

# Consultation Conclusion

## Enhancement of Regulatory Measures



The Stock Exchange of Thailand ("SET") had published the consultation paper on the Enhancement of Regulatory Measures from March 27 – April 21, 2024. This Consultation Conclusion summarizes the feedback received from 240 respondents, including Investment Banking Club (IB Club), 180 individual investors, 3 institutional investors, 53 securities companies, and 3 foreign institutions. Below are the detailed discussions and suggestions from the Public Consultation.

**Discussion 1: Review the list of eligible short-selling securities**

**Proposal**

We proposed to maintain the current list of eligible securities except for (2) non-SET100 Index stocks which should increase the size and liquidity criteria; to ensure that the stocks eligible for short-selling has the size and liquidity of the top quartile, as follow;

Current Criteria of Securities Eligible for Short Sales	Proposed Criteria
1) SET100 Index stocks	Remain the same
2) Non-SET100 Index stocks with market capitalization of 5,000 million baht or higher and free float at 20% or higher.	<ul style="list-style-type: none"> <li>• Increase the market capitalization to 7,500 million baht or higher</li> <li>• Introduce 12-month average monthly turnover ratio at 2% or higher</li> <li>• Remain free float at 20% or higher</li> </ul>
3) Exchange Traded Fund (ETF)	Remain the same
4) Depositary Receipt (DR)	
5) The Underlying Stocks of Derivatives Warrant (DW), ETF and Single Stock Futures (SSF)	
6) Non-Voting Depositary Receipt (NVDR) for stocks eligible for short sales	

**Summary of Responses**

**88% of respondents agreed** with the proposal. Some respondents suggested that the qualifications should be tightened; for example, increasing market capitalization to 7,500 – 50,000 million baht, increasing monthly turnover to more than 2% - 5%, and allowing short-selling only on stocks in the SET50 or SET100 Index.

For those who disagreed, there were two groups of thoughts; one of which considered the current criteria to be appropriate. They believed that such proposal could lead to a decrease in the number of stocks eligible for short sales, which would affect risk management and investment strategies, and might lessen the attractiveness of SET. Nevertheless, the other group suggested that short selling should be banned.



## Discussion 2: Tighten price rule for short-selling

### Proposal

We proposed to tighten the price rule for short-selling; to sell short at a price higher than the last trading price (uptick rule), whereas short-selling are currently permitted at a price not lower than the last trading price (zero-plus tick rule). This was to reduce the price impact of short-selling. The application of uptick rule was opened for comments in two alternatives as follows:

- **Option 1:** Apply the uptick rule to all securities instead of the current zero-plus tick rule
- **Option 2:** Apply the uptick rule only to securities of which closing price has decreased 10% from the previous day's closing price

### Summary of Responses

**92% of respondents agreed** with the uptick rule where 74% of all respondents agreed with Option 1 as it is less complicated for investors; the other 18% supported Option 2. IB Club, along with some securities companies, also suggested that market makers (MMs) of DWs should continue to adhere with the current zero-plus tick rule, in order to enable them to effectively provide liquidity so that investors can trade DW at a price that corresponds to the underlying price. This is because MMs may need to sell short underlying securities for hedging purposes in relation to their MM obligations.

For those who disagreed, there are two groups of thoughts, one of which considered the current price rule to be appropriate. They believed that imposing the uptick rule would substantially impact on securities' prices and might even reduce the liquidity in SET as a whole. Meanwhile, the other group suggested that short selling should be banned.

## Discussion 3: Registration of High-Speed Trading (HFT) Investors

### Proposal

In order to enhance the supervision of HFT investors, SET shall require the member firms to register their HFT<sup>1</sup> clients prior to the use of this service. Members are also required to set out appropriate trading control mechanisms for these clients.

### Summary of Responses

**88% of respondents agreed** with the proposal, additional suggestions are summarized as follows:

- The definitions of 'HFT' should be clear and include algorithmic traders who do not use colocation services. In addition, the final beneficiaries must be identifiable, including the close monitoring of

<sup>1</sup> HFT is a client who uses algorithmic trading to generate orders from SET's Co-location

inappropriate trading behavior of foreign investors. Furthermore, such registration of HFT and the application for colocation services should be in the combined process for simplicity.

- Trading control mechanisms should be set as the standard for industry. There should also be volume limits for HFT or algorithmic trading to minimize their impact on the market. In addition, HFT should be charged higher trading fees and regulated more stringently than other investors.

