

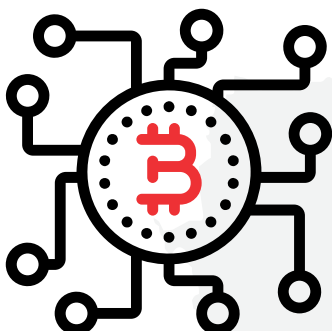
**Baker  
McKenzie.**

# **A Complete Guide to Digital Asset Law in Thailand**

2025 Edition

(The law as of 14 February 2025)

# Digital assets in Thailand



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Since 2018, Thailand has implemented digital asset laws to regulate the growing digital asset economy. In the same year, Baker McKenzie Bangkok released the first edition of a comprehensive guide, meticulously detailing the framework and provisions of these digital asset laws in Thailand. This guide serves as an essential resource for understanding the legal landscape surrounding digital assets in Thailand.

In 2023-2024, the crypto industry shifted from a largely unregulated space to a more structured environment as regulators around the world increased scrutiny over crypto activities and aimed to harmonize global regulations for digital asset businesses, which can be seen through the collaborations between countries to develop common standards, such as the European Union's Regulation on Markets in Crypto-assets (MiCAR).

In 2024, digital assets saw an upward trend in adoption and acceptance worldwide. For 2025, we anticipate the government launching an initiative or project to explore the use of blockchain technology. This will demonstrate the government's dedication to staying aligned with global trends and promoting innovation in the financial sector.

Building upon the aforementioned trends in the digital asset industry, the Office of the Securities and Exchange Commission (SEC) issued new regulations and held public hearings. These initiatives aim to enhance investor protection and strike a balance between supervising and fostering the development of the crypto industry.

To keep up with the dynamic and evolving regulatory developments, we have revised this publication to provide an updated overview of regulations pertaining to digital assets in Thailand.

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# Part I. Applicable laws

The starting point for understanding digital asset regulations in Thailand is the Emergency Decree on Digital Asset Businesses, B.E. 2561 (2018) (the "**Digital Asset Decree**"), which specifies a **new asset class** (digital assets) to be regulated under Thai law. From its effective date (14 May 2018), any business operator who wishes to conduct any activity regarding digital assets must take this law into account.

To determine whether the digital instrument you are planning to issue would fall under the definition of digital assets, **you must consider the Digital Asset Decree and other existing laws**, including the Securities and Exchange Act, the Payment Systems Act, and the Derivatives Act.

Certain types of instruments or assets that utilize innovative technology or digital elements, such as securities under the Securities and Exchange Act, e-money under the Payment Systems Act, and option instruments under the Derivatives Act, are regulated under other specific laws and regulations, not the Digital Asset Decree.

To illustrate, digital securities are to be regulated under the purview of the Securities and Exchange Act, and not the Digital Asset Decree, because their core characteristics fall under the definition of what constitutes "securities".

Some types of instruments or assets that did not fall under the scope of existing laws before 14 May 2018 might now be regulated under the Digital Asset Decree if they have specific characteristics that fall within the definition of "digital assets" as prescribed in the Digital Asset Decree.

# Part II. Digital assets law

The following is an overview of how digital assets are regulated in Thailand.

## Thailand's regulatory regime



### Emergency Decree on Digital Asset Businesses, B.E. 2561



#### Offering of digital tokens

- 1) Digital token
- 2) Cryptocurrency
- 3) Issuer
- 4) Portal



#### Digital asset businesses

- 1) Digital asset exchange
- 2) Digital asset broker
- 3) Digital asset dealer
- 4) Digital asset fund manager
- 5) Digital asset advisor
- 6) Digital asset custodial wallet provider



### Emergency Decree on Amendment of the Revenue Code (No. 19), B.E. 2561



#### Types of income

- Share of the profit or any benefit derived from holding or having possession of digital tokens.
- Capital gains from the transfer of a cryptocurrency or digital token.

# 1

## How can we differentiate between cryptocurrencies and digital tokens, and how are they regulated?

Under Thai law, digital assets comprise two types of assets: **cryptocurrencies** and **digital tokens**.



### Cryptocurrency

- Electronic data unit.
- Created on an electronic system or network.
- Being a medium for exchanging goods, services, rights, or digital assets.
- Other electronic data unit as designated by the SEC.



### Digital token

- Electronic data unit.
- Created on an electronic system or network.
- For determining:
  1. The right of an investor to invest in any project or business (i.e., investment token).
  2. The right to receive specific goods, services, or other right as agreed (i.e., utility token)
- Other electronic data unit as designated by the SEC

However, a cryptocurrency can be deemed a digital token if the issuer intends to raise funds from the public, and if the cryptocurrency: a) determines the right of an investor to invest in any particular project or business; or b) determines the right to receive specific goods, services, or any other right as agreed upon by the parties.


The key difference between these two types of assets is that a **cryptocurrency** is created to serve a particular purpose as a **medium of exchange**, which might be for goods, services, or other rights, or as consideration for trading with other digital assets. A **digital token** is generated to be used as a **determinant of rights**, which could be rights as an investor or the right to receive specific goods or services.



### A. Proposed amendment on the definition of digital asset

Between July and August 2024, the SEC held a public hearing regarding the draft of the Digital Asset Business Act amending the Emergency Decree on Digital Asset Businesses B.E. 2561 (2018). The SEC proposed that the definition of "Cryptocurrency" and "Digital asset" be combined into "Crypto Asset", which is in line with the approach used by most jurisdictions.

In short, the Crypto Asset must fulfill the four elements below:

- 
- (i) It is issued and represented in digital form.
  - (ii) It is an intangible asset.
  - (iii) The owner of the asset has the right to control.
  - (iv) It is transferable.

Additionally, the Crypto Asset must also have economic value and tech-neutral characteristics.

Apart from the definition of Crypto Asset, the SEC proposed providing a positive list of regulated Digital Assets under SEC supervision, which will include, for example, native coins of the blockchain, governance tokens, and asset-backed stable coins.



