the activation of the (financial) Business Continuity Plan and coordinate with relevant organizations (i.e. SET and BOT) as well as provide information to the public.

In addition, in accordance with Sections 142 and 143 of the SEA and Section 50 of the DA, the SEC has the power to carry out a range of regulatory actions in the event where an intermediary's financial condition or operations may cause damage to the public interest. Such actions include the power to:

- (1) Order the intermediary to take corrective actions (including transfer of customer accounts and assets to another securities firm, and disclosure of relevant information to the public);
- (2) Impose restrictions or conditions on a license;
- (3) Remove directors or management personnel;
- (4) Suspend operations; or
- (5) Revoke the intermediary's license, through recommendation to the Minister of Finance in the case of a securities companies.

Early warning systems

As part of the SEC's capital adequacy requirements (see principle 30), intermediaries are required to submit periodic reports on their capital levels and to submit daily reports to the SEC whenever their net liquid capital (NC) in any particular day falls below 1.5 times the minimum requirement ("early warning level"). Daily reports must be submitted until such companies could maintain an amount of net liquid capital greater than 1.5 times the minimum amount for at least 2 consecutive days.

Regulator's powers to intervene

Powers to restrict activities

Where the financial position or operations of any intermediaries may cause significant damage to the public interest, the SEC has the power under section 142 and 143 of the SEA or section 50 of the DA to order such intermediaries to rectify and take corrective action including increasing its capital and not to expand its business (see principle 30).

By default, where an intermediary's capital deteriorates and falls below the minimum net capital requirements, the company must submit a rectification plan to the SEC and proceed to restore the NC within 90 days. While the company is unable to maintain the required NC, it is prohibited from engaging in additional business operations, including custody of additional funds in client accounts, opening of new client accounts, increase in proprietary positions, new securities underwriting, accepting additional funds for management, etc.

	<p><i>Powers to move client accounts to another market intermediary and to order the appointment of a liquidator</i></p> <p>The SEC has powers to take some actions, both before a default (Sections 142 and 143 of the SEA) and during the winding down a failing intermediary in order to protect clients' asset and the settlement of pending trades (Section 111/1 of the SEA and Sections 43 - 46 of the DA).</p> <p>In accordance with Section 43 of the DA, if a derivatives broker becomes a debtor by judgement or debtor under receivership, the assets deemed to be owned by clients would not be regarded as assets subject to seizure by the court or distribution to creditors of the intermediary. In addition, Section 111/1 of the SEA establishes that the provisions of Section 43 - 46 of the DA are applied mutatis mutandis to the clients' assets, which implies, among other aspects, that in relation to a securities intermediary, the SEC is able to exercise the same duties and activities as specified in the case of a derivatives broker, including taking possession or control of the assets held by the securities intermediary after the intermediary becomes a debtor by judgement or debtor under receivership.</p> <p>According to the DA, the SEC and the official receiver have the authority to administer the segregation of such assets. Particularly, the SEC must proceed with the segregation and management of the client's assets by taking the following actions:</p> <ul style="list-style-type: none"> • Collect and allocate the client's assets to the client; • Transfer clients' accounts and assets to another licensed securities company and, • Close out the clients' derivatives positions, in the case where such positions cannot be transferred to another derivatives business intermediary. <p>In practical terms, when an intermediary is under receivership, the SEC must proceed as follows:</p> <ol style="list-style-type: none"> (1) Determine assets belonging to clients and whether there are any unsettled trading obligations, and segregate such assets from those belonging to the intermediary; (2) Settle the pending settlement obligations with TCH or other parties in case of OTC trades; (3) Return the assets to clients who hold a net claim against the intermediary or transfer such assets to another intermediary as specified by the client. <p>According to the DA, clients who are not associated with the intermediary are entitled to receive allotment of their assets first. In addition, if the assets remaining after (2) are not enough to be returned to all clients in full, clients will receive their prorated share of the assets. The SEC must then allocate the intermediary's own assets to clients in proportion to their share of assets deposited with the intermediary. Clients whose assets have not been returned in full are entitled to file a claim for the deficient amount during bankruptcy proceedings.</p>
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There has been only one case found where an intermediary faced financial distress (with a license for securities financing only). The SEC triggered the sections 142 and 143 of the SEA, and ordered the company to cease its business, to submit a recovery plan and to increase its capital fund which it eventually did. Since then, there has not been any case of an intermediary's financial distress that required the SEC to exercise its powers as described.

Notwithstanding the indicated legal provisions and their practical use, in the time period before a securities intermediary or a derivatives broker becomes a debtor by judgment or a debtor under receivership, neither the SEA nor the DA, provide the SEC with powers to take control of assets as an emergency measure under circumstances related to the intermediary's financial distress or any other cause that might be considered by the SEC as threatening the integrity of customers assets. In addition, none of those laws allow the SEC to request the appointment of a monitor, receiver, curator or other administrator, or, in the absence of such power, apply to the relevant authorities to take possession or control of the assets. In spite of this, the SEC notification Sor Thor 31/2557 states that, if the company (i) fails to submit a rectification plan, (ii) is unable to restore NC over a prolonged period, (iii) has negative NC for over 5 consecutive days or (iv) has defaulted on any of its obligations to the clearing house or clients, it must cease all business operations, close out all derivatives positions and transfer all client assets, including mutual fund units, to another securities company or asset management company otherwise to their clients. According to the previous discussion it is not clear that the SEC is empowered by the DA and SEA to carry out these actions.

Client and settlement insurance schemes, or guarantee funds

The SET has established the Securities Investor Protection Fund (SIPF) in cooperation with a number of brokers who have voluntarily joined the fund. The fund's purpose is to create confidence among SET investors who trade securities through SIPF-member brokers by protecting their investments; investors trading through SIPF members can receive compensation from the fund either in cash or securities if SIPF-member brokers fail to return assets in their custody to investors in the following two situations:

- 1) If an SIPF-member broker is adjudicated insolvent.
- 2) If an SIPF-member broker and investor have a civil dispute with regard to securities trading, and the arbitration verdict requires the broker to return the investor's property, but the broker fails to comply.

This protection does not include losses resulting from price decreases due to securities trading and the Fund will pay compensation based on actual damages to each investor, but not exceeding THB 1 million per SIPF-member broker.

The fund provides protection to investors automatically once an investor opens a trading account with an SIPF-member broker. Investors do not need to sign up or pay fees. Coverage remains in effect as long as the broker continues SIPF membership.

	<p>The assets of the Fund shall consist of:</p> <ol style="list-style-type: none"> 1) The initial capital contributed by the SET in an amount of THB 300 million; 2) The admission fees and monthly fees collected from the fund members and, 3) The fruits or benefits derived from invested assets of the Fund. <p>Cooperation with other regulators <i>Cooperation with domestic regulators</i></p> <p>In the event of an intermediary's failure or other market disruptions, the SEC will communicate and exchange information with the SET and the TCH to assess the impact on the overall market and clearing and settlement system, as well as to coordinate any responsive measures or actions. As the TCH closely monitors the risks posed by intermediaries to the clearing and settlement system, the TCH is required to submit periodic reports of its monitoring to the SEC.</p> <p>Furthermore, depending on the potential impact to the overall financial system, the SEC will also exchange information and cooperate with the BOT and the OIC through various channels, including the FIPC, which includes representatives from the MoF, other financial regulators, and external experts (see principle 14). In addition, communication, cooperation as well as information sharing between the BOT and the SEC can take place under the framework of the MOU between both entities (see principle 14).</p> <p><i>Cooperation with foreign regulators</i></p> <p>If necessary, the SEC may also communicate with foreign regulators bilaterally, under the IOSCO MMoU or multilaterally through IOSCO and other regional forums and regional supervisory meetings (see principle 15).</p>
Assessment	Partly implemented
Comments	<p>The reason behind the partly implemented grade is related to questions 3 b) and c) of the IOSCO Methodology. Before a securities intermediary or a derivatives broker becomes a debtor by judgment or a debtor under receivership, neither the SEA nor the DA, provide the SEC with powers to take control of assets as an emergency measure under circumstances related to the intermediary's financial distress or any other cause that might be considered by the SEC as threatening the integrity of customers assets. In addition, none of those laws allow the SEC to request appointment of a monitor, receiver, curator or other administrator, or, in the absence of such power, apply to the relevant authorities to take possession or control of the assets.</p> <p>In addition, the grade considers the fact that the collateral of an (securities or derivatives) intermediary's customer is segregated from its own assets, it is not accounted on an individual basis in the books of TCH. This lack of segregation and therefore, the difficulty of facilitating portability, represents and obstacle to the efficient settlement of pending contracts in case of the failure of an intermediary that, as a participant in TCH settles its customers' derivative trades. This specific shortcoming is not considered to affect the assessment under these IOSCO Principles.</p>

Principles for the Secondary Markets	
Principle 33.	The establishment of trading systems including securities exchanges should be subject to regulatory authorization and oversight.
Description	<p>Background</p> <p>The SET was originally established by law in 1974 and was reconfirmed as a national exchange upon the enactment of the SEA in 1992. The legislation does not contemplate conditions for the authorization of SET as an SRO nor as a secondary market, although it has granted the SEC with the power to approve most of SET's rules such as rules concerning acceptance and withdrawal of listed securities and rules concerning membership of SET. In case that some rules (e.g. trading rules) are not required an approval by the SEC, they must pass hearing with SET's members prior to the enforcement of such rules.</p> <p>The SEA in section 170/1 has also granted the SEC the power to order the SET to issue additional rules or revoke, alter or modify its existing rules if the SEC finds that the rules may cause damage to or prejudice the public interest or insufficient to protect and maintain investor confidence.</p> <p>In addition, the SEA has prescribed the composition of the SET Board to consist of 11 directors, of which 5 are appointed by the SEC Board, other 5 elected by members, and the SET's Manager as an ex-officio member. The SEC Board must appoint directors who are knowledgeable or experienced in securities exchange operations, securities or financial businesses, and at least one must be a senior executive of a company listed in SET. The SEC Board may appoint directors from the selected candidates proposed by the stakeholders in the capital market.</p> <p>Authorization requirements</p> <p><i>SET</i></p> <p>The SET was originally established as the securities exchange under the Securities Exchange of Thailand Act B.E. 2517. And upon the enactment of the SEA, the legal authorization of SET as the securities exchange of Thailand has been reconfirmed and this law does not provide for additional exchanges, therefore under the SEA the SET is the sole securities exchange in Thailand.</p> <p>In addition, the SEA has prescribed the objectives of the SET undertakings in its operation as a securities exchange as follows:</p> <ol style="list-style-type: none"> 1. Provide the service of trading on listed securities as well as establishing systems and procedures of securities trading; 2. Provide services related to listed securities by acting as a clearinghouse, central securities depository, securities registrar, securities data services or similar and, 3. Provide any other businesses with the approval of the SEC.