For those who disagreed, there were two groups of thoughts, one of which believed that HFT registration might reduce trading volume in SET, and such registration might duplicate the approval for algorithmic trading. Whiles the other group suggested that HFT and colocation services should be abolished because it can put retail investors at a disadvantage.

#### Discussion 4: Introduce the 'Minimum Resting Time'

##### Proposal

SET will introduce a Minimum Resting Time (MRT), which is the minimum period that an order has to remain in the trading system before it can be updated or cancelled. This is to prevent the high-frequency entry-then-withdraw order (spoofing) that could mislead the market.

##### Summary of Responses

**97% of respondents agreed** with the proposal; along with additional suggestions as follows:

- Market Makers (MMs) should be exempted from MRT since MMs have to provide liquidity as well as simultaneously buy or sell underlying securities for hedging purposes, therefore, it is necessary for them to update or cancel their orders to ensure that the prices correspond with underlying securities.
- Order cancellations might depend on the current market condition in which an investor may not have the intention of spoofing. Furthermore, the MRT should be implemented on SET's system to ease the burden of securities companies.
- MRT should be imposed in a way to limit the number of updated/cancelled orders which are placed excessively, or SET could set a limit on number of times an order can be modified or cancelled within a specified period instead of imposing an MRT.

For those who disagreed believed that this might decrease liquidity, while increase volatility, hinder Day-trades, and not being generally used in international markets. Some respondents suggested that MRT should only be imposed during Continuous Trading sessions.

## Discussion 5: Disclosure of information of investors with inappropriate trading behavior to all members

### Proposal

To enhance efficiency of supervision of investors whose trading behavior is inappropriate and could lead to market manipulation, SET proposed to share information of investors who have such behavior with all members, instead of the current practice where SET only disclose such information only to the member who takes care of that investor with inappropriate trading behavior. The member with whom the investor has opened a trading account, shall take action against this investor as prescribed in ASCO's guidelines. Failure to comply with ASCO's guidelines, SET may consider taking disciplinary action against that member.

### Summary of Responses

**94% of respondents agreed** with the proposal, additional suggestions are summarized as follows:

- The information should be disclosed to the public. In addition, there should be both civil and criminal penalties against the investor.
- There should be safeguards to protect customer confidentiality and such disclosure must comply with PDPA (Personal Data Protection Act).

For those who disagreed believed that such information was personal and should not be disclosed to other members. Alternatively, there should only be disclosed in the case of serious violations.

## Discussion 6: Increase the penalty for members

### Proposal

To enhance the supervision of members, SET proposed to amend disciplinary penalties against members who violate or fail to comply with SET's rules; and extend to cover all types of offenses. The fines are to be increased by three times the current rate.

### Summary of Responses

**91% of respondents agreed** with the proposal, additional suggestions are summarized as follows:

- The fines should be lowered in the case that a member has discovered the offence and reported to SET. This is to encourage all members to maintain their effective internal control in order to reduce the risk of being penalized, and to encourage members to report on facts that have been discovered regarding the offenses.
- SET shall strictly investigate any misconduct.
- There should be harsher penalties in both criminal and civil cases.

For those who disagreed, the opinions are summarized as follows:

- Punishment should be imposed on clients who violate or fail to comply with SET's rules, as in some cases, members may already have appropriate controls and monitoring systems in place.
- Penalties should be amended only for serious matters, or repeated violations.
- Increasing the fines for members may not be an effective measure to reduce misconduct; it is proposed that SET should have discretion to waive penalties for naked short selling where the member can prove that there is no intention to breach; or the member is able to provide evidence that they have been monitored and prevented the naked short selling transaction on a best-efforts basis.
- The new penalty rates are too high as compared to the current rates.

#### Other suggestions

- Progress of the implementation of the revised rules should be communicated to the public from time to time, and the revised rules should be implemented as soon as possible.
  - Daily short-selling limits may affect price discovery, especially when investors want to sell short securities of a company operating at a loss.
  - SET shall strictly regulate market makers' activities if they are exempted from some requirements.
  - There should be additional requirements for supervising HFT in DW trading.
  - Net settlement should not be permitted, as a result, investors have to deliver all of the shares sold, which will in turn reduce the risk of naked short selling.
  - There should be a system to monitor the possession of shares in foreign investors' portfolios, before long-selling and short-selling.
  - All types of investors should be charged the same rates of trading fees.
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