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Recent Developments and Future Direction

A. Recent Major Developments

Recent major developments are considered those that occurred in the bond or capital market in Thailand since the publication of the *ASEAN+3 Bond Market Guide Thailand* in August 2016. For easy reference, the developments are reflected in descending chronological order.

1. Issuance of the First Corporate Social Bond (2021) [NEW]

In November 2021, the Thai bond market witnessed the first issuance of a social bond by a non-financial institution issuer under the ASEAN social bond standards. The 5-year bond issued by Thaifoods Group is believed to also be the first nonfinancial corporate social bond in any ASEAN market. The sustainable finance framework of the company is available from the issuer's website.

2. Introduction of Bond Investor Registration (2021) [NEW]

The BOT and the SEC jointly introduced the BIR scheme in April 2021. The BIR represents an electronic registration system for nonresidents investing in debt securities and is aimed at improving information on foreign investment flows. Nonresident investors, as well as resident investors in a later phase of the scheme, need to obtain a BIR at the UBO level of the debt securities, typically via their custodian.

The introduction of the BIR concept aims to enhance data quality at the UBO level in terms of the accuracy, coverage, and timeliness of bond market activities to support timely and targeted policy measures to safeguard financial stability. The BIR is also part of the BOT's plan to improve the monitoring and effectiveness of foreign exchange surveillance and management policy under the new foreign exchange ecosystem development initiative. A summary document on the new policy framework is available from the BOT website.[22]

Please see Chapter II.M for more information on the BIR.

3. First Sustainability Bond issued by the Government of Thailand (2020) [NEW]

In August 2020, the PDMO successfully issued Thailand's first sustainability bond, with the use of proceeds aimed at financing green infrastructure and social impact projects. The issuance follows the introduction of Thailand's *Sustainable Financing Framework* 1 month earlier.

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[22] See https://www.bot.or.th/English/MonetaryPolicy/MonetPolicyComittee/MPR/BOX_MRP/BOX4MPR_BOTDevelopFX.pdf.

Please see Chapter III.B for more details on government sustainability bonds and their purposes.

4. Publication of Sustainable Financing Framework (2020) [NEW]

In July 2020, the Government of Thailand published its *Sustainable Financing Framework*. The framework defines eligible areas for the use of proceeds from green and social bond issuance, prescribes specific exclusions, the process for project evaluation and selection, the management of proceeds, and reporting.

The framework is aligned with the Green Bond Principles, Social Bond Principles, and Sustainability Bond Guidelines published by the ICMA, as well as the ASEAN Green Bond Standards, ASEAN Social Bond Standards, and ASEAN Sustainability Bond Standards. The framework is also aligned with the Green Loan Principles issued by the Loan Market Association.

The Government of Thailand's *Sustainable Financing Framework* as well as periodic verification opinion are available in English from the PDMO website.[23]

5. Introduction of Blockchain Platform for Government Savings Bonds (2020) [NEW]

On 26 August 2020, the BOT successfully issued THB50 billion of government savings bonds to retail investors in digital form, marking the launch of its new blockchain issuance platform. The new platform was aimed at increasing issuance efficiency and cutting down on the distribution timeframe for new issuances.

The initiative, referred to as the DLT Scripless Bond Project, represented a collaborative effort between the BOT, PDMO, Thailand Securities Depository Co., Ltd, ThaiBMA, and four domestic banks.

Following a successful implementation of the blockchain solution, the BOT plans to expand issuance via the platform to all other government bond types aimed at both retail and wholesale investors.

Chapter III.E contains further detail on the government blockchain issuance platform and the bond types now available on the platform.

6. Development of Digital Infrastructure Project [2019] [NEW]

In September 2019, the SEC launched an initiative to develop new digital infrastructure for the capital market that aims to connect all capital market participants, cover all fundamental activities from issuance to settlement, and support all capital market products (i.e., bonds, investment units, and equities). This initiative utilizes DLT to help transform all capital-market-related activities from their traditional operation to a complete digital infrastructure that enhances the overall efficiency of capital market services, minimizes the need for reconciliation and manual data verification, reduces risk and cost across processes for participants, enables greater transparency in business transactions, and helps regulators to quickly detect and respond to market anomalies.

This project received financial support from the Capital Market Development Fund. The digital infrastructure services were developed and are operated by the designated operator in collaboration with the Thai Bankers Association, Association of Thai Securities Companies, and Stock Exchange of Thailand. This project has already been approved

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[23] See https://www.pdmo.go.th/pdmomedia/documents/2020/Jul/KOT%20Sustainable%20Financing%20Framework.pdf.

by the Ministry of Finance and was recognized under the Third Thai Capital Market Development Plan, 2017–2021.