# 2

## Overview of the regulatory regime on the offering of digital tokens and operation of a digital asset business

There are two regulated activities under the Digital Asset Businesses Decree:

### 2.1 Offering of digital tokens to the public

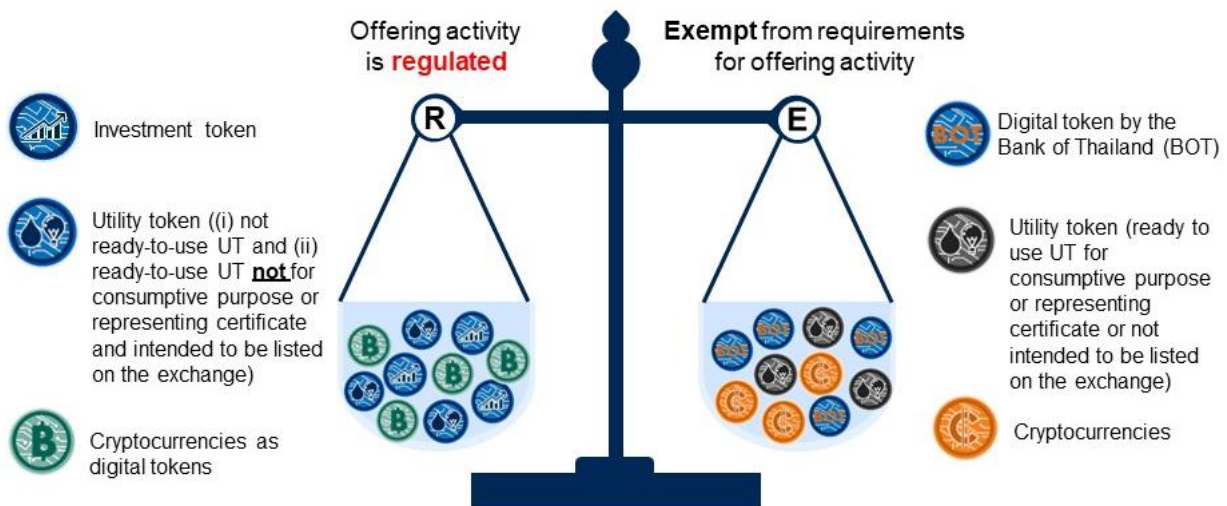
### 2.2 Operation of digital asset businesses

#### Thailand's regulatory regime on the offering of digital tokens to the public

### 2.1 Offering of digital tokens to the public



#### A. Digital token offering



To offer regulated digital tokens (e.g., investment tokens, not ready-to-use utility tokens, ready-to-use utility tokens that are not issued for consumptive purposes or as a digital representation of a certificate and intended to be listed for trading on a licensed digital asset exchange) to the public, the issuer must: (i) have the specified qualifications; (ii) obtain approval from the issuer's Board of Directors prior to applying for the SEC's approval; (iii) obtain approval from the SEC Office; and (iv) file a registration statement for the offering of digital tokens, and the draft prospectus, to the SEC. The offering must be done through the approved portal.

To promote investment tokens, the Thai Revenue Department issued the Royal Decree in August 2023 concerning an exemption related to the improvement of taxation for investment tokens. In summary, both the corporate income tax and value added tax (VAT) exemptions are available for the offering of investment tokens in the primary market whereas the transfer of investment tokens in the secondary market will also be exempt from VAT. The rationale behind this is that investment tokens, similar to securities, may be categorized as equity or debt, and consequently, the tax obligations for the offering and sale of investment tokens, both in the primary and secondary markets, should be similar to those applicable to securities.



## B. Exempt offering: limited offering and ready-to-use utility tokens offering (consumptive purpose/for use in lieu of certificate/not intended to be listed)

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### Limited Offering

Offering of regulated digital tokens that contain one of the following elements is considered a limited offering, and therefore it is deemed that the issuer has already obtained approval from the SEC Office and is exempt from the requirements for filing the registration statement and draft prospectus.

- The offering is made to any one of these types of investors: institutional, and ultra-high net worth.
- The offering is made to a specific investor who has a specific relationship with the issuer, as prescribed in the regulation. The offering must be made to not more than 50 people within a 12-month period.
- The offering has a total value not exceeding THB 20 million within a 12-month period.

However, the issuer must: (i) comply with other regulations prescribed by the SEC (including offering through an approved portal); and (ii) create and disclose a report on the sale of digital tokens and the information regarding the holding of digital tokens by each type of investor.

### Ready-to-use utility tokens offering (consumptive purpose/for use in lieu of certificate/not intended to be listed)

The ready-to-use utility tokens that are issued for consumptive purposes or as a digital representation of a certificate (Utility Tokens Group 1) are exempt from the requirement to obtain the SEC's approval for the offering.

However, if the tokens are not issued for consumptive purposes or as a digital representation of a certificate, but are for limited use within a specific system using distributed ledger technology-based infrastructure or any other technology, these tokens are classified as Utility Tokens Group 2. The following are examples of such tokens:

- Tokens intended for use within centralized finance (CeFi) and decentralized finance (DeFi) projects.
- Exchange Tokens — digital tokens used on licensed digital exchanges to provide discounts or other benefits, as prescribed by the SEC.
- Governance Tokens — digital tokens that specify rights to vote in any business.

Provided that such Utility Tokens Group 2 are NOT intended to be listed for trading on a licensed digital asset exchange, the SEC's approval is not required before offering. Conversely, if the Utility Tokens Group 2 are intended to be listed, then the SEC's approval will be required.



## C. Real estate digital token offering

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The SEC Office has issued a set of regulations governing digital token offerings that refer to, or for which the cash flow comes from, real estate. A real estate digital token offering must comply with the key **additional following conditions and requirements**, which are summarized below.

- **Real estate**

The construction of the underlying real estate **must be complete and ready for use**, without being subject to any property rights or disputes. There is an exception in which the token issuer has considered and issued an opinion in writing to the effect that these will not materially affect its use, and that the terms on which the real estate is acquired will be beneficial for digital token holders in general.

- **Investment value**

The amount or value of the investment in real estate must not be less than 80 percent of the project's amount or value, or the aggregate value of the real estate to be invested in must not be less than THB 500 million.

- **Due diligence**

Due diligence must have been conducted on the real estate, so as to comply with specified requirements, with complete and sufficient information on risk factors disclosed in the registration statement and draft prospectus.

- **Appraisal**

There must be a full appraisal of title documents for disclosing information to investors. This must be carried out by at least two appraisers, who have been approved by the Office of the SEC, or who fulfil specific requirements if the real estate to be invested in is located overseas.

- **Legal formalities**

The contract to acquire the real estate must not contain any agreement or obligation that may prevent the sale of the real estate at a fair price. A draft trust deed must be prepared and must fulfil the requirements in the applicable regulations. There must be a mechanism to ensure that the issuer will transfer assets to the trustee as an asset pool of the trust.

- **Types of tokens**

If there are different types of digital token, the same type of digital token must have equal rights and benefits, while each type of digital token can have different rights and benefits but only regarding the following:

- (i) Benefits or return of capital to holders of digital tokens.
- (ii) Fees or expenses to be claimed from holders of digital tokens.
- (iii) Other differences that the issuer may demonstrate as the practical categorization of digital tokens, considering the benefits of holders of digital tokens in general, and possible effects on holders of digital tokens.

- **Establishment of a trust**

The issuer must set up a trust with any of the following elements:

- (i) Trust for the holding of ownership or right of possession over real estate.
- (ii) Trust for investment in leasehold rights in real estate.
- (iii) Trust that holds shares in a special purpose vehicle (SPV) that holds the ownership or right of possession over real estate, whereby:
  - The shareholding is at least 75 percent of the total number of issued shares, representing at least 75 percent of the total voting rights of the SPV;

- The shareholding is for the benefit of token holders to prevent assets of the SPV from being distributed, sold, transferred, or encumbered, without the trustee's approval, and which must comply with the trust deed.