	<p><i>Derivatives exchanges</i></p> <p>Pursuant to Section 54 of the DA, a licensed derivatives exchange must be a public company and must obtain a license from the SEC Board. A derivatives exchange licensee must satisfy all qualifications and criteria prescribed by a CMSB Notification. However, in the case of a derivatives exchange who provides services only to institutional investors for their own account, they are not required to obtain a license, but must be registered with the SEC. The SEC Board or the SEC, as applicable, can reject any application if it fails to meet the regulatory requirements.</p> <p><i>Non-listed securities trading centers</i></p> <p>Pursuant to Section 204 of the SEA, the establishment of trading center for the purpose of trading securities which are not listed in the securities exchange requires a license from the SEC Board. At present, there are no licensed trading centers for non-listed securities.</p> <p>Criteria for the authorization</p> <p><i>SET</i></p> <p>Although the SET is expressly authorized by the SEA (and not by the SEC), the SEC and the SET have agreed under the MOU to define the responsibilities of each party by referring to the IOSCO Objectives and Principles, setting out a framework of cooperation in the supervision of issuers and listed companies, securities intermediaries that are members of the SET, and in market surveillance, law enforcement, and rulemaking process. The MOU sets out the following expectations in term of trading systems:</p> <ul style="list-style-type: none"> • Supervision of listed companies <ul style="list-style-type: none"> - The securities admission rules must promote fair, orderly, transparent and efficient market as well as investor protection, and considering the quality and corporate governance of securities issuers and sufficient market capitalization and liquidity free float; - The surveillance system must be appropriate to the risk of the securities; - The SET should ensure that listed companies maintain their qualifications as listed companies and provide appropriate information disclosure and fair treatment to investors. • Member supervision <ul style="list-style-type: none"> - The rules concerning members (i.e. admission and termination, conduct of members in securities trading, clearing and settlement, and punishments) must be fair, transparent and avoid anti-competition situations; - The SET must have appropriate system to monitor compliance of members conduct and disciplinary procedures that is clear, fair and truly enforced. • Supervision of securities trading <ul style="list-style-type: none"> - The trading rules and surveillance system must be effective and fair, and prohibit unfair trading practices - There must be measures to detect and deter unfair trading practices
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- The SET must regularly review their effectiveness to ensure appropriateness to the market condition and trading behavior of investors

Derivative exchanges

Under the DA, an applicant for a derivatives exchange license shall be a public limited company and have the required qualifications as follows:

1. Have a registered capital of no less than THB 100 million,
2. Have the capacity to operate as a derivatives exchange with respect to the statutory obligation under section 57 of the DA,
3. Have directors and executives with proof of past honest behavior,
4. Have sufficient system and human resources to operate, and
5. Be able to show that the clearinghouse which will provide the clearing and settlement services for the derivatives exchange to be established has been granted license or is in the process of applying for the license from SEC Board.

In the process of approval, derivatives exchanges must submit the Form 54-1, for the SEC Board to review the applicant information, and other supplementary documentation. The SEC Board can order an applicant to testify or deliver documents or evidences related to the application, if required, within the specified period. After obtaining a license, the derivatives exchange can commence its operation only when the SEC Board verifies that the licensee has arranged for the operational system and process as well as personnel to be ready, the rules and regulations of the derivatives exchange necessary for compliance with the qualifications have been approved and the derivatives clearinghouse to provide the clearing and settlement services for the derivatives exchange has been granted a license by the SEC Board and is capable to operate in accordance with the legal framework.

The DA has also stated as the conditions of operation, that derivatives exchanges must have:

- (1) Sufficient financial resources for the proper performance of its operation and for the assumption of any risks associated with the operation of the exchange;
- (2) Systems for the communication of settlement instructions to the clearinghouse's derivatives obligations;
- (3) Measures to promote and maintain the standard of integrity, reliability and fairness in trading system;
- (4) Efficient systems to record and disseminate information regarding price quotation and derivatives trading;
- (5) A contingency plan to accommodate any emergency which may affect trading or settlement;
- (6) An efficient arrangement for the handling of complaints or disputes in connection with the derivatives trading on the derivatives exchange or in respect of the use of services provided by the derivatives exchange;

	<p>(7) Rules for the admission of members which shall take into consideration the fit and proper status of the applicants; and</p> <p>(8) Rules applicable to members and arrangement for the monitoring and enforcement of compliance by members with its rules and code of ethics in undertaking derivatives business.</p> <p><i>Non-Listed Securities Trading Center</i></p> <p>To operate a trading center for the trading of non-listed securities, the applicant must apply to the SEC Board for a license and comply with the regulations issued by the SEC Board. Currently, the SEC Board has not issued any regulation for the licensing and supervision of non-listed securities trading centers.</p> <p>Regulation on the assessment of arrangements</p> <p><i>Trading arrangements</i></p> <p>1. Monitoring, surveillance and supervision of trading system and its members</p> <p><u>SET/TFEX</u></p> <p>The SEC has carries out supervisory activities on the two exchanges (SET and TFEX) to ensure the reliability of the operations and their capacity to meet the regulatory objectives.</p> <p>(1) On-site inspections</p> <p>The SEC conducts annual assessments on the SET Group (the SET, TFEX, the TCH and the TSD) under a risk-based approach to consider whether any entity or particular function requires an onsite inspection.</p> <p>Over the past several years, the SEC has conducted both full and themed inspections on SET's and TFEX's operations. The recent full inspection in 2018 covered all significant areas of SET's and TFEX's operations as SROs and secondary markets (i.e. listing and supervision of listed securities; member admission, supervision, enforcement; fair access to trading system; surveillance; rulemaking; professional standard; and disputes resolution and complaints handling). From the recent onsite inspection in 2018, the SEC has informed SET of its concerns on certain anti-competitive situations, while TFEX does not presented this issue. The SET has then amended its rules accordingly.</p> <p>(2) Offsite monitoring</p> <p>SET and TFEX is required to submit the SEC periodic reports for the purpose of offsite monitoring (e.g. report on major changes in trading system (if any), penalties imposed on members, daily market watch report, monthly report on the progress of surveillance functions, quarterly report on the investigation and consideration of breaches to the SEA, DA, SET's or TFEX's rules, as applicable.)</p>
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(3) Rules approval

The SET rules (except on trading and internal rules) and TFEX rules (except on internal rules) are required to be approved by the SEC Board and CMSB, respectively, prior to their enforcement. The process of approval of rule amendments, are verified against the SEC's concerns on fairness, transparency, orderly market and investor protection. A recent amendment to the SEA (not yet in effect) requires the SET's trading, clearing and settlement rules to be approved by the SEC Board prior to their enforcement. Also, the TFEX's derivatives contract specification are required to be approved by the SEC. Currently the MOU with the SET requires all SET's rules to be consulted with the SEC prior to enforcement.

(4) High-level meetings

The SEC also carries out high level meetings between the Chairman of the SEC Board, the Secretary-General of the SEC, and the members of SET Board of Directors as necessary.

This provides a platform to communicate the expectations on the SET's regulatory role, to discuss any concerns affecting the regulatory objectives and transmit the need of cooperation from SET Board to take action, and to ensure the alignment of its strategy and initiatives among the two organizations.

(5) Informal meetings

There are periodic meetings among the SEC and the SET's and TFEX's working levels to discuss operational issues and to ask for the SEC's opinion and policy in various areas (e.g. surveillance, trading system, and listing and ongoing issues)

2. Market's Dispute Resolution and Appeal Procedure

SET

The SEA establishes the figure of an arbitrator and its composition prescribing that in case of disputes concerning the trading of listed securities in the SET, either between members or between a member and its customers, the disputing parties may file an application for settlement by arbitrators to the SET. In this regard, the SET has created an application form which indicates the arbitral procedures, procedures in appointing the arbitrator, the arbitral award, the dispute conciliation, etc.

In addition, the SEA has also given the SET the power to set rules on member disciplines, punishment and appeal procedures and the SET should seek for approval from the SEC Board before those rules become effective.

The SET is required to report to the SEC a summary of the actions taken relating to complaints and disputes on an annual basis for offsite monitoring purposes.

TFEX

The DA requires derivatives exchanges to have an effective system for complaints and disputes which arises from derivatives trading in the derivatives exchange and other services provided by the derivatives exchange. The TFEX has in place a regulation on consideration and decision of disputes between member and client or between clients. A disputing party may apply to TFEX requesting for the settlement made by the Arbitral Tribunal provided by TFEX, of which the regulation includes procedures for consideration, nomination of arbitrator, decision making, dispute conciliation and more.

A recent onsite inspection of SET's and TFEX's operations in 2018, showed that rules and procedures for dispute resolution and complaint handling are appropriate, and in terms of complaint handling, it was found that the SET and TFEX has performed according to their procedures. There hasn't been any application for the use of the dispute resolution mechanism.

3. Technical system standards and procedures related to operational failure

SET

Under the MOU the SEC has established and communicated its requirements on SET's technical systems where the SET is expected to have a stable, secure, and reliable trading system. Also, the SET is required, to submit reports for offsite monitoring purpose (e.g. its IT Security Policy, trading system test report, IT audit report, events that may severely impact trading system, and BCP test report). If the SEC has any concern or recommendation, typically, the SEC will discuss with the SET and request improvements.

The SET has in place a comprehensive business continuity plan and measures concerning a range of emergency events (e.g. riots, natural disasters, etc.). There are arrangements for remote back up sites in a continuous basis, alternative electricity sources and manpower to face operational failures or severe disruptions. The SET has tested its business continuity plan with all related participants to ensure its efficiency.

TFEX

The SEC requires TFEX to have business continuity measures to ensure that in a case of unusual events, trading of derivatives may continue or recover for operation within an appropriate time. TFEX is also required to test its BCP with members and involved persons as well as evaluate and report the test result to the SEC within 90 days from the test completion date.

The TFEX is required to have a plan to respond to system disruption and system degrade, system non-compliance and system intrusion which may affect the system security, and must process information to find the root cause, determine solutions, report incident to executives and the SEC.

Under any modifications of the trading system of the SET or TFEX to accommodate improved rules or new products, SET must ensure that there are adequate system testing prior to implementation. Typically, SET will request market participants to engage in industry-wide test to ensure understanding and the smooth implementation of any change.

SEC onsite inspection -From the recent onsite inspection of SET and TFEX in 2018, the SEC found that both SET and TFEX have established sufficient control measures to limit potential risks affecting their trading systems, as well as testing their continuity arrangements with their members, the BOT, and settlement banks (depending on testing scenarios).

4. Record Keeping system

SET

The SET has kept all trading information since its operation. In this regard, the SEC could require the SET to present any related documents and records for inspection.

TFEX

The SEC requires TFEX to maintain data and documents for inspection as follows:

- Information relating to derivatives trading including pre-trade and post-trade data for at least 10 years
- Information on derivatives positions of members and each clients and reports on derivatives positions of members and clients for at least 3 years
- Information relating to complaints or disputes and results of consideration for at least 3 years

5. Reports of suspected breaches of laws

SET/TFEX

As front-line regulators, the SET and TFEX conduct preliminary investigation on cases which may be a breach to the SEA or DA, respectively. After a preliminary investigation, in case a suspected breach to the SEA or DA is found, this must be submitted to the SEC for further in-depth investigation and enforcement.

Moreover, the SET and TFEX are required to regularly submit the following reports to the SEC for offsite monitoring purposes:

- (1) Daily report on the market condition;
- (2) Suspicious transactions, identity of investors, and the actions taken by the exchange;
- (3) Monthly report on the progress of the exchanges' market surveillance activities;
- (4) Quarterly report on the investigation and consideration of breaches relating to the securities and derivatives trading, and breaches to the rules and regulations of SET and TFEX.

