

Building Capacity for Enforcement of Market Abuses

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Good Morning Ladies and Gentlemen

It is a great pleasure for me to extend a warm welcome to all of you to the training program on “Building Capacity for Enforcement of Market Abuses”.

In this four-day program, we will learn and share experiences in fighting market abuses with experts and distinguished speakers from securities regulatory bodies in Asia, Europe and the United States.

Enforcing against market abuses is extremely important for any capital market. There is no way one can build up and retain investors’ confidence otherwise, especially in these days and age when investors have a choice of capital markets worldwide.

Thailand’s approach

To combat market abuses, the Thai SEC has implemented several measures which I would like to address some of them here.

Firstly, we make sure that the Stock Exchange of Thailand (SET) acts effectively as the front line regulator. They have long had a good electronic system to monitor the trades.

What we have ensured through our regular examination is that they should also have a good process to pick out the transactions without prejudice. And that any decision to drop a case or to continue with a case is made without bias.

The SET has the power to temporarily suspend intraday net settlement of any securities suspected of being manipulated, as well as to exclude any securities from margin lending. Last year, the SET exercised this power over 8 stocks, mostly small cap stock.

For insider trading, the SET also monitor trades that are related to events that affect share prices. On both issues, they will conduct preliminary investigations and refer to us if they think there is a violation of the law.

Secondly, whenever any news about a listed company leaks out, or whenever a rumor about its operation circulates the trading floors, the SET shall immediately demand the company to confirm or deny it. We also monitor to ensure that companies do not deny something one day just to do the opposite the next.

Thirdly, we have placed greater emphasis on market intermediaries to themselves monitor the behavior of their sale representatives. We have found that

sale representatives sometimes failed to perform adequately in their profession. We now require securities brokers to beef up their compliance units.

They are now also required to record all telephone conversation between sale representatives and their customers in the attempt to suppress the spreading of rumors.

Finally, we regularly published a weekly list of stocks that have high turnover ratios compared to their free floats. The list was designed to provide a basic warning for investors' decision making.

How successful have we been? To confess the truth, not much as much as we would like.

In our 15 years history, we have investigated 119 cases of manipulation. We have succeeded in levying fines in only 16 cases to the amount of Bht 30 million (approx US\$ 800,000).

We were able to file charges for only 8 cases, five of which have passed through the court of law. And not all of the judgment went in our favor.

We have been more successful on insider trading cases because most result in fines. Last year we fined 4 cases on insider trading to the amount of Bht 20 million (approx US\$ 500,000).

Further challenges

We are facing even more challenges regarding manipulation cases. Previously there was just one mastermind that controlled the trades.

We were able to trace the flows of cash to and from, linked to that mastermind, whether it was trade settlement or remittance of profits. These were the main planks of information that we used for successful prosecution.

Nowadays, however, manipulation is done not with just one mastermind, but within a group of syndicate. Members of the syndicate tended to be wealthy themselves, hence require no movement of cash between members of the syndicate.

The only tell tale pattern is that members of the syndicate tended to buy and sell about the same time. They ramped prices and sold out.

But unless one can prove any connection or collusion between members of the syndicate, their trades do not look much different from normal trades by people unrelated to each other.

In other countries, I have heard that a part of this syndicate may even reside outside the country, making it even more difficult to gather evidence and to build up a case that can link them together.

Even on insider trading, we have problems. Our law as drafted is too narrow. It applies only to the information the trader obtained in connection to his position within the listed company. It does not cover information that he might obtain

in his capacity as a controlling shareholder of the company. It also does not cover information obtained in policy formulation by government officials. We are therefore looking at amending the law to correct all this.

Importance of Capacity Building

Ladies and gentlemen

In coping with market abuses, knowledge and experience sharing among regulators is a must. Successful cases in one country would help others to solve the same problems. At the same time, unsuccessful cases in one country would be a guideline to avoid similar failure in others.

I am certain you will find the next few days highly informative and trust you will not miss the opportunity before you return home, to explore Bangkok, a City of Angels, one of the loveliest cities in the world.

Thank you very much