- **Trustee**

The trustee must be appointed with specified roles and qualifications as set out in the regulations.



## **D. Infrastructure digital token offering**

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The SEC Office has issued a set of regulations governing digital token offerings that refer to, or for which the cash flow originates, infrastructure assets. An infrastructure digital token offering must comply with following **additional conditions and requirements** summarized below.

- **Definition of infrastructure asset and infrastructure business**

The infrastructure that can be an underlying asset of the digital token can either be a complete or an incomplete project that falls under the definition provided by SEC as follows:

### **Infrastructure asset**

- (i) Ownership or right of possession or leasehold rights in land, buildings, structures, machinery, equipment, as well as any other related assets used in infrastructure operations.
- (ii) Concession rights to operate infrastructure businesses.
- (iii) The right to benefit from future income or rights under future revenue sharing contracts of the infrastructure business or those arising from the management of the infrastructure business or the management of any other assets obtained from the operation of the infrastructure business.
- (iv) Claims under the contract for purchasing and installing machinery and equipment, or construction contract, or a contract for the purchase or sale of products or services of an infrastructure business.
- (v) Share of the SPV (limited company or public company established with the purpose of investing in the infrastructure specified in (i) – (iv)) investing in (i) – (iv) in accordance with the criteria specified by SEC.

### **Infrastructure business**

- (i) Railway or pipeline transportation
- (ii) Electricity generation
- (iii) Waterworks
- (iv) Roads/express ways/concession ways
- (v) Airports/Airfields
- (vi) Deep sea ports
- (vii) Telecommunication, or infrastructure for Information Technology and Communication
- (viii) Alternative energy

- (ix) Water management system and irrigation system
- (x) Natural disaster prevention system
- (xi) Waste management system
- (xii) Land transport or water transport system
- (xiii) A multi-infrastructure project which includes multiple infrastructure assets of any type specified in (i) to (xii) and subject to following conditions:
  - a. Each infrastructure asset is interrelated, promoting or generating benefits to one another or to a common and/or nearby community.
  - b. Each asset is generating or expected to generate revenue that is at least 80 percent of the total income of the aggregate entity.

- **Requirements for the SEC's approval for infrastructure digital token offering**

- (i) Additional requirements for incomplete infrastructure projects
- (ii) Investment value
- (iii) Due diligence
- (iv) Appraisal
- (v) Legal formalities
- (vi) Technological feasibility
- (vii) Establishment of a trust
- (viii) Trustee



## E. Sustainability-related digital token offering

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In 2024, the SEC Office issued a set of regulations governing sustainability-related digital token offerings. The offering of the sustainability-related digital tokens will require approval from the SEC, as well as an obligation to disclose sustainability-related information specific to such offerings.

- **Sustainability-related digital token**

Sustainability-related digital tokens include:

- (i) **Green tokens** — Digital tokens issued with the objective of raising funds for environmental projects.
- (ii) **Social tokens** — Digital tokens issued with the objective of raising funds for social development projects.
- (iii) **Sustainability tokens** — Digital tokens issued with the objective of raising funds for environmental projects and social development projects.

- (iv) **Sustainability-linked tokens** — Digital tokens issued with the objective of raising funds for sustainability-promoting activities, which have one of the following terms and conditions, depending on the success or performance according to sustainability indicators and goals of digital token issuers, affiliated companies or any project: (1) Yield adjustment: and (2) Any operational obligations of the digital token issuer, which are consistent with the sustainability goals or strategies of the digital token issuers, affiliated companies or any project.

- **Requirement for the SEC's approval for sustainability-related digital token offerings**

- (i) Independent third-party evaluator
- (ii) Etc.



## F. Debt-like token offering

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**Debt-like digital tokens** are digital tokens which offer a fixed return rate, which does not vary based on the project's performance, although extra returns may be possible. The regulations require the disclosure of the project's creditworthiness and risk assessment factors to ensure that the investors have the necessary information to make an informed investment decision.



## G. Proposed rules on shelf-filing ICO

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In 2024, the SEC updated the regulations concerning the shelf filing of digital tokens. Issuers are allowed to offer multiple batches of tokens under the same shelf (i.e., a single application). Eligible tokens must have underlying or invested assets of a similar nature or related projects, as defined by the SEC. This includes the digital tokens that are related to **soft-power industries, such as music, movies, drama, and arts.**

There are no limits on the total amount or number of offerings within a two-year period from the initial approval. It is worth noting that the shelf-filing ICO will still be approval-based and regulated by other relevant ICO regulations.



## H. Relevant parties


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- **Issuer**

An issuer must obtain prior approval from the SEC Office and must file a registration statement and draft prospectus with the SEC Office before the public offering. The offering of digital tokens can only be done through an SEC-approved portal. For the digital token offerings which have been approved, please see: <https://www.sec.or.th/EN/pages/shortcut/digitalasset.aspx#issuer>

- **Portal**

Once a portal has received SEC approval, it is obligated by law to conduct due diligence, perform a screening process, and ensure the disclosure of the required information by the issuer. However, inspection of the portal is not the final stage of approval for a prospective issuer, as the SEC Office may still reject any proposed digital tokens offering project if it believes that the project conflicts with public policy, or on any other reasonable grounds.



As of 14 February 2025, the SEC had approved nine entities as licensed portals in Thailand. You may consider engaging any of these approved entities if you wish to offer digital tokens to the public in Thailand.

(See: <https://market.sec.or.th/LicenseCheck/views/DABusiness?ico/en.>)

## 2.2 Operation of a digital asset business



### A. Regulated activities

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#### Digital asset exchange

This means a center or a network established to buy, sell, or exchange digital assets by matching or arranging counterparties, or by providing a system or facilitating a person who is willing to buy, sell, or exchange digital assets, in order to enter into an agreement or to match orders in the normal course of business. However, this does not include systems or networks in the manner specified by the SEC Office.



#### Digital asset broker

This means a person who holds himself out to the public as available to be a broker or agent for any person in the purchase, sale, or exchange of digital assets to other persons in the normal course of business, for a commission, fee, or other form of remuneration. However, this does not include brokers or agents operating in the manner specified in the SEC notifications.



#### Digital asset dealer

This means a person who holds himself out to the public as available to purchase, sell, or exchange digital assets on his own account in the normal course of business, outside of a digital asset exchange. However, this does not include dealers operating in the manner specified in the SEC notifications.



#### Digital asset fund manager

This means a person who manages or holds himself out to the public as available to manage assets for other persons, in order to seek benefit from digital assets in the normal course of business. However, this does not include fund managers in the manner specified in the SEC notifications.