	<p>6. Arrangements for holding members and clients' assets</p> <p><u>SET/TFEX</u></p> <p>Pursuant to Section 223/3 of the SEA, in which Section 82 of the DA is applied mutatis mutandis for equity trading and Section 82 of the DA together with the applicable regulation, the TCH is required to prepare and maintain for each member an accurate and current register of assets received from the members and members' customers. The register of assets must record the member assets and the member's client assets separately.</p> <p>Besides, the TCH is also required to keep assets received from members and members' clients in a safe and secure manner, ensuring that the types and amount of assets match the register of assets.</p> <p>7. Information on clearing and settlement</p> <p>The SET, TFEX and the TCH rules on clearing and settlement are clearly set out in the respective regulations. These include settlement cycles, risk management procedures and membership requirements.</p> <p><i>Trading control mechanisms</i></p> <p><u>SET</u></p> <p>In order to ensure that the SET maintains the market integrity, the SEC Board has the power under Section 170/1 and Section 186(2) to order the SET Board to issue additional rules or revoke, alter or modify its existing rules if the SEC Board finds that the rules may cause damage to or prejudice the public interest or is render insufficient to protect and maintain investor confidence, as well as to order the SET Board to perform any act or omit to perform any act as the SEC Board deems appropriate.</p> <p>A recent amendment to the SEA (not yet in effect) requires that the SET trading, clearing and settlement rules issued under Section 170(9) be approved by the SEC Board prior to enforcement.</p> <p>The MOU between the SEC and SET has required the SET to consult with the SEC, prior to enforcement, its amendment or issuance of trading rules (including its trade control mechanisms), which does not require approval by the SEC Board. If the SEC does not inform its opinion within 30 days, SET can proceed the amendment or issuance of such rule.</p>
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The SET has set up various trading control mechanisms to deal with volatile stock prices and market as a whole as follows:

- Daily price limits: The order prices of equity products must be within daily price limit as specified by SET.
- Market circuit breaker: All trading of securities will be halted when the SET Index falls by a certain percentage as prescribed by SET.
- Prohibit of short selling: During unusual market conditions, the SET may temporarily prohibit short selling.
- Measures in case of abnormality in the trading of securities on the exchange (e.g. trading in cash balance accounts, prohibit net settlement or short selling of such securities)
- Order a temporary trading suspension of any listed securities by posting the H (Trading Halt) or SP (Trading Suspension) under the predefined conditions (i.e. insufficient material information disclosure by issuers).

Furthermore, brokers who provide direct market access and program trading services are required to have in place an appropriate pre-trade risk management system e.g. DMA filter and order kill switch.

TFEX

In order to ensure that TFEX maintains the integrity of the market, the CMSB has the power to approve all TFEX's rules. Besides, the SEC Board has the power under Section 65 of the DA to order TFEX to issue additional rules, or revoke or amend the existing rules, and to order TFEX to undertake any other actions as the SEC Board deems appropriate.

The TFEX has set up various trading control mechanisms to deal with volatile market conditions as follows:

- Daily price limit: The order price must be within daily price limit for each derivatives product as specified in the contract specification. In addition, some derivatives product (i.e. commodity futures, currency futures and interest rate futures) have 2 levels of price limits. When the trading price reaches the first price limit level, trading of such product will be halted for a short period of time. When the trading is resumed, the price limit will be expanded to the next level.
- Halt on derivatives trading in accordance with its underlying: When the underlying instrument is halted, its derivatives contracts will also be halted. At market level, when SET circuit breaker is activated, all trading in equity derivatives products (i.e. stock futures, index futures and index options) will be halted. At the individual level, single stock futures will be halted when its underlying stock in SET is halted. The halt period of derivatives will be the same as its underlying.
- Position limit: The TFEX has imposed position limits on each product and on individual level.

	<p>Furthermore, brokers who provide direct market access and program trading services are required to have in place an appropriate pre-trade risk management system (e.g. DMA filter and order kill switch).</p> <p><i>Assistance to the regulator, in trading disruption on the system</i></p> <p>The SET and TFEX are required to report trading disruptions to the SEC. The report is split into:</p> <ol style="list-style-type: none"> (1) A report immediately after the incident is known in order to inform the current disruption and, (2) A post crisis investigation report after the disruption has been resolved including an explanation of the disruption, its effects on the exchange and its members, the root cause, steps taken to resolve the disruption and the measures to prevent future disruption of the same nature. <p><i>Access to the books and records of service providers</i></p> <p><u>SET</u></p> <p>In case the SET outsources any of its function to a third party, it must remain accountable in ensuring that the outsourced functions are performed according to SET's legal obligations, and the SET must be able to access and obtain information, and books and records of the outsourced function. Currently, the SET does not outsource any of its function to a third party.</p> <p><u>TFEX</u></p> <p>In case where the law or regulations does not require TFEX to perform a function by itself, it may outsource such function to a third party to increase operational efficiency. However, TFEX must have measures to examine the services provided by the outsource service provider to ensure the functions are performed according to the objective of TFEX and the service providers could comply with all related rules and regulations. In addition, the TFEX is required to maintain the record of its examination of outsource service provider for at least 3 years. The record must be in the form that is readily accessible for use by the SEC. However, at present, the TFEX does not outsource any of its key functions to third party.</p> <p>Products traded and market participants</p> <p><i>Information and approval of products to be traded</i></p> <p><u>SET</u></p> <p>Pursuant to Section 170 of the SEA, any issuance or amendment of rules, conditions and procedures concerning the acceptance and withdrawal of securities traded on SET must be approved by the SEC Board. The SEC Board is usually informed of the types of securities, including the new ones, to be traded on the exchange, through its authority to approve or amend those rules.</p>
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Also, in cases where it is evident to the SEC Board that the SET rules may cause damage to or prejudice the public interest or insufficient to protect and maintain investor confidence, the SEC Board shall have the power to order SET to issue additional rules or revoke, alter or modify or modify the existing rules.

The SEC Board approves the SET listing rules and is usually informed of any securities to be traded on SET through an application for public offering by the issuing company.

TFEX

Pursuant to Section 67 of the DA, all derivatives contracts to be traded on TFEX must be approved by the SEC. The TFEX must submit an application for approval of the contract specifications and attaches any documents and evidence prescribed by the SEC.

Admission for trading

SET

The SEC and SET have established arrangements under the MOU to define the responsibilities of each party. The SEC considers the quality (i.e. financial status, internal audit) and corporate governance of the company as well as information disclosure pertaining to the IPO. The SET considers the quality of an applicant which is in line with those of the SEC, plus the quantitative aspects such as the company's financial performance (see principle 16).

TFEX

In considering the approval of any derivatives contract specifications, the SEC considers the following factors:

- The necessity of relevant parties of such goods and variables to use the derivatives contract for risk management,
- The promotion of price discovery mechanism of such goods and variables, and
- The measures to prevent price manipulation and disorderliness in the market.

In addition, the TFEX must submit the Form 67-1 to the SEC which describes the information regarding the contract specification such as contract type and size, its underlying, settlement month, price quotation, daily price limit, trading hours, settlement method, settlement price, etc. as well as any additional information, for example, the reasoning and sources of information in determining the derivatives contract specifications, information on the goods or variables, information on the benefit in price discovery, measures to prevent unfair actions, regulations on margin requirements, etc.

Fair access to the exchange

The SET and TFEX membership rules set out the criteria for admission and termination of membership and are published on SET and TFEX website. In issuance and amendment of rules, SET and TFEX are required to consult with market participants through members meetings and

	<p>obtain approval of the SEC Board or the CMSB before the rules become effective. If an applicant meets the qualifications as prescribed in the rules, SET and TFEX shall propose to SET Board and TFEX Board, respectively, for admission approval.</p> <p>In addition, member must seek approval from SET and TFEX prior to accessing the trading system. SET and TFEX has established procedures for members to access their trading systems which are implemented consistently to all members and are publicly disclosed on their website. To seek permission to access the trading system, member must submit an application to the SET or TFEX, respectively, in which members must meet the technical requirements determined by the SET or TFEX.</p> <p>From the latest SEC onsite inspection on SET and TFEX in 2018, it has been found that SET and TFEX procedures in assessing the application to access their trading systems are applied fairly and equitably. The applications for each type of access to the trading system (e.g. DMA, program trading, or internet trading) are also applied consistently according to the procedures determined by the SET and TFEX.</p> <p>Order execution procedures <i>Fairness and disclosure of execution rules</i></p> <p>The order routing and execution procedures are stated clearly in the SET and TFEX trading rules and disclosed through its websites. According to SET's and TFEX's trading rules, members will submit the orders into the trading system to execute via automatic order matching based on a price-then-time priority, with real-time public disclosure of trading information.</p> <ol style="list-style-type: none"> 1. Trading for clients The SET and TFEX members must handle customers' as well as their own orders fairly and equitably in priority order. When a member is confirmed of a buy or sell order by its clients, actions as per the order shall be promptly taken. As stipulated in the SEC Notification (Tor Thor. 35/2556), securities and derivatives companies shall consider client's benefit over its own benefit by selling client's securities prior to its securities, unless the conditions of sales orders of the client specify otherwise. 2. Advice for company's interests Securities and derivatives companies must not contact, persuade, or provide advice to clients to purchase or sell securities in which the company has or may have interests which may give rise to a conflict of interest. 3. Conflict of interest Securities and derivatives companies are required to avoid conflict of interest situations. In the case that a conflict of interest occurs, the securities companies must treat clients fairly and equitably by disclosing information, setting internal procedures to maintain
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	<p>confidentiality, deny providing service to clients, or perform otherwise as deemed appropriate.</p> <p><i>Review of algorithm</i></p> <p>The MOU between the SEC and SET has required SET to consult with the SEC, prior to enforcement, its amendment or issuance of trading rules including its trade matching algorithm, which does not require approval by the SEC Board, and if the SEC does not inform its opinion within 30 days, SET can proceed its amendment or issuance of such rule.</p> <p><i>Equal opportunity to connect</i></p> <p>To access the SET or TFEX trading system, members may choose to use the standard service or the colocation service with a higher cost, being both provided by the SET and TFEX. Once, all orders submitted by members regardless of the access method pass through the trading system gateway, they will be executed based on price-then-time priority and treated equally with the same response time for the round trip between the trading system gateway and SET/TFEX's order matching engine. From the latest onsite inspection of SET and TFEX in 2018, it has been found that SET and TFEX procedures for members to connect and submit order to the trading system are applied fairly and equitably.</p> <p><i>Systems and controls</i></p> <p>Brokers are required to have appropriate pre-trade risk management systems, particularly for DMA and program trading transactions. Examples of risk controls are credit limit, order price check, max order size, and kill switch. Moreover, brokers must have a self-match prevention mechanism as well as procedures to prevent naked short selling and improper trades. At the exchange level, the SET and TFEX have determined several pre-trade control measures for its trading system (as a last line of defense) including the daily price limit, market circuit breaker, maximum order size.</p> <p>Trading information</p> <p><i>Equitable access to market rules and operating procedures</i></p> <p>Market participants can access to the regulations, rules, procedures, and circulars through SET's and TFEX's websites which are available for access free of charge on an equitable manner.</p> <p><i>Audit trails</i></p> <p>The SET and TFEX have maintain transactions data (audit trail) which can be used to reconstruct trading activities and may be accessed by the SEC within reasonable time. In practice, the SET and TFEX has maintained transactions data for at least 10 years. The information maintained by</p>
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	<p>the SET and TFEX include the details of the deal and order such as member code, client account, securities name/contract name, amount, price, investor type, etc.</p> <p><i>Information availability and safeguards to preserve confidentiality</i></p> <p>Trading information from the SET and TFEXs trading system are disclosed through their common disclosure system (SET FEED). The trading information are appropriately safeguarded to ensure information is securely disseminated to prevent data leakage and to preserve the confidentiality of clients' information. Information disseminated can be categorized into 2 types of trades data which are:</p> <ul style="list-style-type: none"> o Private market data: The information of orders and deals of each member and its clients are directly transmitted to the member who executed the transaction. o Public market data: The Pre- and post-trade information of securities and derivatives (e.g. bid/offer, current, last, highest, lowest and average price), trades statistics, the end of day summary of matched transactions which are provided to members, market data subscribers and the public. <p>Both public and private market data are transmitted directly and independently to members and data subscribers.</p> <p><i>Pre and post trade information</i></p> <p>SET and TFEX's disclosure system (SET FEED) transmit private market data such as the order and deals of each member directly on a real-time basis. Also, members receive public market data which is also available on a real-time basis to enable members to monitor and establish measures for risk management controls.</p> <ul style="list-style-type: none"> o Example of pre-trade information includes market depth information, previous day closing and settlement price, previous day indices, securities and derivatives profiles, etc. to be used as part of providing trading service. o Example of post-trade information includes trading volume, trading value, last price, highest, lowest and average price, and etc.
Assessment	Broadly implemented
Comments	<p>The grade assigned stems from the lack of SEC's legal authority to review and approve SET trading and operations rules, an issue associated with questions 3 a) and 3 b) of the IOSCO Methodology. This condition has been partially addressed through an MOU between the SEC and the SET. The assessors are aware that recent amendments to SEA will eliminate this gap in the SEC's powers and may result in a Fully Implemented rating in the future. Nevertheless, as these amendments are not legally binding yet, the grade is still in place.</p> <p>In addition, the SEA doesn't grant the SEC powers to take disciplinary actions against the SET, including fines and other remedial actions, a matter also in connection with questions 3 a) and 3</p>

