

Market Consultation

**Regulatory Enhancement of Trusts, Property Funds,
and Infrastructure Funds and Revision to the Rules
for Listed Companies Subject to Possible Delisting**

Consultation period ends on
August 14, 2024

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Executive Summary

The Stock Exchange of Thailand (“SET”) has reinforced the supervision to assure transparency, enhance confidence, and ensure fairness for all types of investors. This is in accordance with the SET’s strategic plan to foster sustainable growth in the Thai capital market. In the first quarter of 2024, SET has enhanced supervision of listed companies to be more rigorous while ensuring investors have sufficient information and more extensive warning signs. The qualifications of companies to be newly listed on SET and mai (“New Listing”) were also amended, which will take effect from January 1, 2025.

In this consultation paper, SET would like to invite comments on proposed amendments as follows:

1. Introduce the warning signs on trusts, property funds, and infrastructure funds (collectively referred as “funds”): SET proposes to enhance regulatory measures on funds by adopting warning signs to provide investors with more information in connection with funds’ associated risks e.g., financial position, operating results, liquidity in trading or any non-compliance with the rules.

2. Revise the rules for listed companies subject to possible delisting: SET revises the qualifications of companies requesting for trading resumption after resolving grounds for delisting to have stronger financial position and operating results, which are in line with the amended qualifications of the New Listing.

The consultation period of this paper will end on August 14, 2024. Please submit your feedback by completing the questionnaire on this link <https://forms.gle/y6rihjtzuhs8rd8>

Should there be any questions or further clarifications needed, please contact the Market Policy Department Tel. 02-009-9362 or E-mail to MarketSupervisionPolicyDepartment@set.or.th

Proposed Amendments

Part 1: Regulatory Enhancement of Trusts, Property Funds, and Infrastructure Funds

Current Regulation

SET currently has regulatory measures on trusts, property funds, and infrastructure funds (collectively referred as “funds”) which are a temporary trading suspension or delisting funds not suitable for listing. However, there are no warning signs to alert investors about circumstances that may affect funds’ financial position, business operation, liquidity in trading, and any non-compliance with the rules which could lead to trading suspension or delisting.

Question 1: Introduce ‘Caution’ signs in case a fund has risks or circumstances that might affect its financial position, operating results, liquidity in trading, or where there is any non-compliance with the rules

1. To ensure that investors receive sufficient information and warn them to be more cautious in investment, SET proposes adding the warning signs on funds which might have difficulties in their financial position, operating results, trading liquidity, or do not comply with the rules. The signs are similar to those applied to listed companies with some modifications to be suitable for the nature of funds as follows:
 - **CB (Business) sign** to warn of financial position or operating results
 - A fund has no business, which considered from the reviewed quarterly financial statements.
 - A fund has net losses (Net Investment Income is less than 0), which considered from the audited annual financial statements.
 - A fund is called default in loan agreements e.g., by a financial institution or there is an event of default in its debt securities.
 - The court accepts a petition for business rehabilitation or bankruptcy in case of infrastructure funds and property funds.
 - **CS (Financial Statements) sign** to warn of financial statements
 - The auditor issues a disclaimer of opinion on the financial statements.
 - The Securities and Exchange Commission (“SEC”) has ordered a fund to rectify its financial statements or arrange a special audit.
 - **CC (Non-compliance) sign** to warn of any non-compliance with the rules
 - A fund is in the process of dissolution as prescribed by the SEC’s rules, for example, when a fund has disposed its core assets and the remaining value is less than the amount stipulated in the SEC’s rules.
 - **CF (Free Float) sign** to warn of a free-float deficit
 - In the case a trust and infrastructure fund has free float less than 15% of its listed units.

Once the sign is posted upon occurrence of the aforementioned circumstances, investors shall purchase the fund through a cash balance account (100% cash prepaid account). Also, the fund is required to hold a public presentation meeting within 15 days to provide information to investors and concerned persons about a plan to resolve the problems, and to arrange such a meeting every quarter to report the progress. These requirements are same as those applicable to the listed companies.

2. SET proposes not to add grounds for delisting a fund in relation to their financial position or business results. This is because the SEC requires that these funds must be listed; therefore, if they are delisted, they have to be dissolved thereafter, which we believe that this might affect investors. It is unlike companies where they can continue to operate their business without their listing status. Please note that the current delisting rules regarding funds' financial statements or SEC's dissolution requirements remain unchanged.

Summary of the criteria of the warning signs (proposed enhancements) and delisting criteria (current regulations) (The proposals are marked in blue letters.)