#### Digital asset advisor

This means a person who provides advice to the public, whether directly or indirectly, regarding the value of digital assets, or the appropriateness of investment into them, or regarding the purchase, sale, or exchange of any digital asset, in the normal course of business, for a fee or other remuneration. However, this does not include advisors who provide advice as part of, or in connection with, the operation of a digital asset exchange, digital asset brokerage, digital asset dealership, or digital asset fund management, or the provision of advice to the public in the manner specified in the notifications of the SEC.



#### Digital asset custodial wallet provider

In July 2022, the Ministry of Finance accepted and issued the principle and regulations regarding licensing requirements for operating a digital asset custodial wallet service. A digital asset custodial wallet provider is defined as a person who provides services or holds himself out to the public as available to provide one or other of the services described below, in the normal course of business, and in consideration for a fee or other remuneration.

- (i) Storing or keeping digital assets.
- (ii) Managing customers' cryptographic keys or any material that must be kept secret, for full or partial authorization of digital assets transfer or transaction approval.



Any other business designated by the Ministry of Finance (MOF). These operators must obtain a license from the MOF upon the recommendation of the SEC, and must comply with certain regulatory requirements.

For the list of licensed entities, please visit the SEC website:

<https://market.sec.or.th/LicenseCheck/views/DABusiness?exchange/en>



## **B. Exempt activities**

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Generally, all digital asset business operators are subject to licensing and regulatory requirements. However, some scenarios are exempt. For example:

- Business operations by the BOT that could be considered digital asset businesses, provided that the digital assets are issued and processed by the BOT.
- Digital asset custodial wallet businesses that provide custodial services limited to digital assets issued by the custodial service providers themselves.
- Digital asset broker or dealer that provides sale or purchase services only for digital assets, whose issuer has pegged the value against the THB at a fixed exchange rate, and has a clear mechanism to fix the value (e.g., THB-pegged stable coins, subject to their characteristics). The sale or purchase of digital assets must only be done in exchange for THB at the specified set value, and the payment must be made through a financial institution under the anti-money laundering law.

# 3

## Guideline for various types of market participants

### 3.1 Guideline for entities planning to issue digital tokens



#### A. Issuer

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- Public offering of newly offered digital tokens must be done by a company (either private or public) **established in Thailand**.
- The directors, executive directors, or persons with management power **must not have any prohibited characteristics** prescribed by the SEC Office (e.g., regarding bankruptcy or criminal offenses).
- A company intending to conduct digital token offering does not have to operate in the technology industry or apply blockchain technology to its business. However, it must have a fundamentally sound business plan with audited financial statements in compliance with the Thai Financial Reporting Standards, done by an auditor recognized by the SEC Office, or must meet the qualifications prescribed by the SEC Office.
- The company must disclose its ongoing business performance and financial statements in accordance with the regulations prescribed by the SEC Office.



#### B. Digital token

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- A digital token must be explicitly characterized as an investment token, a not-ready-to-use utility token, or a ready-to-use utility token. If the digital token is characterized as a ready-to-use utility token, the purpose of such digital token must be identified. This is necessary for further analysis of the classification of the digital token and its offering requirements.

In the case that the ready-to-use utility token is for consumptive purposes or as a digital representation of a certificate, the SEC's approval is not required for the offering.

- The source code of the underlying smart contract must be disclosed as prescribed by the SEC Office, and periodic reporting pertaining to the status and progress of the project must be submitted, as prescribed under the regulations.
- The source code in the smart contract or any other mechanism used in place of a smart contract must contain details that correspond with the information in the draft prospectus.



## C. Registration statement and prospectus

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- The issuer must file a registration statement and a draft prospectus, to obtain approval from the SEC Office before the offering. The disclosure of information and the marketing of the digital token offering must comply with the applicable regulations.
- The registration statement and draft prospectus must include important information as prescribed in the regulations; for example:
  - Fact sheet providing an overview of the characteristics of the issuer and the digital tokens.
  - Information regarding the issuer, including the intended use of the proceeds.
  - The issuer's business plan.
  - Information regarding the digital tokens, including any special characteristics and significant risks.
  - Information about the digital token offering.
  - Certification that the information described above is true and correct, signed by the personnel specified under the law.



## D. Offering process

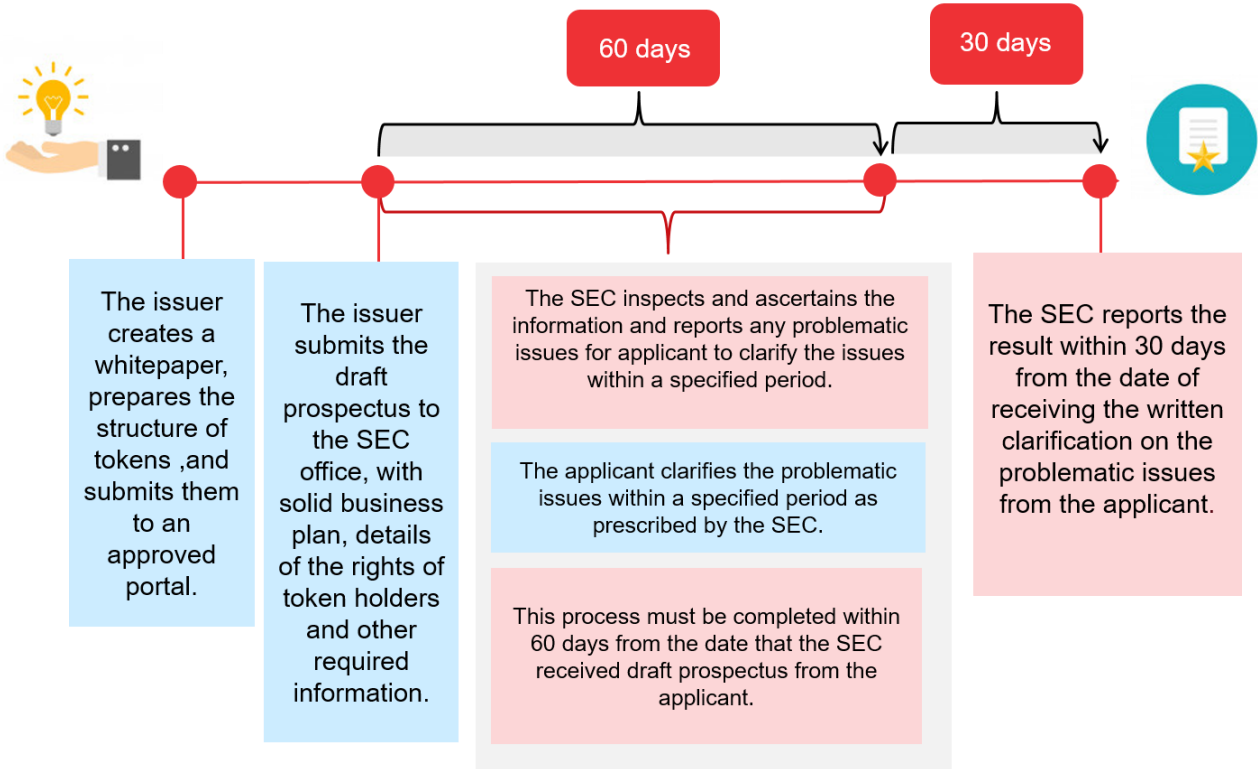
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- An offering may only be done through an approved portal and to the following investors:
  - Institutional, ultra-high-net-worth, high-net-worth investors, with no limit on investment.
  - Retail investors. The SEC Office has placed an investment limit of THB 300,000 per person per round of offering, except for the case of real-estate backed and infra-backed tokens.
  - Regarding the issuer, the offering limit for retail investors in each round of offering is the higher of  $\leq$  four times the shareholders' equity of the issuer, and  $\leq$  70 percent of the total offering amount per round.
- The issuer may receive THB or "approved cryptocurrencies by the SEC Office" (i.e., BTC, ETH, XRP, and, XLM) for payment for digital tokens.