	<p>b) of the IOSCO Methodology. This situation must be added to the fact that the same Act doesn't grant the SEC the authority to revoke the SET's license as indicated under Principle 34.</p> <p>An additional observation not affecting the assigned grade, is that the SET is granted a monopoly condition under the SEA, which demands greater transparency in relation to the fees it charges to market participants. Currently the determination of fees is under the decision of its board, but it is not subject further analysis from a commercial perspective as the SET does not provide its stakeholders an analysis of the economic rationale behind its fees structure</p>
Principle 34.	<p>There should be ongoing regulatory supervision of exchanges and trading systems which should aim to ensure that the integrity of trading is maintained through fair and equitable rules that strike an appropriate balance between the demands of different market participants.</p>
Description	<p>SRO Monitoring Daily Trading Activity and Activities of Market Intermediaries and SEC Regulatory Oversight</p> <p>SET and TFEX, as SROs, perform the front-line surveillance and market/market participant oversight functions. They have their own real-time surveillance systems to monitor day-to-day trading activities to detect abnormal / unfair trading transactions. The SET and TFEX are under the same ownership and operate out of the same building. The two groups work in the same location, although only specified persons have access to both surveillance systems. The SEC oversees these programs through various mechanisms including inspections, periodic review of reporting requirements, review of trading data and audit trail data (available to the SEC on a 60-day delay or pursuant to a specific request). As discussed in principles 9 - 12. The SET and TFEX, as SROs, perform real-time surveillance functions. If an SRO identifies any suspicious activity or if there are any significant events in the markets, it is referred to the SEC for in-depth investigation.</p> <p>At the end of each trading day, SET and TFEX provide the SEC with the following reports:</p> <ol style="list-style-type: none"> 1) "Market Watch Report" which consists of information on daily trading activities e.g. statistic market summary, factors that affect an index, a watch list on trading securities and actions that were taken by SET. 2) "Derivatives Market Summary" - information on daily derivatives trading, including a statistical market summary, and factors that affect the market. <p>When irregularities are identified that may violate the SEA or the DA, the SET or TFEX will conduct a preliminary investigation. If there are grounds to believe that an offense has been committed, the matter will be referred to the SEC for further in-depth investigation and enforcement.</p> <p>The SEC oversees securities and derivatives brokers through onsite inspections and offsite monitoring. They monitor intermediaries' compliance with conduct rules on business, management arrangement, operating and control systems, risk management measures, and services to clients.</p>

	<p>The SEC has developed a risk-based metric to identify intermediaries for an on-site inspection.</p> <p>The SET and TFEX oversee members through a combination of offsite monitoring and onsite inspections. Several departments of the SET have specific regulatory responsibilities. The SET's Enterprise Risk Management Department is responsible for managing enterprise risks of the SET Group (SET, TFEX, the TCH, and the TSD). It monitors the high-risk work processes identified by key risk indicators and reports to the Risk Management Committee on a monthly basis and to SET's and TFEX's Board of Directors on a quarterly and biannually basis, respectively.</p> <p>The SET's Internal Audit Department is responsible for monitoring the operations of each department of the SET Group and reports to the SET Audit Committee on a monthly basis and to SET's and TFEX's Board of Directors on a quarterly and biannually basis, respectively.</p> <p>SET/TFEX/TBMA cannot oversee or investigate trading by clients except through their authority to oversee member intermediaries. As such their ability to look into suspicious trading by investors is limited. For this reason, the SET and TFEX routinely forward possible insider trading or manipulation by non-members to the SEC for investigation. This allocation of responsibility is typical of many countries.</p> <p>The SEC and SET have an MOU that defines the responsibilities of the SEC and SET in supervising securities brokers and trading members, as well as cooperation on information. The SEC and SET share information on the performance of supervisory functions (e.g. the penalization of securities brokers and SET trading members) and the referral of cases. TFEX is required by regulation to share information with the SEC. The SET and TFEX are required to submit periodic reports to the SEC to perform offsite monitoring.</p> <p>These reports include:</p> <ol style="list-style-type: none"> (1) SET's regulatory report on the performance of SRO and secondary market functions; (2) member supervision and disciplinary actions taken; (3) trading activities that were transacted through DMA, program trading or co-location in proportion to the total market trading activity, together with risk management and measures when trading activities transacted through each channel are over a certain threshold point; (4) derivatives trading summary together with risk management; (5) use of circuit breaker; (6) surveillance and investigation reports. <p>The SET conducts on-site inspections of SET and TFEX member-firms for both entities, on a cycle of 2 to 3 years, selecting firms through its own risk-based supervision model. The SEC oversees this process to ensure that they perform their regulatory functions effectively, promote and maintain orderly markets and operate in line with international standards. If any significant concerns are found, the SEC will inform and require SET or TFEX, as applicable, to take corrective actions.</p>
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The SEC uses a risk-based approach to determine which SET/TFEX/TCH/TSD entity or particular function requires an onsite inspection. In 2018, the SEC conducted a full onsite inspection of the SET and TFEX in the following areas:

- (1) SRO functions (governance structure, COI, rulemaking, information confidentiality and complaint handling),
- (2) securities listing and ongoing supervision of listed securities / derivatives product development,
- (3) member supervision,
- (4) trading system,
- (5) IT security and BCP, and
- (6) market surveillance.

The SEC inspection team concluded that the programs inspected were performing acceptably.

The SEC also engages in high level engagement through meetings between the Chairman of the SEC Board and Secretary-General of the SEC and members of the SET Board of Directors as this provides a platform to discuss the SET's regulatory role, to discuss any concerns affecting the regulatory objectives and a need for cooperation from the SET Board to take action, and to ensure the alignment of strategy and initiatives among two organizations. In addition, regular meetings between the SEC, SET and TFEX staff are also held at the working level to discuss operational issues and exchange of opinions in various areas (e.g. surveillance, trading system, and listing and ongoing issues).

TBMA SRO Functions

The Thai Bond Market Association ("TBMA") acts as the SRO for the over the counter secondary market in fixed income securities. The TBMA licenses its members and is responsible for receiving and publishing completed bond trades. All members must report completed trades (price and quantity) within 30 minutes. The only exception are trades completed within 30 minutes of the end of the trading day. Trades between member firms must be reported by both members. The reports are compared for accuracy. Trades between a member firm and a customer are reported only by the member firm.

The TBMA is responsible for preparing daily a national yield curve. The yield curve is built on the basis of indicative quotes submitted by primary dealers after the close of trading each day. The TBMA yield curve is the benchmark used by CIS operators and supervisors and others to price securities and calculate NAV and net capital.

While the TBMA discloses these non-binding indicative quotes to the public each evening, there is no responsibility for members to make public any form of pre-trade information during the trading day.

The TBMA conducts inspections of its members. It states that a core module of its on-site and off-site inspection program is to review the accuracy of trade reports. It also has an investigation and surveillance department and imposes sanctions on its members for misconduct. In 2017, the TBMA identified 247 trade reporting violations (late reporting, erroneous reporting or non-reporting) and assessed fines of 100 Baht per violation. The TBMA does not make its disciplinary sanctions public, even to its membership. They are reported to the SEC.

SEC Access to Pre-Trade and Post-Trade Information

The SEC can access both pre-trade and post-trade information of securities and derivatives transactions through SET's and TFEX website as well as SET SMART. Also, the SEC is directly provided with trade information on a two-month delayed basis. Information on suspected customers in referred cases is provided to the SEC to perform its analysis and conduct further investigation.

In the case of TFEX, the applicable regulation requires TFEX to maintain pre- and post-trade information for at least 10 years in a form that is readily available for use by the SEC.

SEC Authority to Review and Approve SRO Rules, Order Changes or Withdraw Authorization

The MOU between the SEC and SET was created to address a gap in SEC authority over the SET. It requires the SET to consult with the SEC on its amendment or issuance of all rules, including rules that do not require approval by the SEC Board. For rules that require approval by the SEC Board, the SEC will inform the SET within 60 days. For rules that do not require SEC Board approval, the SEC will inform the SET of its views within 30 days.

All TFEX rules, except rules on internal operations, require approval by the CMSB. Whenever there is a change to the facts and circumstances, the SECB has the power to order the TFEX to issue additional rules, or to revoke or amend existing rules, and can order the TFEX to undertake any other actions the SEC deems appropriate.

