

Oversight Framework of the Financial Market Infrastructures of Capital Market

1. INTRODUCTION

The Securities and Exchange Commission (SEC) has a duty to supervise and develop the Thai capital market to ensure an efficient and orderly market. The financial market infrastructures (FMIs) in facilitating of the securities depository, clearing, and settlement on securities and derivatives in conjunction with the trading system of the Stock Exchange of Thailand are critical components to a well-functioning capital market. An effective functioning of FMIs are essential to financial system stability and integrity. It is therefore important for the SEC to establish an effective oversight framework to oversee FMIs. The objectives are to ensure investor protection, a fair, efficient and transparent market as well as effective control of systemic risk. The SEC is committed to adopt the CPSS-IOSCO Principles of Financial Market Infrastructures in performing an oversight of FMIs in Thailand.

2. AUTHORITY

2.1 Legislative Power

By virtue of section 219, 220, 223 of the Securities and Exchange Act B.E. 2535 (1992) and section 75, 76 of the Derivatives Act B.E. 2546 (2003) has endowed the SEC with power and duty to supervise FMIs operating in the capital market. Furthermore, the Capital Market Supervisory Board was established with power to prescribe rules, conditions and procedures overseeing securities and derivatives businesses including FMIs operations.

2.2 Market Supervision Department

The oversight of FMIs within the SEC is performed by the market supervision department. The department consists of capable team members with experiences in overseeing core functions of central securities depository (CSD), securities settlement system (SSS), and central counterparties (CCP). The market supervision department upholds high confidentiality and any conflict of interest are eliminated to achieve an effective oversight of FMIs.

3. SCOPE OF OVERSIGHT

The scope of oversight prescribed in the FMIs Oversight Framework refers to authorised or licensed CSDs, SSSs, and CCPs operated under the Securities and Exchange Act B.E. 2535 (1992) and the Derivatives Act B.E. 2546 (2003). The Thailand Clearing House Co., Ltd. and the Thailand Securities Depositories Co., Ltd. incorporated by the Stock Exchange of Thailand are also subjected to the FMIs Oversight Framework.

4. OVERSIGHT APPROACH

4.1 Risk-based Approach

The oversight of FMIs follows a risk-based approach. The SEC utilises a variety of techniques to regularly analyse, monitor, and evaluate FMIs operations and stability. The focus is on supervising high risk areas such as legal risk, credit risk, liquidity risk, operational risk, and the effects from regulatory changes and new technologies.

The oversight of FMIs is conducted through the following methods:

- **Off-site reviews and continuous monitoring**

The SEC employs off-site reviews and continuous monitoring as main tools to supervise FMIs.

(1) Self-assessment:

Self-assessment prepares the SEC for an on-site assessment. FMI operators must complete self-assessment questionnaires and provide information to enable the SEC to evaluate risks and identify focus issues for upcoming on-site assessment.

(2) Information requests:

The SEC may require FMI operators to submit reports and/or documents providing information to assist the SEC in supervising FMI operation to meet the regulatory objectives. The topic may include members' compliance, risk management measures, IT security and BCP.

(3) Notification of significant change:

FMI operators must notify the SEC upon any material changes to the system. Changes in new technologies, members' rules and risk management measures must be notified by the FMI operators for the SEC to evaluate any effects the changes may have on the capital market.

- **On-site assessments**

On-site assessments will be held regularly on an as required basis to observe first-hand how FMIs are operated and controlled. The issues to be assessed will be high risk areas identified from off-site reviews and FMI auditor's report. The scope may include key risk management, business operations, system stability and security. The frequency of on-site assessments varies depending on risk exposure with focus on areas of weakness and concern. On-site assessment report will be reported to the SEC's top management and communicated with the FMI operators with recommendations for improvement.

- **Auditor's reports**

Internal and external auditor's report assists in the evaluation of FMIs. The SEC requires FMI operators to submit an independent internal or external auditor's report on financial statement and IT systems stability on an annual basis.

- **Meeting with the management of FMI operators**

Regular meetings will be held between the market supervision department and FMI operators. The purpose of the meeting is to provide an opportunity to discuss policy updates and assessment findings to identify any gaps on regulatory objectives. Meeting minutes will be prepared to inform the SEC's top management on significant matters.

- **Follow-up actions**

On-going two-way communication acts as an important follow-up measures to monitor and evaluate the performance of FMI operators to meet with the SEC's assessment recommendations. The results from changes to the systems, regulations, procedures and

business operations adopted by FMI operators will be monitored and any shortcomings will be communicated by the market supervision department.

4.2 Co-operative oversight

To ensure an effective oversight of FMIs in Thailand, co-operation with other domestic regulator are established. The SEC has signed a memorandum of understanding (MoU) with the Bank of Thailand (BOT) as regulators of FMIs in Thailand; consisting of the BOT's payment systems and the SEC's CSDs, SSSs, and CCPs. The MoU facilitates communication between the two regulators on FMI policies, regulations, exchange of information and measures on incident handling and crisis management to control systemic risk from interdependencies between the two systems.