## E. Timeline

- Action to be taken by the issuer
- Action to be taken by the SEC



## F. Offering period

The issuer must complete the sale of digital tokens within six months from the date the SEC approves the digital tokens offering.



## G. Fees

Approval application fees: THB 300,000.

- Submission of a registration statement and prospectus (filing for initial disclosure of information): THB 300,000.
- Submission of a registration statement and prospectus (filing for effectiveness): 0.05 percent of the total value of digital tokens offered for sale.

## 3.2 Guideline for entities planning to operate as an ICO portal



### A. Portal

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- A portal business must obtain prior approval from the SEC before it can begin operations.
- A portal must be a company (either private or public) established in Thailand, with registered capital of not less than THB 5 million, with a proper operation system, suitable management structure, and sufficient responsible personnel to operate the portal. The financial status of the portal operator must be good and should not pose any potential risk to its customers.
- A portal and its operation system must comply with the SEC notification regarding the security of IT systems.
- The directors, executive directors, and people with management power over the portal must not have any prohibited characteristics as prescribed by the SEC.
- A portal shall not provide service to issuers if they are related in a way that could impact on their duty performance and independence.
- The major responsibilities of portals are similar to financial advisors in traditional IPO deals, and funding portals in crowdfunding deals.

#### **Key responsibilities regarding the offering project:**

- The portal must conduct analysis to ensure the characteristics of the digital tokens to be offered, the qualifications of the issuer, the accuracy of the information prescribed in the registration statement and prospectus, and the accuracy of any information disclosed on the portal, as required by the SEC Office.
- The portal must provide opinions to the SEC on whether the offering project is fully qualified and meets the requirements prescribed by law.
- The portal must provide knowledge and advice to the issuer about its duties and responsibilities toward investors, including the applicable rules, conditions, and procedures.

#### **Key responsibilities regarding investors:**

- The portal must perform the "know your customer" (KYC) and customer due diligence (CDD) procedures for all investors, and must categorize and inform investors of their rights and limitations, and provide a knowledge test.
- Portals will be considered "financial institutions" under the anti-money laundering (AML) and counter-terrorism financing (CTF) laws, and must comply with several obligations, including KYC and CDD processes, and transaction reporting.



## B. Timeline

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- The SEC will consider granting approval for a portal within 90 days from the date the SEC Office receives the application and all of the documents as prescribed in the public manuals, from the portal.
- The portal must begin its business operations within 180 days from the date it obtains approval from the SEC.



## C. Fees<sup>1</sup>

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- Approval application fee: THB 50,000.
- Annual fee: THB 100,000.

### 3.3 Guideline for investors

- For public offerings of digital tokens:
  - Institutional, ultra-high-net worth, high-net-worth investors: No limit.
  - Retail investors: THB 300,000 per person per round of offering (except for real estate-backed and infra-backed tokens)
- Trading cryptocurrencies or digital tokens on an exchange or with a dealer or a broker: No limit.
- For investments in both the primary and the secondary market, the investor can be Thai or foreign.

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<sup>1</sup> If the applicant's business is in its first year of operation, the fee is to be paid to the SEC before the date the business commences.

### 3.4 Guideline for entities planning to operate digital asset businesses

#### A. Digital asset exchange, broker, dealer

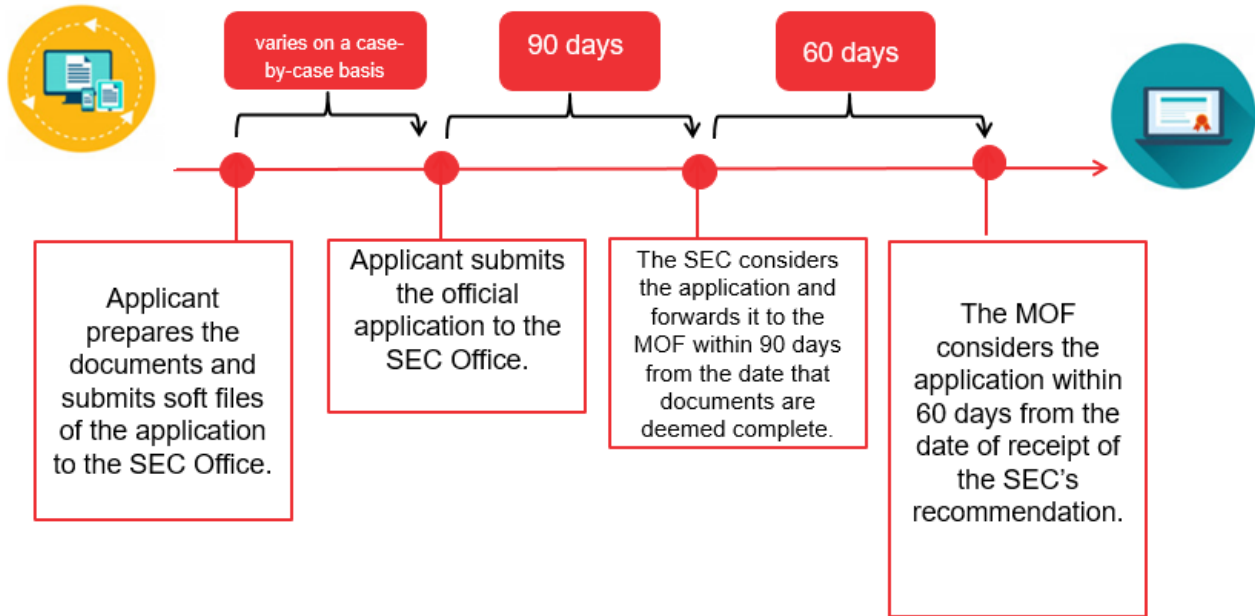
	Digital asset exchange	Digital asset broker	Digital asset dealer
<b>Required license under the Digital Asset Decree</b>	License from the MOF upon the recommendation of the SEC.		
<b>Key qualifications for license application</b>	Company established in Thailand. A digital asset exchange must not be a digital asset dealer, and vice versa.		
<b>Required paid-up registered capital</b>	<ul style="list-style-type: none"> <li>For an exchange <math>\geq</math> THB 100 million.</li> <li>For a non-asset keeping exchange <math>\geq</math> THB 50 million.</li> <li>For an asset-keeping exchange that has no ability to access or transfer customers' assets without their approval on a one-time basis <math>\geq</math> THB 10 million.</li> </ul>	<ul style="list-style-type: none"> <li>For a broker <math>\geq</math> THB 50 million.</li> <li>For a non-asset keeping broker <math>\geq</math> THB 10 million.</li> </ul>	<ul style="list-style-type: none"> <li>For a dealer <math>\geq</math> THB 10 million.</li> </ul>
<b>Net capital (NC) maintenance</b>	Exchanges, brokers, and dealers must maintain net capital as prescribed in the applicable regulations.		
<b>Consideration under AML and CTF laws</b>	The operator will be considered a "financial institution" under AML and CTF laws and must comply with several obligations, including KYC and CDD and transaction reporting.		
<b>Fees</b>	<ul style="list-style-type: none"> <li>License fee: THB 2.5 million for operating a cryptocurrencies exchange; THB 2.5 million for operating a digital tokens exchange.</li> <li>Annual fee: 0.002 percent of the total trading value; the annual fee is in the range of THB 0.5 million – THB 20 million.</li> </ul>	<ul style="list-style-type: none"> <li>License fee: THB 1.25 million for operating a cryptocurrencies brokerage; THB 1.25 million for operating a digital tokens brokerage.</li> <li>Annual fee: 0.001 percent of the total trading value; the annual fee is in the range of THB 0.25 million – THB 10 million.</li> </ul>	<ul style="list-style-type: none"> <li>License fee: THB 1 million for a cryptocurrencies dealer; THB 1 million for a digital tokens dealer.</li> <li>Annual fee: 1 percent of the profit (capital gain) from the trading; the annual fee is charged within the range of THB 0.1 million – THB 5 million.</li> </ul>
License application fee: THB 30,000 per license.			