The SEA (chapter 5) established the SET. As such, the SEA does not provide the SEC with the authority to license the SET, suspend or revoke its authorization, or impose monetary fines or other penalties for misconduct. There is currently no authority who is empowered to suspend, revoke or limit the SET from doing business. The SECB authority over the SET is limited to:

- the power to remove the SET Board;
- the power to order SET to issue additional rules, revoke, alter, or modify existing rules where it is evident that any SET rules may cause damage to the interest of the public, or is insufficient to protect and maintain investors confidence;
- the power to safeguard the public or the economy by suspending trading of the whole market for a specified period, as reasonable; and

	<ul style="list-style-type: none"> • The power to instruct the SET’s Board of directors or SET manager to do any act or omit to do any act as the SEC Board deems appropriate. <p>The SEC has proposed to amend the SEA to specify clear regulatory objectives and statutory expectations over the SET on the issues pertinent to its role as an SRO and the national secondary market in securities. The amendment would also give the SEC Board the power to order the SET to improve, rectify, or alter functions if the SECB finds that the SET is not meeting its statutory expectations in a way that may affect the integrity, fairness or may bring about disorderly trading of securities at the SET.</p> <p>The DA (Chapter 3) has provided the SEC with broader authority over the TFEX. The SECB has the power:</p> <ul style="list-style-type: none"> • to grant a license to a derivatives exchange • to order the removal of a TFEX Board Member where the Board Member lacks competency or due to misconduct; • to order the TFEX to issue additional rules, revoke, alter, or modify existing rules where there is a change in facts or circumstances • to impose a range of administrative sanctions such as probation, public reprimand, administrative fine, restriction of operation, suspension of the operation for a certain period, and revocation of the license if the TFEX has violated or failed to comply with the rules, orders, conditions or requirements stated in Section 115 of the DA.
Assessment	Partly Implemented
Comments	<p>The partly implemented assessment reflects several factors. These include the extent of SEC authority to review SET trading and operating rules, as well as issues with the oversight of OTC bond trade reporting.</p> <p>The inability of the SEC to review and approve trading and operating rules was identified in the previous IOSCO assessment. As noted, the SEC and SET signed a MOU that partially addressed this limitation. The recently enacted SEA amendments will provide the SEC with full SET rule review and approval authority. As the new law is not in effect, the change couldn't be incorporated into the rating.</p> <p>Finally, as discussed previously, the SEC lacks authority to suspend, fine or revoke the SET license. The IOSCO Methodology provides that an inability to satisfy KQ 3(b), regulatory authority to withdraw an exchange's authorization, should result in a rating of Not Implemented. However, the guidance on Principle 34 explains "it would be permissible for an assessor to conclude that Question 3(b) is answered affirmatively and a <i>Partly Implemented</i> rating is warranted, if the regulator demonstrates it has authority to suspend all trading on the exchange or trading system for a period of at least six months." (2017 IOSCO Methodology page 234). SEA Section 186(1) empowers the SEC to "temporarily suspend the trading of all securities in the Securities Exchange for a specified period deemed as reasonable". Comparable</p>

	<p>authority to suspend trading on the TFEX is provided in DA Section 70. Under the DA (section 54), a derivatives exchange must obtain a license from the SEC.</p> <p>There are several interrelated aspects of secondary market OTC bond trading that require careful consideration. While the TBMA has procedures in place that address KQ1, there are possible issues concerning the accuracy of OTC bond reporting in dealer to customer trading should be examined carefully. Eighty percent of daily reported trading is dealer to customer transactions, of which 62 percent is trading between a dealer and a mutual fund. The use of a single trade report from one dealer that is not validated by automated comparison of the report with the actual settled trade has a potential for misreporting. TBMA members have real-time access to a government bond trade after it has been reported. TBMA subscribers receive trade reports on corporate bonds twice daily, 12:00pm and 4:00pm. The public can only access reported trade information after 6:00pm. As the trade report doesn't identify the trading parties, it is not possible for a customer to confirm the accuracy of the trade report.</p> <p>The TBMA website provides non-binding indicative bid-offer quotes on benchmark government securities and dealers may obtain selected quote information on commercial sites such as Bloomberg and Reuters. However, this limited disclosure is particularly relevant because dealer-non-dealer trading accounts for $\frac{3}{4}$ of daily activity and spreads tend to be relatively wide. Consideration should be given to requiring dealers to disclose bids/offers and size on an electronic system.</p>
<p>Principle 35. Regulation should promote transparency of trading.</p>	
<p>Description</p>	<p>Pre-trade transparency</p> <p><i>SET</i></p> <p>Under the umbrella of the MOU with the SET, the SEC requires the SET to provide its members and other market participants fair access to market data (pre and post trade) which should be disclosed in a "timely, clear, transparent and sufficient manner". Also, the above-mentioned SEA amendment requires the SET to have a system for the dissemination of the same information.</p> <p>The SET also provides a functionality for registering and disclosing trades carried out outside the exchange, this facility is denominated "Trade Report" and the majority of the registered trades are from the segment called "Big Lot", an alternative denomination for block trades. In accordance with the SEA, equity trading outside the exchange can only be done if the SET authorizes their members to do so.</p> <p>The SET regulation authorizes trading outside the automated matching mechanism and requires the registering of those trades to Trade Report, when each transaction has a minimum volume of at least 1 million shares or a minimum value of at least THB 3 million (approx. USD 100,000). The SET requires that the trading price should not be above or below 30% of the previous closing price (except trade reports in cases of mergers and acquisitions which are permitted by the SET on a case-by-case basis). An additional report must be submitted to SET if the</p>

transaction meets one of the following criteria: i) The size of the transaction is larger than 25% of the company's registered capital, or ii) the transaction results in the buyer's shareholding of 25%, 50%, or 75% of the company's registered capital.

TFEX

The TFEX is required by regulation to have a system for the recording and disclosure of information of the bid and offer prices and derivatives transactions to the public which must be categorized into each underlying and must include the bid and offer prices of each type of derivative; price and volume of derivative transactions, and open interest.

Both the SET and the TFEX disseminates pre-trade and post-trade information to the involved stakeholders such as members and data vendors in a real-time basis. They display all trades and the five best bids and offers and the size of each. Besides, SET members are required to disseminate at least certain information to their clients such as opening prices, highest prices, lowest prices, bid and offer prices, last prices and order size and deal information.

Trading information of the SET and the TFEX is also displayed on the SET and the TFEX website where public and investors can access free of charge. An advanced set of market information is also available for subscribers (e.g. member firms or market data vendors). While member firms will get both private trading information (e.g. order size and deal information) and public trading information (e.g. price and volume traded), market data vendors will get only public trading information.

TBMA (OTC bond trading)

The TBMA provides information of sets of indicative quotes (a requirement set out by the MOF), in relation to government bonds (yield quoted by primary dealers daily by 16:00) and state-owned enterprise bonds (yield quoted by primary dealers on 7th, 15th, 22nd, and at the end of the month by 16:00). Both indicative sets of quotes are valid for trading the following trading day. As market conditions may change overnight, these pre-trade indicative quotes provide little meaningful transparency for trading the following day.

Post-trade Transparency

SET/TFEX

See above

TBMA (OTC bond trading)

As bond trading in Thailand is primarily executed in the OTC market, TBMA is the main information center and provider of price and volume information. Market participants are required to report information on the transactions on debt instruments registered with the TBMA within the following reporting timeframes as prescribed by the SEC:

- Within 30 minutes from trade time for trading between 9:00-15:30 hours;
- Within 9:30 hours of the following business day for trading after 15:30 hours.

	<p>Public will be able to access daily dealer price report, for different type of debt instruments through TBMA's website, comprising of last executed yield and trading value of each debt instrument at the end of each day.</p> <p>Derogation from the objective of real-time transparency</p> <p>All completed trading transactions that are automatically matched in the exchange's trading system and trades done outside the exchange's trading system (i.e. big lot or block trade transactions) are disseminated in real time.</p> <p><i>Dark pools</i></p> <p>There are no dark pools operating in the jurisdiction.</p>
Assessment	Broadly implemented
Comments	<p>The main issue defining the broadly implemented grade is related to the OTC bond market pre-trade transparency, in connection with question 1 of the IOSCO Methodology, since the TBMA requires market participants to provide indicative quotes by 16:00, applicable for the next trading day, nevertheless as market conditions may change overnight, these pre-trade indicative quotes provide little meaningful transparency for trading the following day.</p> <p>In addition, although in practice the SET provides pre-trade and post-trade transparency and that condition is set out in the signed MOU with the SEC, the provision should be established as a regulation issued by the SEC. The assessors are aware that the once the new SEA amendments are officially in place, the SEC will make use of the provided regulatory powers to make such requirements.</p> <p>An additional observation, not affecting the grade, is related to the SET Trade Report functionality that as it was explained, registers and discloses trades done outside the exchange environment or, more specifically, outside the automated matching system, corresponding the majority of trades to the segment called "Big Lot", a SET denomination for block trades. In accordance with the SEA, equity trading outside the exchange can only be done if the SET authorizes their members to do so. By their own nature block trades are not matched in the automated matching facility and consequently they lack pre-trade transparency and therefore in practical terms don't contribute to price formation. Although currently block trades represent around 3% of total stock trading volume, at the current growth rate this proportion may reach 10 to 12% in about ten years. The SEC may consider setting out specific regulations in this market segment at least in relation to the size of large trades eligible for the Big Lot and the price conditions that would guarantee fair conditions to investors by aligning block trade prices close to market prices. The assessors are aware that "in-exchange" trades are exempted from capital gain tax, and that situation may foster block trading.</p>

Principle 36.	Regulation should be designed to detect and deter manipulation and other unfair trading practices.
Description	<p>Prohibited Conduct</p> <p>Market Manipulation</p> <p>Chapter 8, Division 1 of the SEA and sections 92-95 of the DA contain a series of provisions (e.g. 240, 241, 244/2, 244/3 and 244/5) that impose a broad prohibition of market manipulation, including conduct which has the effect of causing market manipulation. It also contains a presumption that specified conduct is done for the purpose of committing market manipulation. SET regulations (Trading, Clearing and Settlement of Securities in the Exchange B.E. 2555 (2012); Chapter VIII: the member's operations related to securities trading Clause 39 (3)); and TFXE regulations (Chapter 400: trading: 410.02: supervision of trading) prohibit members from engaging in manipulative trading.</p> <p>Section 244/7 of SEA prohibits any person from placing, modifying or canceling a securities trading order if the person knows or should reasonably know that the act is likely to cause the price or volume of securities to be inconsistent with normal market conditions. In 2018, the Emergency Decree on Digital Asset Businesses B.E. 2561, which regulates digital assets, also empowers the SEC to supervise and prevent unfair trading practices.</p> <p>Insider Trading</p> <p>Sections 242 and 243 of the SEA and 99 and 100 of the DA establish a broad statutory prohibition for insider trading. Section 243 defines statutory insiders to include:</p> <ul style="list-style-type: none"> - director, executive or controlling person of a securities issuing company; - employee or worker of a securities issuing company who holds a position, or is in the line of work, responsible for or capable for accessing inside information; - any person who is able to know inside information by performing duties as auditor, financial advisor, legal advisor, asset appraiser, or any other persons whose duties are related to inside information, including employees, workers or colleagues of the aforesaid persons who hold a position or is in line of work involved in the performance of duties related to inside information; or - juristic person whose business is under control of the above persons. <p>Section 244 adds to the list:</p> <ul style="list-style-type: none"> - holder of securities exceeding five per cent of the securities issuing company's total securities sold, including the securities held by spouse or cohabiting couple and minor children of the securities holder; - director, executive controlling person, employee, or worker of business in the group of the securities issuing company, who holds a position or the line of work responsible for or capable of accessing inside information; - ascendant, descendant, child adopter or adopted child of persons under section 243; - sibling of the same blood parent or sibling if the same blood mother or father of the person under section 243; or

- spouse or cohabiting couple of the person under section 243 or the person under two bullets above.

