

Digital Asset Law Updates

The Ministry of Finance (MOF) recently issued its 3 notifications effective from 27th November 2020 to expand the definitions of the digital asset business, the digital asset business operators, and the criteria for the approval of the digital asset business license.

1. MOF Notification on Prescribing Other Businesses Related to Digital Assets as Additional Digital Asset Businesses B.E. 2563

Two more "Digital Asset Businesses" have been added to the definition of the Digital Asset Businesses under Section 3 of the Emergency Decree on Digital Asset Business Operation B.E. 2561 (2018):

(1) "Digital Asset Fund Manager" (a person who, as its normal trade, manages funds or presents itself to the general public that manages funds for others to seek benefits from digital assets, except for management of assets in other manners to be later prescribed by the SEC); and

(2) "Digital Asset Advisor" (a person who gives advice to the public, directly or indirectly, on the value of digital assets or the suitability of investment of digital assets, or in connection with the trading or exchange of any digital asset as its normal trade for a fee or other remuneration, except for giving advice as part of or in connection to the operations of a digital asset exchange, digital asset broker, digital asset trader or digital asset fund manager, or giving advice to the public in other manners to be prescribed by the SEC).

2. MOF Notification on License to Operate Digital Asset Business (No. 2) B.E. 2563

In addition to the 6 original types of applicants who are eligible to apply for the digital asset business license, the MOF has added 4 more types of applicants: (1) cryptocurrency fund managers, (2) digital token capital managers, (3) cryptocurrency advisors, and (4) digital token advisors. Also, the 5 new criteria of the eligible applicant have been added. The new license fees have also been changed to THB15,000 to THB2.5 million depending on the types of digital asset business license granted.

The licensee must commence the operation of its approved digital asset business within 180 days from the date of receiving the license. This operation commencement date can be extended one time for not more than 180 days.

3. MOF Notification on Conditions for Digital Asset Business Operators to Apply for SEC Approval of Their Major Shareholders (No. 3) B.E. 2563

The definition of the "Digital Asset Business Operators" in the MOF Notification dated 16th July 2018 has been changed to include the 4 additional types of digital asset business operators

discussed under No. 2 above to effectively make their major shareholders (each holding more than 10% of their voting capital shares) also be subject to SEC approval in addition to obtaining the digital asset business license.



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