Funds with risks	Funds' delisting criteria (NC, SP)
<p>Financial Position / Operating Results (CB)</p> <ul style="list-style-type: none"> • No business due to lack of operating income in any quarter. • Annual Net Investment Income < 0 • Default called by a financial institution / in the event of default by debt securities • The court accepts the application for business rehabilitation / bankruptcy. 	
<p>Financial Statements (CS)</p> <ul style="list-style-type: none"> • The auditor issues a disclaimer of opinion on financial statements. • SEC has ordered the funds to rectify financial statements or arrange a special audit. 	<ul style="list-style-type: none"> • The auditor issues a disclaimer of opinion for 3 consecutive years. • Late submission of financial statements / adverse financial statements / late submission of special audit report for more than 6 months
<p>Non-compliance (CC)</p> <ul style="list-style-type: none"> • The funds are rectifying the causes of dissolution as prescribed by the SEC e.g. to reinvest in new assets after disposal of the core assets. 	<p>Trigger the causes of dissolution as prescribed by the SEC, e.g. disposal of the core assets and unable to resolve the issues</p>
<p>Free Float (CF)</p> <ul style="list-style-type: none"> • Unable to meet free float requirements (15%) in case of trust and infrastructure fund 	<p>Trigger the cause of dissolution as prescribed by the SEC where there are less than 35 unitholders.</p>

Part 2: Revision to the Rules for Listed Companies Subject to Possible Delisting

Current Regulations

When a listed company has difficulties in their financial position or operational performance and is subject to possible delisting, the company shall resolve the problems and resume trading within the specified period, which comprises of 2 stages as follows:

- Stage 1: Period for the elimination of the grounds for delisting
- Stage 2: Period for the repossession of qualifications to resume trading. A listed company may apply for trading resumption when the company has met all qualifications. This is to ensure that the company has a strong financial position and operating results in terms of shareholders' equity, profits as well as other qualifications which are equivalent to the New Listing qualifications.

However, if the listed company is unable to fulfill the requirements within the specified period, the company may request for an extension of rehabilitation period.¹

Question 2: Revision to the qualifications in order to resume trading and to request for an extension of the rehabilitation for the companies subject to possible delisting

The companies, subject to possible delisting due to their financial position and operational performance, should have a strong financial position and performance similar to the New Listing, in order to resume trading. Since the amended New Listing requirements will become effective on January 1, 2025, SET proposes to amend the requirements for companies to resume trading to be in line with the amended qualifications of the New Listing. (The proposals are marked in blue letters.)

Resume Trading		
(Unit: Million Baht)	SET	Mai
Net Profit for the latest 1 Year / 4 Quarters	30 75	40 25
Shareholders' Equity	300 800	50 100

In addition, under the current regulations, the listed companies granted an extension are required to have a net profit of at least 10 million baht for the latest year or 4 quarters, or a shareholders' equity of at least 50 million baht. SET proposes to amend [the requirements for net profit and shareholders' equity in order to grant an extension to be at least 25 million baht and 100 million baht, respectively.](#)

To minimize impact on the listed companies currently in the rehabilitation period of possible delisting, these revisions shall be applied to the listed companies subject to possible delisting and enter the rehabilitation period after these amendments become effective.

¹ In case of the following grounds of possible delisting (1) Financial conditions or operational performance not meeting requirements
(2) Cash Company

Summary of the conditions and periods for rectifying qualifications of listed companies subject to possible delisting due to the financial conditions or operational performance or Cash Company
(The revisions are marked in blue letters.)

Grounds for Delisting	Stage 1 Period for the elimination of the grounds of delisting	Stage 2 Period for the repossession of qualifications to resume trading
<p>Financial conditions or operational performance not meeting requirements</p> <ol style="list-style-type: none"> Equity < 0 Cessation of operation The auditor issues a disclaimer of opinion for 3 consecutive years. Annual operating income for 3 consecutive years SET < 100 million Baht mai < 50 million Baht 	<p>Resolve the grounds for possible delisting within 3 years (and may request for an extension of 1 year) pursuant to each of the grounds as follows:</p> <ol style="list-style-type: none"> Equity > 0 Having business operation Annual financial statements shall not contain the auditor's disclaimer or adverse opinion. Operating income in the cumulative period or latest year SET ≥ 100 million baht mai ≥ 50 million baht 	<p>Meet all qualifications as follows within 2 years (and may request for an extension of 1 year)</p> <ol style="list-style-type: none"> Equity SET ≥ 300800 million Baht mai ≥ 50100 million Baht Profit from the main business for the period of 1 year or 4 quarters SET ≥ 3075 million Baht mai ≥ 1025 million Baht Financial position and operating performance are stable considered from cash flow, operating income, and retained loss Pass qualifications for maintaining the listed status Free Float ≥ 15% and 150 shareholders Debt restructuring > 75% No longer under the rehabilitation in accordance with the bankruptcy law as approved by the court.
	<p>To request for an extension of the rehabilitation period, the company must meet all qualifications as follows:</p> <ol style="list-style-type: none"> Equity ≥ 50100 million Baht or net profit from the core business for 1 year or 4 quarters ≥ 1025 million Baht; Has a core business that will continue to operate the business; Has clear plans for resolving the delisting grounds and making progress in action; and 	