Section 244 also covers any persons who learns of or possesses inside information as a nominee of insiders or for the benefit of insiders. There is a presumption of insider trading by anyone in possession of inside information. An alleged person bears the burden of proof that any trading was not insider trading.

Frontrunning

Section 244/1 of the SEA makes illegal frontrunning by an intermediary or CIS operator that causes harm to a client.

Regulatory Programs

As discussed previously in principles 9 - 12 and 33-35, the SEC relies upon SET and TFEX programs for market surveillance. It conducts review of misconduct following a referral by an SRO or on its own investigation. off-site review of corporate filings, and investigation to monitor market conduct.

Regulatory standards for public offerings and exchange listing standards are discussed in principle 16. As explained in Principles 9 and 16, the SEC conducts the substantive review of registration statements and the prospectus and the SET makes a determination that the issuer satisfies its listing requirements. The SET also monitors listed compliance periodic filing compliance as to date of filing. The substantive review of the filings is handled by the SEC.

TFEX regulations address position limits.

When a position exceeds TFEX limits:

- 1) the member must inform TFEX immediately and close out derivatives position that exceed the stipulated limit.
- 2) If a client holds a derivatives position in excess of the limit, the member firm must notify the client to close out the derivatives position and if the client fails to do so, the member must close out the client's position of such client and give notice to TFEX immediately.
- 3) If the member or these client fails to close out its derivatives position, TFEX may close out those positions as appropriate. SEC regulations also require derivatives members to have internal control and records management systems.

TFEX regulations require member to submit weekly information to TFEX relating to its clients. The information on large contract positions is identifiable to specific persons and accounts.

SET and TFEX have order handling rules following price-time priority standards. SET and TFEX rules on order handling are designed to detect and deter false market actions by authorized traders, SET and TFEX members, and internet trading clients. Defined false market activities include hidden order, quote stuffing, wash trading, price induction, and spoofing.

Record keeping and Audit Trail Requirements

SEC regulations require intermediaries to keep records on securities trading and maintain it, complete and up-to-date, for at least five years from the transaction date (CMSB Notification TorThor. 63/2552). Another SEC regulation imposes the comparable requirement on derivatives brokers (CMSB Notification TorThor. 80/2552). Notification 63/2552 also provides that "Intermediaries' record keeping arrangements should include a robust and organized system for management and storage of information, documents and other evidentiary information related to business operations that allow information to be used or inspected in a timely manner. Such a system should safeguard information from being inappropriately modified, misplaced or destroyed and from inappropriate access or use of information, especially with regard to clients' personal information and non-public information." This is discussed further in Principle 31.

Market Halts

The SET has adopted a series of market-wide and individual stock trading halts. If the SET Index falls by 10% from the previous day's close, the Exchange will halt trading for 30 minutes; if the market falls by 20% from the previous day's close, the Exchange will halt trading for an hour.

Listed companies must disclose significant information that would affect the price and volume or cause fluctuation in the market via the SET information dissemination system. If listed companies are unable to disclose material information within the prescribed time, SET may halt or suspend trading of the securities. The circuit breaker for a specific stock is a drop of 30%. With regard to individual stocks, the SET can order a temporary trading suspension ("H" or "SP" sign) of any security when there is material information or there is any event which may affect the trading of securities or if the issuer requests SET to suspend trading pending disclosure of material information.

In 2018 the SET announced that it would use a new trading designation "C" (caution) to protect investors and urge listed companies to resolve any issues arising from deteriorating financial status, financial statement and business operation. The sign is to remind investors to be careful before making an investment. The SET has other procedures to manage trading activity and reduce risk described in its Trading Alert List and Turnover List. The succession of actions is:

- Step 1: trading on cash balance account. A member must ensure that its customers pay the full amount in cash prior to trading.
- Step 2: exclude such securities from credit limit calculation. A member must not use the security as collateral in the calculation of the customer's credit line in all types of account.
- Step 3: prohibit net settlement. A member must not net trading in a specified security. The amount received from sale of the particular security will be credited back on the following day.

	<p>The SET may also require member firms to limit the trading activity of a specified client when the SET questions the purpose of the trading. The first step is a verbal warning to the broker and direction that the broker must reduce by 20% the trading limit of the client. The second step is a written warning. A broker must reduce by 50% the trading limit of the client and prohibit the client from online trading for 30 days</p> <p>TFEX may halt trading of any derivatives contracts when there is trading disruption, which includes, but is not limited to, the following circumstances:</p> <ul style="list-style-type: none"> • trading which results in a change or non-change in contradiction to the normal market conditions, or an unfair act relating to the trading which affects the operations of TFEX, or an event which may affect the transparency, order and fairness in the trading of derivatives contracts • the suspension of trading by the underlying market <p>When the trading disruption is completely resolved, the TFEX will announce the opening time of trading to the members prior to the commencement of trading.</p> <p>Commodities Markets</p> <p>Thailand does not have an active market for secondary trading of underlying commodities. The principal contracts are financial instruments that are traded OTC. To monitor underlying trading TFEX monitors price, quantity, open interest and FX rates from global market and other foreign derivatives exchanges. In monitoring of physical delivery contracts, TFEX considers data on supply in global market, domestic production capacity, and import-export statistics. The TFEX may suspend trading in a derivatives contract when the trading is inconsistent with the overall market or when underlying trading in another market is halted</p> <p>Market Authority Sanctioning Powers</p> <p>The SET, TFEX and TBMA all have the authority to investigate misconduct by member firms and impose disciplinary sanctions on its members. The SRO's lack the authority to effectively investigate misconduct committed by investors and cannot impose sanctions, except through limitations they impose on a member to reduce a client's trading activities. When an SRO becomes aware of possible misconduct by a non-member, it will refer the matter to the SEC for investigation and action.</p> <p>In addition to formal disciplinary sanctions (fines, suspension or revocations of membership), the SET and TFEX have the capacity to impose lesser restrictions on member conduct. These include-</p> <p>SET:</p> <ul style="list-style-type: none"> • arrange trading of such securities through cash balance accounts • prohibit the use of securities as collateral for determining customer's credit line • temporarily suspend trading of securities • prohibit the net settlement of such securities • prohibit the short selling of securities.
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	<p>TFEX:</p> <ul style="list-style-type: none"> • Warning • Probation • Limitation of scope of derivatives trading on TFEX • Prohibition from trading on TFEX on a temporary basis <p>The TBMA has a policy of not publicly disclosing the sanctions that it imposes on its members. In addition to no public disclosure, the TBMA does not disclose sanctions to other members. Instead it discusses disciplinary matters generally to its members in conferences and seminars. The SEC is notified of the sanctions but it does not disclose them publicly.</p> <p>The SET and TFEX disclose sanctions publicly, but they do not disclose voluntary payments made by members to resolve possible misconduct</p> <p>Violations of Thai securities laws may be criminally prosecuted. Market or price manipulation is subject to up to 5 years imprisonment, or a fine from 1,000,000 to 5,000,000 Thai Baht or (section 296/1 of SEA). The same sanctions apply to criminal convictions for insider trading and disclosing misleading information by a director, manager or any person responsible for the operation of a securities issuing company. Other offenses under the law are subject to sanctions of imprisonment for a term not exceeding 2 years or a fine from 500,000 to 2,000,000 Baht, or both. Offenders that received or should have received a benefit from the offense may be fined up to twice the benefit received and not be less than 500,000 Baht. If the person committing the misconduct decides not to litigate the matter, the financial sanctions may be ordered by the SEC Fining Committee discussed in principles 11-12.</p> <p>Under Section 317/1 - 317/14 of the SEA, civil sanctions may be imposed on an offender, rather than criminal sanctions, for 1) committing unfair trading practices including market manipulation and insider trading, 2) presenting a false statement or concealing material facts, 3) failing to perform director or executive duties of a listed company or licensed entity, and 4) allowing any person to use one's own securities trading or banking account for payment of securities trading. The enforcement of civil sanctions will consider the severity of the offence, capital market impact, supporting evidences, and the worthiness of imposing such sanctions.</p> <p>Civil sanctions may be up to:</p> <ol style="list-style-type: none"> (1) a monetary civil penalty from 50,000 – 2,000,000 Baht; (2) a fine based on the benefit received or should have been received from committing an offence as specified under Section 317/1; (3) a suspension of trading in securities on the Stock Exchange or the over-the-counter center, or derivatives contracts on the Derivatives Exchange for a specified period not exceeding five years; (4) a bar from serving as a director or executive in a listed company or a securities company for a specified period not exceeding ten years; and (5) a reimbursement of investigative expenses incurred by the SEC.
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	<p>The SEC has the authority to impose administrative sanctions against licensed persons and entities for violation of the SEA, DA or SEC regulations. Based upon the person/entity charged and the specific violation, the decision may be the responsibility of the SEC S-G, the SEC Administrative Panel, the SEC Board or the Finance Minister. Administrative sanctions include issuance of a rectification order or an administrative order, probation, an administrative fine, suspension or revocation of a license.</p> <p>Oversight and Coordination of Domestic Cross-Market Trading</p> <p>The SET and TFEX are the only interrelated secondary markets. These markets are within the SET Group which was established by law to operate the Stock Exchange of Thailand. Both markets are located in the same building and, while they have separate surveillance departments, the two departments operate out of the same room, although some dedicated staff are permitted to surveil the other market.</p>
Assessment	Broadly Implemented
Comments	<p>The 2016 SEA amendments improved the definitions of insider trading and market manipulation.</p> <p>As discussed previously, the SEC should have real-time online access to all SRO surveillance systems. The SEC should develop its own surveillance program to augment and complement the current SRO programs. While the SET and TFEX operate separate market surveillance units, specified staff from each exchange can access the other exchange's surveillance system to conduct cross market analysis at the end of each trading day. Consideration should also be given to merging the SET and TFEX surveillance programs.</p> <p>It is recommended that the TBMA surveillance and enforcement programs should be examined carefully. As discussed previously there may be serious validation issues with dealer-customer trade reporting, which accounts for 80% of daily trading. This is compounded by the limited surveillance capacity of the TBMA, as it can only conduct surveillance through these trade reports. The opacity of the TBMA disciplinary program further compounds the uncertainty.</p> <p>The SET surveillance program is limited in its capacity to monitor compliance by foreign investors with its rules on short sales, short sale reporting, short selling on an uptick, and its concentration rules. Because the SET does not have meaningful authority over investors, and because foreign investor holdings and stock borrowing off-shore are beyond the authority of the SET, the SEC may need to assume a role and use its MOUs with foreign regulators to inspect foreign accounts held overseas that trade extensively in Thailand. Similar issues may arise in algorithmic trading in these accounts and in foreign firms internalizing and netting foreign transactions.</p> <p>Once the new amendments to the SEA become effective, the SEC will have authority over SET trading and operating rules. This may be an appropriate point in time for the SEC to conduct a comprehensive examination of all SET trading rules and their interaction and influence on the</p>