## B. Digital asset advisor, fund manager, and custodial wallet provider

	Digital asset fund manager	Digital asset advisor	Digital asset custodial wallet provider
<b>Required license under the Digital Asset Decree</b>	License from the MOF upon the recommendation of the SEC.		
<b>Key qualifications for license application</b>	Company established in Thailand.		
<b>Required paid-up registered capital</b>	<ul style="list-style-type: none"> <li>For asset-keeping managers, or managers who provide services to non-institutional customers ≥ <b>THB 25 million</b>.</li> <li>For non-asset keeping managers who provide services only to institutional customers ≥ <b>THB 10 million</b>.</li> </ul>	<ul style="list-style-type: none"> <li>For an advisor ≥ <b>THB 1 million</b>.</li> </ul>	<ul style="list-style-type: none"> <li>For a custodial wallet provider ≥ <b>THB 50 million</b>.</li> </ul>
<b>Net capital (NC) maintenance</b>	Fund manager, advisor, and custodial wallet provider must maintain net capital as prescribed by the applicable regulations.		
<b>Consideration under AML and CTF laws</b>	The operator will be considered as a "financial institution" under the AML and CTF laws and must comply with several obligations, including KYC and CDD and transaction reporting.		
<b>Fees</b>	<ul style="list-style-type: none"> <li>License fee: <b>THB 0.5 million</b> for operating as a cryptocurrencies fund manager; <b>THB 0.5 million</b> for operating as a digital tokens fund manager.</li> <li>Annual fee: <b>0.001 percent</b> of the total value under management each calendar year; the annual fee is in the range of <b>THB 0.25 million – THB 10 million</b>.</li> </ul>	<ul style="list-style-type: none"> <li>License fee: <b>THB 15,000</b> for operating a cryptocurrencies advisor; <b>THB 15,000</b> for operating as a digital tokens adviser.</li> <li>Annual fee: <b>THB 25,000</b>.</li> </ul>	<ul style="list-style-type: none"> <li>License fee: <b>THB 1 million</b> for operating a digital asset custodial wallet provider.</li> <li>Annual fee: <b>0.001 percent</b> of the total value under custody; the annual fee is in the range of <b>THB 0.25 million – THB 10 million</b>.</li> </ul>
	License application fee: <b>THB 30,000 per license</b> .		License application fee: <b>THB 50,000 per license</b> .



### C. Timeline



The digital asset business operator must begin its business operations within 180 days from the date that it obtains approval from the SEC.

## D. Ongoing requirements for digital asset businesses

There are a number of key additional requirements that digital asset business operators should take into account.

### Custody of customers' assets

The rules on custody of assets include the following key contents:

- The use of customers' assets, fiat money, or digital assets for the benefit of another client or any other person is prohibited.
- Seeking benefits from customers' digital assets is prohibited, including in the form of deposit and lending to other persons.
- The digital asset business operator must deposit customers' fiat money with commercial banks. The digital asset business operator and the customers may agree on an interest rate not exceeding the actual rate the business operator receives from the commercial banks.
- Customers' assets must be reconciled every business day to ensure accurate and updated records of customers' assets.
- Asset-keeping business operators must keep customers' assets, which are digital assets, in a hot and cold wallet custody model, as required by the regulation. The ratio of customers' assets to be kept in hot and cold wallets (whether by itself or by a third-party custodian) will depend on the total value of the customers' assets.

### Operation of other businesses

If a business wishes to operate a new business line, it must obtain the SEC's approval before operating the new business line and must be able to demonstrate that the new business line supports the core business, and that it will not create a conflict of interest with the digital asset business, or pose a risk to the customers' assets. If the new business meets the mentioned criteria, approval from the SEC will be granted on a case-by-case basis.

### Outsourcing

A business operator wishing to outsource key aspects of its businesses must be able to demonstrate that it has implemented appropriate measures as prescribed by the applicable regulations, and the outsourcing agreement must have the substance as prescribed by the SEC.

### Listing rules

A licensed digital asset exchange is restricted from selecting and listing a digital token that has the following characteristics:

- Meme token.
- Fan token.
- Non-fungible token (NFT).
- Digital token issued by digital asset exchanges themselves or related persons, and used in blockchain transactions.
- Utility tokens that are issued for consumptive purposes or as a digital representation of a certificate.

A licensed digital asset business operator is also prohibited from providing services regarding privacy coins.

Furthermore, a licensed digital asset exchange must prescribe its delisting rules, which must include the following events as grounds for delisting:

- The issuer of the digital token fails to comply with the provisions prescribed in the white paper and relevant material rules, if the issuer is the digital asset exchange business operator or related persons.
- The issuer of the digital token fails to comply with the exchange rules.

### **Restriction on payment by digital assets**

The SEC issued a notification that prohibits licensed digital asset business operators from acting or providing any service in a manner that will promote, support, or encourage the use of digital assets as a means of payment for goods and services. The prohibition includes advertising; providing any wallet service, system, or tool that would facilitate the acceptance of digital assets as payments, and to transfer digital assets from a customer's account to another for the purpose of making payment.