Grounds for Delisting	Stage 1 Period for the elimination of the grounds of delisting	Stage 2 Period for the repossession of qualifications to resume trading
	4. All directors, executives, and controlling persons who do not have any prohibited characteristics as prescribed by the SEC and the company has fully complied with information disclosure rules.	
Cash Company	Resolve the ground of delisting by having a core business, which will continue to operate the business within 1 year.	The company must repossess the New Listing qualifications to resume trading, except for the free float requirements where the company is required to maintain $\geq 15\%$ and 150 shareholders, within 1 year (and may request for an extension of 1 year).
	-	To request for an extension, the company must meet all qualifications as follows: <ol style="list-style-type: none"> 1. Equity ≥ 50 100 million Baht or the net profit from the core business during a 1-year period or 4 quarters shall be ≥ 40 25 million Baht. 2. Has clear plans for resolving the delisting grounds and making progress in action; and 3. All directors, executives, and controlling persons do not have any prohibited characteristics as prescribed by the SEC and the company has fully complied with information disclosure rules.

Questionnaire

The Stock Exchange of Thailand (SET) invites comments on this consultation paper. To submit written comments, please complete the questionnaire that can be accessed via the link <https://forms.gle/y6rihjtzuhs8rd8> or submit this form to E-mail MarketSupervisionPolicyDepartment@set.or.th

1. General Information

Name _____
Company name _____ (Symbol _____)
Position _____
Contact number _____
E-mail address _____

Category of the respondent (You may choose more than one.)

- Listed Companies / Issuer Securities / Financial Advisory Companies
 Legal Advisor Individual Investors
 Institutional Investors Other (Please specify)

The Stock Exchange of Thailand will process your personal information for the purpose of public hearing. Your personal information will be protected under the privacy notice of the Stock Exchange Group. Learn more details from <https://www.set.or.th/en/privacy-notice>.

2. Questions (If you agree but the details are otherwise, or disagree, please give reasons for your view.)

Question 1: Regulatory Enhancement of Trusts, Property Funds, and Infrastructure Funds

Do you agree with the proposed measures by adding the warning signs (e.g. CB, CS, CC, CF) on funds which might have difficulties in their financial position, operating results, trading liquidity, or not comply with the rules?

<input type="checkbox"/> Agree	
<input type="checkbox"/> Agree, but the details are otherwise	(Please explain)
<input type="checkbox"/> Disagree	(Please explain)
Further suggestions:	

Question 2: Revision to the qualifications in order to resume trading and to request for an extension of the rehabilitation for the companies subject to possible delisting

2.1 Do you agree with the amendments of the qualifications in order to resume trading for the companies subject to possible delisting? (The proposals are marked in blue letters.)

Resume Trading		
(Unit: Million Baht)	SET	mai
Net Profit 1 year / 4 quarters latest	30 75	40 25
Shareholders' Equity	300 800	50 100

<input type="checkbox"/> Agree	
<input type="checkbox"/> Agree, but the details are otherwise	(Please explain)
<input type="checkbox"/> Disagree	(Please explain)
Further suggestions:	

2.2 Do you agree with the amendments of the qualifications in order to request for an extension of the rehabilitation for the companies subject to possible delisting? (The proposals are marked in blue letters.)

Extension of the rehabilitation	(Unit: Million Baht)
Net Profit 1 year / 4 quarters latest	40 25
Shareholders' Equity	50 100

<input type="checkbox"/> Agree	
<input type="checkbox"/> Agree, but the details are otherwise.	(Please explain)
<input type="checkbox"/> Disagree	(Please explain)
Further suggestions:	

Other recommendations

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Please submit your comments by August 14, 2024. SET would like to thank all respondents for comments and recommendations.