

27 April 2023

To
The Securities and Exchange Commission, Thailand
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Thailand

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To The Securities and Exchange Commission, Thailand

Re: ASIFMA Letter on Public Hearing on the Proposed Rules of the Offering of Investment Token, the Regulation Regarding Custodial Wallet Provider, and other related Regulations on the Digital Asset Business Operation (18/2566)

On behalf of its members, the Asia Securities Industry & Financial Markets Association ("ASIFMA")¹ welcomes the opportunity to respond to the Securities and Exchange Commission, Thailand ("SEC")'s [public hearing](#) on the proposed rules on the digital asset business operation, released March 28, 2023. We commend SEC for tackling these important issues in a timely and consultative way. Feedback set out in this response has been collected from ASIFMA's Public Policy Committee, Fintech Working Group and Crypto Sub-Working Group, which have been closely following global, regional, and local developments relating to virtual assets in recent years.

¹ ASIFMA is an independent, regional trade association with over 170 member firms comprising a diverse range of leading financial institutions from both the buy and sell side, including banks, asset managers, law firms and market infrastructure service providers. Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative, competitive, and efficient Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the Global Financial Markets Association ("GFMA") alliance with the Securities Industry and Financial Markets Association ("SIFMA") in the United States and the Association for Financial Markets in Europe ("AFME"), ASIFMA also provides insights on global best practices and standards to benefit the region.

2. The information and opinion commentary in this ASIFMA consultative letter was prepared by the Asia Securities Industry and Financial Markets Association (ASIFMA) to reflect the views of our members. ASIFMA believes that the information in the Paper, which has been obtained from multiple sources believed to be reliable, is reliable as of the date of publication. As estimates by individual sources may differ from one another, estimates for similar types of data could vary within the Paper. In no event, however, does ASIFMA make any representation as to the accuracy or completeness of such information. ASIFMA has no obligation to update, modify or amend the information in this Paper or to otherwise notify readers if any information in the Paper becomes outdated or inaccurate. ASIFMA will make every effort to include updated information as it becomes available and in subsequent Papers.

Consultative Response

The response does not address questions in the consultative paper directly but provides overarching feedback to the SEC. We hope you find it helpful, and we would welcome further discussion on any of these matters.

1. We support the SEC's proposal to strengthen investors protection whilst continuing to support the development of innovation and technology in Thailand. We are supportive of the development of a robust digital asset market with a clear regulatory perimeter, in line with international principles of 'same risk, same activity, same regulatory outcome' and 'technology neutrality'. For ASIFMA to have a detail review of the consultative paper and a thorough discussion amongst our members, we respectfully recommend the SEC, together with the original Thai version, to provide a full English translation of the consultative paper. This additional English articulation of the details of the proposed articles from the Thai language consultative paper will be beneficial for us to engage with the SEC. We would like to emphasize again our appreciation and support of continued dialogue between the SEC and the industry.
2. Regarding the removal of the investment limit for retail investors in the case of asset-backed ICO specifically, real-estate backed ICO and infra-backed ICO, we are of the view that it would be beneficial for custodians to have a mechanism in place to ensure retail investors have been assessed to have sufficient knowledge of the risks of the asset (whether is it real-estate or infra-backed) prior to investing. In addition, it will be helpful and important for digital asset business operators to provide all information necessary to enable an informed assessment of the digital asset provided to the investor.
3. For custodial wallet providers, we respectfully seek clarification on the definition of "custodial wallet providers" and "specified independence criteria" stated in paragraph (2) of the English summary. Specifically, if the definition includes technology firms providing vendor services to related party digital asset business operators.

In principle we support the proposed rule on requesting custodial wallet providers to have expertise, experiences, and readiness in custody of customers' asset and have systems for safekeeping of such asset. To mitigate counterparty risk and ensure industry integrity, we see the need for independent control and governance for custodians. In addition, client assets must be segregated, at all times, from the digital asset business operators' proprietary assets for better safeguard and to reduce the risks that client asset will be used in unauthorized ways. It is important that safekeeping operations must be functionally separated from trading and other similar market activities. A separate governance structure with distinct controls between exchange/trading entity and the custody entity would be effective in risk management controls.

4. We also welcome the SEC approach to strengthen the credibility of digital asset business operators. However, it would be helpful to the industry if SEC can provide further context

and insight on 'wrongdoings' (inclusive any time-period considerations) as well as the meaning of 'without permission'.

Our broad suggestions to strengthen investor protection whilst continuing to support the development of innovation and technology in Thailand is as above. We very much appreciate the opportunity to comment on the **Public Hearing on the Proposed Rules of the Offering of Investment Token, the Regulation Regarding Custodial Wallet Provider, and other related Regulations on the Digital Asset Business Operation (18/2566)** and look forward to engaging with the relevant bodies further as may be helpful.

If you have any questions, or if you would like to discuss the points raised in this letter, please feel free to contact us.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Diana Parusheva-Lowery', with a stylized flourish at the end.

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