### **Restriction on deposit taking and lending services**

Digital asset business operators are restricted from providing, supporting, or advertising any services that involve deposit taking and lending. The prohibition includes promising returns or benefits from depositing the digital asset with the digital asset business operator, unless;

- the staking of digital assets are part of blockchain consensus mechanism,
- it is a distribution of the digital assets received from a blockchain hard fork or soft fork and the airdrop from token issuers,
- it is a promoting activity which is in line with the SEC's marketing rules, and
- it is general information or knowledge sharing on decentralized finance.

### **Advertisements**

Digital asset business operators will be prohibited from advertising specific cryptocurrency in public spaces. Digital asset business operators may only advertise their services (rather than specific cryptocurrency), and only through their own respective official advertising channels, in order to prevent impulsive buying. Digital asset business operators are also obliged to seek the SEC's approval before running each advertisement, and to report the advertisement costs to the SEC. Furthermore, the service of an introducing broker agent for digital asset operators regarding cryptocurrency (but not digital tokens) is prohibited.

### **IT standards**

To ensure business operators' IT security, the SEC sets the rules on the establishment of information technology systems. This is summarized below:

- Establishing IT-related risk assessment criteria to define the entity's risk level, and to specify standards of IT security controls and oversight that are suitable to apply to licensed entities.
- Separating clear roles and responsibilities for departments and responsible persons, to ensure the "three lines of defense" principle.
- Setting the requirements and guidelines to be in line with international standards and financial IT regulations.

## Wallet management and key management

The digital asset operators that keep customers' assets must prepare: 1) policy and guidelines for overseeing risk management and management of digital wallets; 2) policy and procedures for developing and managing digital wallets securely; and 3) a contingency plan in case an event occurs that may affect the management system of digital wallets and keys. These requirements could be used as references for the SEC's minimum standards concerning wallet and key management. In practice, it requires a thorough review of the policies and operational systems to ensure that the business operators comply with the minimum standard set out by the SEC.

### 3.5 Guideline for entities planning to issue NFTs or operate an NFT marketplace

A non-fungible token (NFT) is a form of a digital token with unique characteristics that cannot be replaced by the same type of electronic unit and amount.

Generally, the issuance and trading of NFT is not regulated by the SEC, unless the NFT falls under the scope of digital assets as specified by the regulations. That is to say:

- (i) Is not a medium of exchange for acquiring goods, services, or any rights or exchange between digital assets.
- (ii) Does not specify the right of a person to participate in an investment in any project or business.
- (iii) Does not specify the right of a person to acquire specific goods, specific services, or any other right.

If the characteristics of the NFT deem it to be a digital asset – meaning it has any of the characteristics described in items (i), (ii), or (iii) above – (1) issuance would be subject to offering requirements; and (2) the platform allowing the sale and purchase could be considered a digital asset business, depending on the details of the platform. For this reason, a platform that acts as a marketplace could be subject to requirements under the digital asset law, such as the requirement to obtain a digital asset business license.

If the particular NFT is merely storage of the underlying digital file (such as an image, audio file, or video file) using blockchain technology, without providing any other additional right to the holder, and if it is not possible to separate the token from its underlying digital file, that NFT will not be considered as a digital asset under the SEC regulations and the Thai digital asset law.

It should also be emphasized that digital asset exchanges in Thailand are not allowed to list NFTs to be traded on their platforms.

# Part III. Anti-money laundering regulations

A licensed digital asset business operator and approved portal will be deemed to be a financial institution under the Anti-Money Laundering Act, B.E. 2542 (1999) according to the Digital Asset Decree, which creates obligations for the role of "reporting entities" (REs) under the AML laws, as summarized below.

## 4

### Know your customer (KYC) and customer due diligence (CDD)



#### 1. On-boarding process

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REs must obtain specified customer information, verify evidence, and identify customers. The fields of information required, and measures of identification and verification, differ, depending on the product or service's money-laundering risk level. REs must conduct risk assessment using specific factors provided in the Anti-Money Laundering Office ("**AMLO**") notifications.

Moreover, the AMLO Guideline on Customer Due Diligence for Digital Asset Service Providers and ICO Portals<sup>2</sup> provides examples of risk assessments for different types of digital asset service providers, ranging from low to high. Each service provider must ensure they follow the risk assessment methodology provided to establish their onboarding process.

On-boarding measures for low-risk products are simple, and can be handled by the business provider's staff manually. Meanwhile, measures for medium to high-risk products require additional information that is not available from an ID card or passport, and also require intensive measures to verify customer evidence. There are also requirements for customer identification measures to prove that the person who executes a transaction is the same person that appears in the evidence.



#### 2. Ongoing compliance requirements

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The Ministerial Regulation on Customer Due Diligence, B.E. 2563 (2020) requires REs to implement several AML measures during their business operations. These measures include maintaining AML internal policies and guidelines; identifying customers and ultimate beneficial owners; conducting customer risk assessments and risk reviews; enhancing due diligence with high-risk customers; keeping sanctions lists updated; monitoring transactions; reporting transactions that exceed certain thresholds; reporting suspicious transactions; and implementing specific internal controls.

Furthermore, the amendment of the Counter Terrorism and Weapon of Mass Destruction Financing B.E. 2567 (2024) places greater emphasis on sanction screening and prohibits REs from engaging in transactions with individuals listed as designated persons. Failure to comply may result in an RE being deemed as facilitating financial or asset transactions and subject to a fine of THB 500,000. Consequently, REs must ensure that they conduct regular sanction screenings for every customer.

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<sup>2</sup> The AMLO Guideline on Customer Due Diligence for Digital Asset Service Providers and ICO Portals (in Thai): [https://sed.amlo.go.th/uploads/content\\_attachfile/attach\\_202407081144\\_668b6eb462293.pdf](https://sed.amlo.go.th/uploads/content_attachfile/attach_202407081144_668b6eb462293.pdf)

# Part IV. BOT's Programmable Payment Sandbox

## 5

### Stablecoin Development and the BOT's Programmable Payment Sandbox

#### Early 2024: Restrictions on THB-backed stablecoins

- There is a risk that Thai baht-backed stablecoins whose value is pegged to the Thai baht and are intended to be used as a means of payment can be classified as "e-Money" under the Payment Systems Act B.E. 2560 or "material or token for money" under the Currency Act B.E. 2501.
- Persons wishing to provide services involving Thai baht-backed stablecoins are required to consult with the BOT for consideration before beginning any operations.