Currently, there are 36 market participants (both issuers and intermediaries) that have joined the project under the SEC sandbox and are developing their internal systems to support connectivity to the digital infrastructure. The first live phase will focus on corporate bonds in 2022, with the intention to further develop the digital infrastructure needed to support government infrastructure bonds and other products.

Please see Chapter III.E for more details on bond issuance via DLT platforms in Thailand.

7. Adjustment to the Measures to Prevent Thai Baht Speculation (2019) [NEW]

In July 2019, the BOT lowered the amount that daily Thai baht balance nonresident account holders are able to maintain across all cash accounts with domestic financial institutions from THB300 million to THB200 million.

Chapter II.M has more information on the details of the adjustment and other related measures to prevent Thai baht speculation implemented by the BOT.

8. Sustainable Finance Initiative (2018) [NEW]

The SEC introduced a regulation to allow issuance of green, social, and sustainability bonds in late 2018. This marked the first step to promote sustainable bond market development in Thailand.

The SEC considered that sustainable debt instruments were not new types of instruments but rather were debt instruments with specific use of proceeds related to projects that contribute to positive environmental and social outcomes. Therefore, existing regulations applicable to issuance of debt securities were used to supervise the issuer of such sustainable debt securities in addition to the requirement to comply with international standards and practices. To further develop the capital market's key role in contributing to solving social and environmental issues and promoting sustainable development of businesses in various industries more extensively through the alternative sustainable finance product, the SEC has issued regulations related to issuance and offer for sale of SLBs in May 2021. Similar to green, social, and sustainability bonds, these SLB regulations are in accordance with internationally recognized standards and also made reference to conventional debt securities regulations.[24]

9. Changes to the Private Placement to Accredited Investors Regime (2018) [NEW]

Effective 1 April 2018, the SEC revised the types of issuance and offerings of debt securities via private placement from the original PP-AI concept into a distinction between offers to institutional investors and offers to HNWs.[25] Both types of investors had been part of the original definition of Accredited Investors (professional investors) published by the SEC in 2009. The actual definition of professional investors remained unchanged.

[24] See Resource Center for Sustainable Development Bonds. Laws and Regulations. https://www.sec.or.th/TH/Pages/LAWANDREGULATIONS/RESOURCECENTER.aspx.
[25] Private Placement Scheme under the Notification of the Capital Market Supervisory Board No. Tor Jor. 17/2561 Re: Application and Approval for Offer for Sale of Newly Issued Debt Securities, effective on 1 April 2018.

The revised scheme differentiates parts of the approval process, credit rating requirements, and post-offering obligations for offers to institutional investors and those to HNWs. In addition, the latest scheme makes offers to both institutional investors and HNWs eligible to be issued under the MTN program introduced by the SEC at the same time (see also item 10).

Details of the changes from PP-AI to the latest private placement issuance and offering scheme, and a comparison between the private placement issuance types, can be found in Chapter III.E.

10. Introduction of Bond Issuance Program (2018) [NEW]

After detailed deliberations, the SEC in April 2018 introduced the ability to issue debt securities via an MTN program. The program issuance is available for all issuance forms, whether public offering or private placement, and requires the issuer to actively report material changes to its financial and business conditions during the tenure of the issued bonds.

Chapter III.E contains further details on the program's issuance, while the material change criteria are explained in detail under continuous disclosure requirements in Chapter II.G.

B. Future Direction

1. Public Consultation on Regulatory Guillotine Scheme

The SEC recently concluded a public consultation on a regulatory guillotine scheme for bond market regulations.[26] Several changes to regulations can be expected starting from January 2023. According to the SEC, the objectives of the regulatory guillotine scheme are to improve the efficiency and effectiveness of the oversight of debt securities offerings, as well as to reduce the burden on the issuer while maintaining an appropriate level of investor protection. Specifically, the public consultation was aimed at improving debt instrument supervision regulations by (i) reducing the number of regulations granting permission to offer debt securities for sale to a minimum,
(ii) updating the rules to ensure they are consistent with other types of instruments without unduly burdening the debt issuer, and (iii) clarifying and simplifying the rules to create an easy-to-understand regulatory environment. The public consultation paper included the following major items as described below.

a) Reducing the Number of Regulations Granting Permission to Offer for Sale Debt Securities to a Minimum

There are currently a plethora of rules and regulations governing the approval for sale of debt securities, the majority of which contain similar content. The only difference is in minor details such as currency, issuer type, and instrument type. This creates confusion and redundancy among debt issuers and market participants. Additionally, there was a problem with the inconsistent application of terminology across regulations.

[26] The text provided is based on SEC consultation documents available only in the Thai language at https://www.sec.or.th/Documents/PHS/Main/748/hearing322564.pdf. While it has been translated for the purpose of this update note by the ABMF SF1 team, the document may not be available permanently.

