

SEC Oversight of Securities Short Selling

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The Securities and Exchange Commission (SEC)

Short selling is a mechanism that enhances market efficiency and is part of the price discovery process. To make a short selling transaction, investor must borrow shares from a securities company to prevent failed trades and must later repurchase and return those securities to the securities company. However, short selling transactions may cause negative impacts on market conditions and investor confidence.

over the years, to ensure market stability and minimize adverse effects on short selling transactions, the SEC has approved the Stock Exchange of Thailand (SET)'s measures, namely (1) restricting short selling for the securities on the SET approved list only, (2) requiring securities companies to flag the "S" sign on the shares on short selling orders to ensure proper verification, (3) establishing price rules to allow short selling transactions only at prices equal to or higher than the latest market price (zero uptick rule) to prevent price dumping, and (4) disclosing relevant information to assist investors in making informed investment decisions.

In this context, the SET's Board of Governors may adjust and implement the above measures in any event that affects or may affect the overall securities trading conditions, or in case of emergency that has or may have an adverse effect on the SET's operations. In this regard, the SEC has been closely monitoring the situations and collaborating with the SET to allow the SET to act and consider adjusting the existing measures to align with the current situations.

For example, revising the price rules to allow short selling at a price higher than the latest market price (uptick rule). If the existing measures are deemed insufficient, the SET may review the situation and propose for the SEC's consideration of approval.

The SEC has continuously monitored the SET's operations, including the possibility of naked short selling transactions without actual securities borrowing, which is currently a matter of public concerns. Currently, the SET's inspection system operates on a risk-based approach and the level of examination strictness increases according to the higher level of risk. In case of non-compliance with the above measures, the SET has the power to impose penalties.

Moreover, in cases where short selling transactions, whether originating from foreign or domestic activities, cause the prices to deviate from the normal market conditions, the public can rest assured that the SEC can and will take legal action against wrongdoers. This includes imposing penalties on any securities firm that gets involved or colludes with the commission of such offense.

Furthermore, the SEC has issued regulations and reviewed operations of securities firms to ensure that they have work systems in place to manage securities trading orders, including short selling transactions by their clients. This oversight aims to check whether clients possess or have borrowed securities before placing selling orders in compliance with relevant regulations. In any case, the SEC will apply stricter inspection and review of securities companies' work systems in carrying out these operations under current circumstances.

The SEC places high importance to the current issue related to short selling, which could weaken confidence in the capital market. Constant and thorough reviews of relevant operations have been proceeded in collaboration with all sectors involved, especially transactions with high risks and potential incentives for naked short selling that undermines market confidence. This includes program trading or algorithmic trading as the current high trading volumes are largely driven by low transaction costs and the potential for profits in narrow price ranges. In this regard, the SEC has coordinated with the SET to establish mechanisms for scrutinizing securities trading orders placed through such systems. This is to identify the end beneficiaries and enhance the efficiency of transaction scrutiny and law enforcement while building trust in program trading or algorithmic trading, which helps to increase the overall market flexibility.

In addition, the SEC is currently exploring the suitability of implementing alternative measures such as alternative price rules that automatically impose the uptick requirement. However, before any new approach can be introduced, it must undergo a public hearing where stakeholders from all sectors are encouraged to give comments and suggestions. Both pros and cons will be thoroughly considered to maintain a balance in terms of investor protection and competitive edge in the international arena. The SEC remains vigilant in fulfilling its roles and responsibilities, ensuring that illegal activities are not tolerated. The public and stakeholders can rest assured that the SEC's inspection systems and law enforcement against wrongdoers are in place to address challenges and maintain trust and confidence in the Thai capital market.