	<p>common trading practices on the SET. For example, the interrelationship between SET minimum uptick rule and the preference for very low share prices, even for large listed companies should be examined with consideration given to the impact this has on market manipulation opportunities and how member firms engage in prop trading in an environment where there is profit to be made from the spread between ticks.</p>
Principle 37.	<p>Regulation should aim to ensure the proper management of large exposures, default risk and market disruption.</p>
Description	<p>Large exposures <i>Identification</i></p> <p>Aside from the SEC's net capital requirements which are monitored to assess the risk of market intermediaries' unsettled positions or credit exposures as referred to in Principle 32, the TCH, the securities and derivatives clearing house for SET and TFEX, monitors the risks of its members (at the member and client level) and puts in place the following measures to identify, monitor, and evaluate large exposures:</p> <p>a) Equity trading exposures</p> <p>(1) Settlement Cap -The TCH has determined a cap on the cumulative settlement value ("CSV") by limiting the CSV at 8 times the NC of the member. Once reaching the settlement cap, the member has to deposit additional collateral of at least the exceeding amount, and the member must correct the exceeding CSV amount within 90 days.</p> <p>(2) Early Warning System (EWS) - EWS is the main tool to manage risks in the clearing system by using financial models to calculate potential loss arising from price fluctuations. The TCH uses the pending settlement obligations of each member as major source of exposure for evaluating loss probability occurred from price fluctuations. The system will use the higher of the actual loss and the potential loss (calculated using VaR model) compared to the clearing fund contributed by each member as the requirement for member to place collateral.</p> <p>(3) Stress Test - The TCH performs stress test every day in order to make sure that the financial resources in each market are always sufficient to support when there is default from members. The stress scenario of each market is based on the extreme but plausible market movements. The stress testing scenarios comprise the extreme price movement of each stock and the market volatility. The exposure from stress test will be compared with the TCH financial resources. If the exposure is greater than the predetermined threshold of the TCH financial resources, the additional collateral will be required from the member to cover such risk.</p> <p>In addition, if any member is required to place collateral by more than one of the measurements explained above, only the largest exposure shall be considered.</p>

b) Derivatives trading exposures

The TCH uses the following margins as the main tool to manage risks arising from large member exposures:

- (1) Concentration Margin -Where a member accumulates large positions such that margins in that member account is over the specified level of the market's total margin (currently at 40%), an additional concentration margin may be collected to accommodate risks from such holdings.
- (2) Uncovered Risk Margin - Similar to Equity, the TCH has determined scenarios to cover various extreme but plausible scenario to represent the stress test result of a member. The stress testing scenarios are based on the highest change in price in a day for each underlying asset, along with the highest change in interest rate over 1 day. If there's any member who has a stress test exposure over its account balance and the total financial resources, the member will be called for uncovered risk margin.
- (3) Intraday Margin
During business days where the member increases the derivatives contracts significantly or derivatives prices are irregularly volatile, or there is a reasonable cause to believe that such volatility may occur, members will be required to deposit an intra-day margin, which maybe be collect more than once within a day.

Moreover, the TFEX requires its members to submit large position report if the derivatives positions of its own account or that of its client in any contract reaches the reporting threshold on a daily basis. The TFEX also sets out position limits in the contract specifications which members have to monitor its own account as well as their clients. In case that a person has traded through many member firms, the TFEX also monitors the positions across members in a real-time basis.

Access to information on beneficial owner

For the purpose of supervision of trading activities, the SET has the power to obtain relevant information from members, including information related to clients' accounts, securities transfers and share ownership positions held by clients.

In addition, the SEC Notification No. Tor Thor 30/2559 requires the TFEX to have a system of monitoring and surveillance of derivatives trading on the exchange. This includes a record of accurate and up-to-date information showing identification of customers and the final beneficiary of the customer's trade whether by a citizen identification number, a registration number of juristic persons, or by any other numbers as specified by the exchange. The system can also calculate the positions of each account for monitoring purposes and have a surveillance and reporting system on traders' position and their changes.

Power to take action

In the equities market, the TCH is able to evaluate the large exposures of the members automatically using information available in the system. However, if necessary, the TCH can require its members to submit information or reports.

According to Section 78 of the DA, once the exposure exceeds the specified level, the TCH has the power to call for additional collateral. If a member does not comply with the TCH requirements, the member may be prescribed a warning, probation, fine, limitation on the scope of services to be provided, suspend the provision of the TCH services, termination of membership or any act as the TCH deems appropriate. In addition, if a member is suspended from securities clearing and settlement by the TCH, the member's capacity of trading on listed securities on SET will be suspended temporarily until the suspension order by the TCH ends.

In the derivatives market, the information required to monitor large exposures of any clearing member can be obtained from the TFEX trading information system in a real-time basis, across members and by aggregate account positions of each member's client, together with any related or controlling person. In addition, if necessary, the TFEX can require their members to submit additional information or reports.

In case that a member or a client holds positions in excess of the limit, the TFEX will inform the member to close out the positions. Members who fail to comply with the rules will be subject to the disciplinary actions as prescribed by the TFEX rules. If any member or client refuses to close out the excess position, according to the TFEX's Regulation (Chapter 400 "Trading" Rule 411.03) the TFEX may close out the position of the member or client as deemed appropriate.

Exchange of information*In the domestic jurisdiction*

In the equity market, in accordance with Section 316 of the SEA, the SET and the TCH may disclose information of members and its clients that should be treated as confidential, to the authority and other organizations for the benefit of supervision such as to the SEC, the BOT, SET, TFEX, the TCH (derivatives) and TSD.

In the derivatives market, in accordance with Section 153 of the DA the TFEX is able to disclose information of members and its clients, that should be treated as confidential, to the authority and other organizations which supervises derivatives, goods and variables. A similar provision is granted to the TCH in the same ambit. The SEC receives daily trading activity reports from SET and TFEX as well as information relating to daily stress test result and margin placements on a monthly basis, and pending settlement values and any default cases on a quarterly basis from the TCH. And the TFEX also reports trading activities and positions related to gold and exchange rate derivatives to the BOT.

	<p><i>In other relevant jurisdictions</i></p> <p>Pursuant to the SEA Section 316 and the DA Section 153, the regulator may disclose information obtained as part of performing duties according to the SEA and which should be treated as confidential, if such disclosure is made to an international authority or organization who is responsible for the supervision of securities, securities exchange and financial institutions. Therefore, information can be shared with market authorities and regulators in other relevant jurisdictions in accordance to the SEA and DA if necessary.</p> <p>Reporting and disclosure of exchange-traded physical commodity derivatives trades</p> <p><i>Reporting of large trading positions</i></p> <p>In this regard, TFEX requires members to report large positions to TFEX once the member or its client hold derivatives contracts which meet the reporting threshold prescribed in each contract specification. The member is required to report on a daily basis until the position has reduced below the prescribed reporting threshold</p> <p><i>Publication of large exposures</i></p> <p>TFEX publishes the trading volume of each product by different group of investors on daily basis, along with the total open interest of each series of contract. Besides, most derivatives contracted traded on TFEX are cash settled, while physical delivered commodity derivatives contracts have relatively low trading volume (In the year 2017, trading volume is 0.09% of the total trading volume in TFEX, while open interest is 0.06% of the total open interest in TFEX). Publication of exposures on a trader by trader basis is not implemented since, give the market size, it would play against the IOSCO objective of maintaining trading confidence.</p> <p>Default procedures</p> <p><i>General procedures and scope of action</i></p> <p>For both securities and derivatives clearing, the TCH has prescribed default procedures in its regulations, which is publicly available on the TCH section of SET website. The circumstances of defaults in securities and derivatives clearing and settlement includes:</p> <ul style="list-style-type: none"> - Failure to make payment, deliver securities or place collateral (make payment or deposit margin for derivatives clearing); - Failure to contribute to the clearing fund (and place the security deposit for derivatives clearing); - Failure to pay fees, interest, fines, damages and other costs to the tch; - The member faces bankruptcy case and is subject to the court's receivership order, or; - Failure to settle any other obligations with the TCH.
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In the event of default, some of the actions which may be undertaken by the TCH includes:

- To suspend payments and/or transfer of securities;
- To require additional collateral;
- To liquidate the collateral placed by the defaulting member;
- To use the funds from the clearing fund;
- To request the TFEX to suspend trading;
- To order the defaulting member to take action to transfer or close out derivatives positions,
- To transfer or close out the derivatives positions of the defaulting member and,
- To use the defaulting member's margin and security deposit.

The roles and responsibilities of each entity as follows:

Entity	Roles and Responsibilities
TCH	<ul style="list-style-type: none"> • Monitor and control on member's settlement obligations • Withhold member's securities deposited at TSD if such member supposed to receive • Examine member's outstanding liabilities to TCH • Provide related data in case where defaulting member cannot access the system by itself
SEC	<ul style="list-style-type: none"> • Regulate and examine securities/derivatives business of member (i.e. segregation and custody of client's asset) • Regulate and examine securities/derivatives business of clearing house • In case member business becomes a debtor under receivership: • Gather and allocate assets in order to return them to good customer • Transfer customers 'accounts or assets to other business operator • Close out derivatives position in case the transfer cannot be made • Settle, bring legal proceedings, or undertake legal defense
Official receiver	<ul style="list-style-type: none"> • Notify TCH and SEC in case where member business becomes a debtor under receivership. • Administrate, gather and liquidate member's assets
Settlement bank	<ul style="list-style-type: none"> • Transfer and receive fund for TCH's and members 'account according to TCH instruction • Report TCH any unsuccessful transactions

Isolation of the problem of a failing firm

If a member of the TCH becomes a debtor by judgement or debtor under receivership, a notice will be given to the TCH, after which the TCH will undertake the following actions:

- Liquidating the pending settlement value of the member / close out derivatives position of the member
- Enforcing the performance of member's obligations against assets received from the member, and
- Setting off the obligation incurred connected to or resulted from the transactions of the member with any debt owed to the member on the day of the receivership order.

Also, the TCH regulations regarding defaults on clearing and settlement has stated that in the case of a member default on clearing and settlement, the TCH will consider the its clients' account separately from the member's own account.

By virtue of the SEA and the DA, if an intermediary becomes a debtor by judgement or debtor under receivership, the assets deemed to be owned by clients would not be regarded as assets subject to seizure by the court or distribution to creditors of the intermediary. The SEC and the official receiver have the authority to administer the segregation of such assets. Particularly, the SEC has the authority to:

- Collect and allocate clients' assets for return;
- Transfer clients' accounts and assets to another licensed securities/derivatives company and,
- Close out the clients' derivatives positions, in the case where such positions cannot be transferred to another derivatives business intermediary.

Consultation between market authorities

The SEC supervises both SET and TFEX. If a market disruption occurs in one of the markets, the SEC must take action to limit any adverse effects. While SET and TFEX performs the duties as front-line regulator in which they have established surveillance departments to oversee the trading activities in their respective markets. SET and TFEX also share trading information and conducts cross market surveillance on financial instruments with a related underlying in the two markets to prevent false market and unfair trading practices which may cause market disruption.

In addition, policies on micro and macro prudential areas as well as crisis management decisions are taken by a committee of the BoT (the Financial Institution Policy Committee, FIPC), which includes representatives from the MoF, other financial regulators, and external experts.

Communication, cooperation as well as information sharing between The BOT and the SEC also can take place under the framework of a Memorandum of Understanding (MoU) which has recently been revised and signed in 2017. Also, there's an agreement in place between the SEC, the SET, the BOT and the MoF on cooperation and information sharing in a case where SET Index declines to a certain level in trading hour.

