

28 May 2024

THAILAND

Newsletter

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SEC Proposes Amendment to Digital Asset Notification for Enhanced Record-Keeping and Investor Protection

Since the initial establishment of digital asset business regulations in 2018, the Office of the Securities and Exchange Commission of Thailand (the "SEC") has identified the need to update the guidelines for information management and storage to better address the evolving landscape of digital asset transactions and storage. The primary aim is to ensure that digital asset businesses maintain accurate and comprehensive records of client assets and transactions, thereby increasing transparency and trust in the industry.

On 15 May 2024, the SEC invited public feedback on the proposed amendments to the notification concerning the documentation and evidence related to digital asset business operations, i.e., the SEC Notification No. SorThor. 36/2561 Re: Management and Storage of Information Relevant to Digital Asset Business Operations dated 11 July 2018.

This move is part of ongoing efforts to enhance the robustness of digital asset management practices and to ensure comprehensive and up-to-date record-keeping by digital asset businesses.

Members of the public can submit their feedback on the proposed notification on the SEC's website until 30 May 2024.

Key Points of Proposed Amendments

The amendments focus on several key areas:

- Custody Records:** The digital asset operator must maintain detailed records of customer asset custody, including bank statements showing the balance of customer funds and records from licensed digital asset custodians detailing the digital assets held for each customer.
- Transaction Records:** Documentation of all transactions related to the management of digital asset investments must be thorough, capturing the decision-making processes and investment actions taken on behalf of customers.

- 3. Retention Period:** All relevant documentation must be retained for at least five years, with the first two years' records readily available for immediate review by the SEC.
- 4. Implementation Timeline:** The amended notification will take effect as soon as it is published in the Royal Gazette. Businesses will have 30 days from the effective date to comply with the new record-keeping requirements.

Potential Impact and Stakeholder Feedback

The proposed amendments are expected to have the following effects:

- Positive Effects:
 - Improved transparency and reliability in the digital asset market.
 - Enhanced investor confidence due to stricter regulatory oversight.
 - Better risk management and quicker response capabilities in crisis situations.
- Negative Effects:
 - Increased operational costs due to digital asset businesses having to upgrade their record-keeping systems.
 - Potential short-term disruption as businesses adjust to the new requirements.

Key Takeaways for Digital Asset Operators:

The amendments focus on several key areas:

- 1. Prepare for enhanced record-keeping:** Digital asset business operators must upgrade their systems to maintain comprehensive and accurate records of all customer asset custody and transactions.
- 2. Understand the new retention requirements:** Digital asset business operators should ensure all documentation is retained for a minimum of five years, with the first two years' records readily accessible for SEC review.
- 3. Anticipate increased costs and operational adjustments:** Digital asset business operators should be prepared for potential short-term disruptions and increased costs associated with implementing the new record-keeping standards.

CMHM will closely monitor these legal developments and keep you updated once they are enacted. If you have any questions in relation to the issues raised in this newsletter, please contact the authors listed in the left-hand column.

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