The SEC discovered that there are currently 13 regulations governing the offer for sale of debt securities, 11 of which are similar in content and could be consolidated. Additionally, this would facilitate resolving inconsistencies between relevant regulations. The proposed regulation will cover all types of debt instruments issued in Thai baht and in foreign currency in the domestic market.

b) Updating the Rules to Ensure They Are Consistent with Other Types of Instruments without Unduly Burdening the Debt Issuer

Currently, approval criteria for debt instruments and equity securities are similar, particularly on major issues such as the issuer's financial standards (for public offerings), director and executive qualifications, and prohibited characteristics of the issuer. However, it was discovered that the regulations for both instruments contained inconsistencies in their wording, which could cause difficulties in subsequent interpretation.

Meanwhile, the SEC is also revising its definition of an investor. This will almost certainly have an impact on most of the regulations governing the offer and sale of debt securities. Additionally, certain regulations should be revised to ensure that they are consistent with others. For example, the regulation governing financial institutions' issuance of subordinated debt instruments to meet Basel III regulatory capital requirements does not yet align the issuer's qualifications for an offering to HNWs and the public with those for other debt instruments.

Going forward, the SEC will amend relevant debt instrument regulations to incorporate the SEC's proposed new investor definitions, which will take risk and complexity into account. The definitions of private placements to 10 persons (PP10), institutional investor, ultra-HNW and HNW definitions will be amended. Additionally, the SEC will revise relevant regulations to ensure consistency, such as those governing the offer and sale of Basel III instruments and *sukuk*.

c) Clarifying and Simplifying the Rules to Create an Easy-to-Understand Regulatory Environment

The SEC will simplify certain rules and regulations to make them more understandable and use plain language to eliminate any ambiguities. For example, the notification of approval for the sale of debt securities contains no information about the approval's validity for domestic issuance. The approval for the sale of equity and debt securities in foreign markets, on the other hand, must be completed within 6 months of the date of approval. As a result, many issuers fail to issue securities even after the SEC has granted approval. To ensure consistency with other comparable regulations and to provide clarity to issuers and their advisors, the SEC will require the issuer to complete the debt securities issuance within 6 months of the approval date (which can be extended once). In the case of an MTN for public offering, the new regulation states that the issuer must meet all requirements for the public offering, even if the initial series under such an MTN program will be offered to institutional investors. For example, the issuer is required to appoint an intermediary, even though that is not required under current regulations if the first series of the MTN program is offered to institutional investors.

While the SEC is revising its definition of an investor, it is also considering revising certain requirements under the current PP10 regime to ease the burden on issuers. As a result, the SEC intends to make fundraising easier for issuers by exempting PP10 offerings from the following criteria: (i) an issuer with no history of mismanagement of the use of proceeds within the preceding 2 years prior to the date of application submission, and (ii) the submission of a resolution of the shareholders' meeting or the board of directors prior to the offering of debt securities.

To accommodate the changing market environment and to increase investor protection, the SEC is considering providing clarity on the issuance process for secured bonds and the use of collateral. At the moment, debt instruments can be collateralized by the issuer's assets or a legally enforceable guarantee that must be maintained throughout the life of the debt instrument and is specified exclusively for the public offering. The SEC believes, however, that it is appropriate to expand the collateral feature applicable to both HNWs and public offerings to reduce the risk of collateral being lost if the issuer experiences financial difficulties or defaults on payments. According to the consultation paper, when collateral is used, this does not include the issuer's shares. When a guarantee is required, the guarantor must be a legal entity. Additionally, the SEC intends to prohibit the use of guarantor ratings in lieu of issue ratings in the public offering of long-term debt securities. According to the SEC, issue ratings provide investors with accurate and comprehensive information that aids in their decision-making.

The SEC is considering simplifying the issuance process of structured notes. At present, there are different rules and regulations governing the issuance of structured notes by various types of issuers. This adds complexity and confusion to the market, which may result in unintentional violations of rules and regulations. In light of this, the SEC is considering extending the approval period for structured notes issued by financial institutions to 2 years. These products can be offered to all types of investors and include both short- and long-term securities. This 2-year period is consistent with current regulations that permit corporations and limited companies to sell structured notes to the general public. Meanwhile, the filing document for structured notes will be consolidated into a single form, Form 69-SN. This form will be divided into two sections: (i) Form SN-1, which will contain information about the issuer, including the characteristics of the initial issue; and (ii) Form SN-2, which will contain additional characteristics and any material changes in the issuer's status. When capital-protected structured notes are offered for sale to the general public, an issuer rating or guarantor rating is required to provide investors with additional information for making investment decisions.

The SEC proposes that an announcement on the above will take effect concurrently with the implementation of the new investor definitions, which are currently under development and expected to be implemented within 2022.