#### Late 2024: Programmable Payment testing project under the BOT's Enhanced Regulatory Sandbox Framework

- The BOT has a policy of promoting the development of innovations in a manner that is accountable to the economic and financial system. Therefore, the BOT has initiated a Programmable Payment testing project, which is an automated transaction with predefined conditions for the payment of goods and services. This project will demonstrate the potential for applying technology to a wide variety of financial services, accompanied by appropriate risk management processes. The testing will be conducted under the "Enhanced Regulatory Sandbox", which expands the scope of the current Regulatory Sandbox Framework to include financial innovations not yet authorized by the BOT.
- The key criteria and conditions for Programmable Payment testing are as follows:
  - (i) Electronic data units created for Programmable Payment testing must have a fixed value pegged to the Thai baht (1 unit equals THB 1).
  - (ii) Participants must clearly define the redemption rights of holders to convert electronic data units created for Programmable Payment back to Thai baht at the predetermined fixed value.
  - (iii) Participants must have risk management guidelines and technological contingency plans in place.
  - (iv) Participants must implement Know Your Customer (KYC), Know Your Merchant (KYM), and Customer Due Diligence (CDD) processes.
  - (v) Participants must have a client suitability assessment process in place.
  - (vi) Participants must implement control measures to prevent the use of electronic data units created for Programmable Payment testing for purposes outside the testing scope.
  - (vii) Test participants must refrain from promoting Programmable Payment testing in a way that could mislead users or create confusion about the service.

There are numerous prominent digital asset business players in the Thai market who are actively participating in this project. Their involvement highlights the significant strides being made in the development and adoption of digital assets within Thailand. This participation not only underscores the



growing interest and investment in digital asset technologies but also reflects the progressive regulatory environment that supports innovation in this sector. As these leading companies engage with the project, it showcases the potential for digital assets to become an integral part of the financial landscape in Thailand.

# Part V: Baker McKenzie Bangkok – FinTech and digital asset expertise

## 6 Baker McKenzie Bangkok – FinTech expertise

As one of the first to recognize the convergence of technology and financial services, we are the only law firm with an established global and local FinTech footprint, with dedicated teams of FinTech and digital law experts. We can offer a combination of expertise in the financial services market, with digital innovation capabilities.

We have been providing legal services to global, regional, and local clients in financial markets, including money markets and capital markets, in various areas. Our expertise includes, for example: financial regulations; derivatives; structured finance; wealth management; fund investment; private banking; capital market transactions; anti-money laundering; exchange control; general commercial and corporate legal issues such as the enforceability of contracts; and bankruptcy and business reorganization.

We also provide legal services to various clients involving a broad range of FinTech products.

### Blockchain



#### Businesses wishing to integrate blockchain into their services

- Prepare necessary legal documents for the purpose of operating a platform or digitizing the business.
- Identify key legal challenges and ensure compliance with the industry and technology laws, including the PDPA, electronic transactions, and cybersecurity.



#### Infrastructure platform and collaboration projects

- Design and structure the legal relationship between entities involved.
- Prepare legal documents governing the relationship between the parties and users of the platform.
- Ensure compliance with applicable laws regarding the parties and technology laws, including the PDPA, electronic transactions, and cybersecurity.

### Digital assets



#### Issuer

- Structure digital token offering and tokenization projects for legal compliance
- Prepare project documents including prospectus and white paper) reflecting commercial needs and compliance with laws.
- Consult with regulators when appropriate.



#### ICO portal

- Obtain approval from the SEC.
- Prepare legal documents and agreements for business operations.
- Structure and prepare transaction documents for digital token offering and tokenization projects, for legal compliance.



## Digital asset businesses



**Digital asset exchange**



**Digital asset broker**



**Digital asset dealer**



**Digital asset advisor**



**Digital asset fund manager**



**Digital asset custodial wallet provider**

- Obtain applicable licenses.
- Design and implement legal documents and agreements for business operations that reflect industry practices and regulatory compliance, including T&C, privacy policy, outsourcing agreements, and collaboration agreements.
- Ensure regulatory compliance applicable to each type of digital asset business, covering NC maintenance, IT security, and AML compliance.
- Maintain and implement policies for investor protection, client asset handling, and KYC and CDD procedures.

## Key clients in the FinTech sector

- Financial institutions including commercial banks and insurance companies.
- Intermediaries in the capital markets, including securities companies, fund management companies, and funds of large corporations.
- Tech companies.
- Telecom companies.
- E-commerce platforms.
- Payment platforms and payment solution providers.
- FinTech companies.
- Start-ups in digital businesses and FinTech.

# 7 | FinTech innovation

Baker McKenzie is on the steering committees for governments, and is the only law firm adviser to the World Economic Forum's "Role of Financial Services Project," a multi-year initiative exploring the effect of technology-enabled innovation on financial stability.

We take a multi-disciplinary approach to legal and commercial issues in FinTech, and can offer a combination of expertise in the financial services market, with digital innovation capabilities.

Through the dedicated global team and Asia-Pacific FinTech Group, our lawyers can handle cross-border work seamlessly, and are ahead of the curve, both market-wise and regulation-wise, through insight shared across the globe.

We have represented all types of FinTech players in global, regional, and local markets, and have experience in various FinTech products. The majority of our in-depth work began in 2012, when FinTech products began to grow rapidly in Thailand, although we have been involved in the use of technology and innovation in the financial markets since the very early days of the Firm. We have assisted the largest and fastest-growing companies in and outside Thailand on matters regarding the use of technology and digitalization in financial markets, including money and capital markets.

## **8** | **Across all FinTech areas in more than 200 legal matters during 2019-2024**

- E-payment.
- Digital banking.
- Online consumer finance.
- Online money remittance.
- Blockchain-based platforms.
- P2P lending.
- Crowdfunding.
- Robo-advisor.
- Alternative credit adjudication.
- Innovative KYC and CDD.
- Cryptocurrencies and digital tokens.
- JVs and M&As in FinTech.
- Venture capital investments in FinTech.

## **9** | **Regarding all key FinTech-related laws and regulations**

- Financial regulations.
- E-payment regulations.
- Anti-money laundering.
- Data protection.
- E-transactions.
- Exchange control.
- IP protection.
- Cybersecurity.
- Consumer protection.

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**Authors / For further information, please contact:**



**Komkrit Kietduriyakul**  
+66 2636 2000 ext. 8034  
komkrit.kietduriyakul  
@bakermckenzie.com



**Kullarat Phongsathaporn**  
+66 2636 2000 ext. 8033  
kullarat.phongsathaporn  
@bakermckenzie.com



**Phetrada Kampusiri**  
+66 2636 2000 ext. 8036  
phetrada.kampusiri  
@bakermckenzie.com



**Suthawadee Riumkidgarn**  
+66 2636 2000 ext. 8033  
suthawadee.riumkidgarn  
@bakermckenzie.com

## **Baker McKenzie delivers integrated solutions to complex challenges.**

Complex business challenges require an integrated response across different markets, sectors and areas of law. Baker McKenzie's client solutions provide seamless advice, underpinned by deep practice and sector expertise, as well as first-rate local market knowledge. Across more than 70 offices globally, Baker McKenzie works alongside our clients to deliver solutions for a connected world.

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