Likewise, the SEC coordinates with overseas regulators via multinational meetings on topics including surveillance and enforcement (e.g. Meeting of Asia Pacific Regulators' Dialogue on Market Surveillance "ARMS"). While SET also participates in meetings with overseas supervisory bodies on surveillance matters (e.g. ASEAN Market Surveillance Forum).

Short selling

The SEA prohibits securities companies to make a sale of securities without having possession of such securities (naked short sale).

The SET permits short selling on securities with sufficient liquidity and assets underlying ETFs.

In this regard, SET has prescribed rules on short selling covering the following issues:

- 1) Determining securities which are eligible to short selling;
- 2) Short sell order can be submitted through the automated order matching system (AOM) at a price not lower than the last trading price;
- 3) Short sell orders shall be flagged and,
- 4) Securities must be borrowed for delivery prior to short selling

The SET has prescribed members the responsibilities to report to the SET regarding the short sale on own or client's account to enable the SET to monitor short selling in the trading systems.

The responsibilities are categorized into (1) flagging of short sales and (2) short position reporting described as follows:

- Flagging of Short Sales - Short sales orders made by members through the automated order matching system (AOM) are required to be flagged.
- Short Positions Reporting – The SET's members are required to report their outstanding short selling positions in the form prescribed by the SET on a daily basis. SET then collects and publishes information on short selling transactions to the public daily through the SET website. The information published are displayed according to securities name and the information and includes volume, value and percentage of short sales volume compared to trading volume in the AOM.

In addition, the SET may temporary prohibit the short selling of any securities when short selling positions at the end of a particular day is greater than 10% of paid-up capital of a listed company.

Also, the SET may prohibit any member from making short sales where such sale may i) generate significant risk; ii) hamper securities trading conditions in the market or iii) expose the member's financial condition and stability to additional risk.

Settlement discipline

To promote settlement discipline, the TCH utilizes various tools to enforce members once they fail to settle in due time (e.g. fine, mandatory securities borrowing and lending (SBL) and buy-

in). These measures are undertaken in sequential order to resolve settlement failure as described below:

1. The member will be forced to enter into a securities borrowing and lending (SBL) arrangement to borrow such securities;
2. If the member is not able to borrow the securities, TCH will carry out a next day buy-in and,
3. If the settlement still cannot be completed, the TCH will try to borrow and do buy-ins for another 2 days. At T+5, if securities still cannot be found for settlement, the TCH shall apply cash settlement instead.

The TCH submits information of failures to the SEC on a monthly basis, while the SBL and buy-in value is submitted on a quarterly basis.

Surveillance of short selling activities

In addition to the tools and reports mentioned above, SET conducts on-site inspection to ensure its members comply with the short selling regulations such as the as the obligation of borrowing the securities and that short selling reports are submitted to SET correctly. Short selling orders are flagged so that SET can monitor the transactions.

Exceptions

A member who is a participating dealer (PD) or market maker (MM) of the ETF investment units is exempt from the rule which prohibits the making of short sales at a price lower than the last trading price (uptick rule). The exemption is made to allow PDs and MMs who may need to hedge their position, or for the purpose of stabilizing liquidity. However, such PD or MM must verify the possession of underlying securities prior to making the short sale.

Exchange traded physical commodity derivatives markets

Power to impose limits and manage positions

Exchange traded physical commodity derivatives represent an average of USD 2,000 million per year and their regulation and credit risk management is the same applicable to the rest of derivatives contracts traded at TFEX and settled through TCH.

TFEX stipulates position limits for each derivatives contract. And, if required, TFEX may announce a change in the position limit that can be held by any person as deemed appropriate. In a case where a member or client holds a derivatives position in excess of the limit, the member or the client is required to close out the exceeding position. If the member or client fails to close out such position, TFEX has the power to close out such position as deemed appropriate and such member or client is responsible for any loss or expenses arising from the order to close out the derivatives position. In case of physical delivery contracts, TFEX closely monitors positions when the contract is close to expiration. TFEX will notify members, who have open interest in the

expiring physical delivery contract, to make sure that member or client have intention and capacity to deliver the commodities to fulfill its obligations.

In addition to position monitoring, TCH uses a higher margin rate called "spot month margin" which is used to notify the investors the approximation of the delivery date, in which investors will have to prepare the whole notional value of money or goods for physical delivery. This is also a reminder for investors who do not wish to settle by physical commodity delivery to close out or roll-over their positions of such contract. Moreover, TCH, as the facilitator of physical delivery, requires their members who wish to make a deliver or receive the goods, to ensure its ability to deliver the goods or make the payment before notifying its intention to deliver or receive the goods. Regarding the adequacy of resources, the member who has the duty to make/receive delivery should place a delivery deposit with TCH within the business day as prescribed by TCH to ensure that delivery will take place.

Powers to address market disruptions

TFEX has the power to prescribe appropriate additional measures to address market disruption as follows:

1. Alteration of the daily price limit

TFEX has the power to alter the prescribed daily price limit in the following situation:

- The daily settlement price of any derivatives contracts does not reflect the price of the underlying
- The price of the underlying undergoes a significant change during the trading hour, or there is a situation where it is believable that the price of the underlying may undergo significant change such that derivatives trading cannot be performed to truly reflect the market conditions
- Others as TFEX deemed appropriate

2. Cancellation of trading transactions

TFEX has the power to cancel transactions if such transaction causes a price deviation from normal market conditions or there is a reasonable cause to believe that such trading results from inappropriate trading behavior or such transaction influences the trading and price to deviate from normal market conditions.

3. Other measures to address market disruption

TFEX has established measures to perform in a situation where there's a trading disruption which includes any event which has or may have an impact on the trading and clearing of derivatives and cause or might cause TFEX to be unable to carry out its operation as usual. In such situation, TFEX may suspend trading, close out or alter the amount of open position, alter the condition of clearing and delivery, or alter the amount of initial margin for the member to collect from its client.

In addition, in a situation where it is necessary to maintain stability of the financial system, the national economy, and the stability of the trading and clearing system of the derivatives market, the Derivatives Act has authorized the CMSB with the power to order TFEX and/or the TCH to act as follows:

- Suspension of derivatives trading, except for the purpose of closing out derivatives position
- Instruct the closing out of derivatives position
- Limit the trading price range of derivatives
- Amend or temporary suspend the application of any rules issued by the derivatives exchange
- Instruct its members to place additional collateral
- Alter the maximum level of derivatives position any member or client may hold.

Standardized OTC derivatives contracts

Thailand's OTC derivatives market are regulated by two regulators, the BT and the SEC. The DA has specified that foreign exchange and interest rate derivatives are under the supervision of the BOT. While other derivatives such as equity and commodity derivatives are under the supervision of the SEC.

OTC derivatives contracts are registered in a BOT's trade repository.

The assessors were not provided with official documentation addressing the possibility of exchange trading these derivatives contracts nor to elaborate a roadmap to centrally clear them, concluding that there are no formal initiatives to address the above-mentioned issues.

The SEC has indicated that it has been monitoring the development of the equity and commodity OTC derivatives market on an ongoing basis and if it becomes significant, according to its perspective, the SEC will reconsider supervisory measures to oversee the market, which may include requiring OTC derivatives which are standardized in nature, to be traded on exchange and cleared through a CCP. The SEC has manifested that "the additional cost and burden to regulated entities once establishing such regime at the current trading volume outweighs the benefit". As of the date of this report, the SEC views that the key questions related to transactions of OTC derivatives of Principle 37 are still not applicable.

OTC derivatives traded by securities and derivatives companies

Unit: Billion Baht	Notional Amount Outstanding			Gross Market Value		
	Dec 2016	Dec 2017	Dec 2018	Dec 2016	Dec 2017	Dec 2018
FX	4.95	3.79	1.52	0.08	0.11	0.04
Interest rate	1.15	1.15	0.15	0.03	0.02	0.01
Equity	7.16	13.82	10.01	0.41	3.36	1.29
Total	13.26	18.76	11.68	0.52	3.49	1.34

	OTC derivatives traded by banks																																																														
	<table border="1"> <thead> <tr> <th rowspan="2">Unit: Billion Baht</th> <th colspan="3">Notional Amount Outstanding</th> <th colspan="3">Gross Market Value</th> </tr> <tr> <th>Dec 2016</th> <th>Dec 2017</th> <th>Dec 2018</th> <th>Dec 2016</th> <th>Dec 2017</th> <th>Dec 2018</th> </tr> </thead> <tbody> <tr> <td>FX</td> <td>9,963</td> <td>10,429</td> <td>12,640</td> <td>194</td> <td>172</td> <td>181</td> </tr> <tr> <td>Interest</td> <td>22,526</td> <td>22,351</td> <td>25,491</td> <td>613</td> <td>455</td> <td>403</td> </tr> <tr> <td>Equity</td> <td>4</td> <td>12</td> <td>14</td> <td>0.38</td> <td>3</td> <td>1</td> </tr> <tr> <td>Commodity</td> <td>100</td> <td>86</td> <td>87</td> <td>9</td> <td>6</td> <td>8</td> </tr> <tr> <td>Interest rate</td> <td>-</td> <td>-</td> <td>26</td> <td>-</td> <td>-</td> <td>0.01</td> </tr> <tr> <td>Others</td> <td>76</td> <td>95</td> <td>130</td> <td>4</td> <td>3</td> <td>3</td> </tr> <tr> <td>Total</td> <td>32,669</td> <td>32,973</td> <td>38,388</td> <td>820</td> <td>639</td> <td>596</td> </tr> </tbody> </table>	Unit: Billion Baht	Notional Amount Outstanding			Gross Market Value			Dec 2016	Dec 2017	Dec 2018	Dec 2016	Dec 2017	Dec 2018	FX	9,963	10,429	12,640	194	172	181	Interest	22,526	22,351	25,491	613	455	403	Equity	4	12	14	0.38	3	1	Commodity	100	86	87	9	6	8	Interest rate	-	-	26	-	-	0.01	Others	76	95	130	4	3	3	Total	32,669	32,973	38,388	820	639	596
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Comments	<p>Currently, OTC derivatives contracts consist primarily of FX and interest rate products between banks. These contracts are cleared bilaterally. While the BOT requires banks to report all OTC derivatives to the BOT, there is no requirement for central clearing, an issue connected with question 11 of the IOSCO Methodology. As the IOSCO Principles state mandatory centralized clearing of derivatives contracts should be an objective. The assessors consider that the average yearly gross market value of the OTC derivatives market of THB 687 billion (USD 21.9 billion) is a considerable amount in absolute terms and in comparison, with other emerging markets. While the authorities have indicated that a central counterparty for OTC derivatives would require a considerable investment in comparison to the size of the market, it is noteworthy that TCH already operates as a central counterparty for exchange traded derivatives. Since the IOSCO Principles recommend an incremental approach toward central clearing as the volume of trading in the OTC market increases, the assessors recommend the development of a plan to clear OTC derivatives, commensurate with increased trading volume, as part of a comprehensive, centrally cleared derivatives market.</p> <p>An additional observation deserves the fact that an important portion of securities are held in physical form by their investors, most typically retail bond holders. Since the IOSCO Principles do not consider this specific topic, this observation does not affect the assigned grade, but the lack of dematerialization could acquire relevance during the failure of a market participant, in particular an issuer, and therefore is included under this principle. In this sense, the SEC should consider requiring the complete and irreversible dematerialization of all listed securities.</p>																																																														
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