



Form 246-2 is Available to be Submitted via Electronic System

The Office of the Securities and Exchange Commission, Thailand (“SEC Office”) conducted a public hearing in February 2019 and announced the amendment to regulation on requirements related to reporting of acquisition and disposal of securities on 3 September 2019 which is effective from 16 September 2019 onwards.

Previously, the following persons shall submit a report of acquisition and disposal of securities (Form 246-2) to the SEC Office in hard copy within 3 business days from the date of acquisition or disposition of securities in accordance with Notification of the Capital Market Supervisory Board No. Tor Jor. 28/2554 Re: Requirements Related to Reporting of Acquisition and Disposal of Securities (“Regulation”):

- 1) any person who acquires or disposes of shares, convertible securities or other securities which results or will result in, if exercises such securities, holding of voting rights of the business in the amount of every 5 percent of total voting rights of the business; and
- 2) any persons acting in concert with others which results in the total number of shares held by such persons or the number of shares to be delivered upon exercise of convertible securities or other securities held by such person having voting rights in the business in the amount of every 5 percent of total voting rights of the business.

According to the amended Regulation, it allows a submission of the Form 246-2 to be made via electronic system which will minimize time and cost for relevant persons who have a duty under the Regulation to deliver the original form to the SEC

Office. Furthermore, the electronic system is available in both Thai and English.

For registration in the SEC Office’s website, it should be noted that forms EF2 and EF3 must be submitted to the SEC Office at least 3 business days prior to the date of accessing the system in case of juristic person.

Cross-border Wire Transfers over THB 50,000 Tend to be Scrutinized in the near Future

On 1 October 2019, the Cabinet of Thailand approved a bill of ministerial regulation on know your customer & customer due diligent (“Bill”) proposed by the Anti-Money Laundering Office (“AMLO”) in order to amend some regulations regarding the prevention of money laundering and financing of terrorism to be in line with the international standards. Three key revisions under the Bill are set forth as follows.

1. All banks, both acting as ordering and receiving institution, are required to check the customer identification by requesting the identification of their customers and other information such as source of funds, and the purpose of money transfer for any cross-border wire transfer over THB 50,000 or more per transaction including any occasional transaction.
2. The Bill requires financial institutions and businesses and all professions under section 16 of the Anti-Money Laundering Act (“AMLA”) such as investment or funds advisors, jewelers, car dealers or real estate brokers to check customer identification prior to carrying out each transaction. In case any sign of any risky behavior involving money laundering or financing of terrorism appears to the said institutions or professions, such business transactions shall be stopped and reported to the AMLO.

3. The customer under this Bill means a natural person, juristic person or legal arrangement who has established a business relationship or conducted transactions with a financial institution or business or profession under Section 16 of the AMLA.

The Bill is also imposed on any financial institution or a business or profession under section 16 of the AMLA to check customer identification prior to carrying out each transaction of each of their customers who has an on-going business relationship or has business relationship during the period mutually agreed, .

Issuance and Offer of TSR to Existing Shareholders excluding Foreign Shareholders

On 5 September 2019, the Office of the Securities and Exchange Commission, Thailand (“SEC Office”) issued the Notification of the Securities and Exchange Commission No. KorChor. 21/2562 Re: Determination of Definitions in the Notification Relating to Issuance and Offer for Sale of Securities (No. 10) which comes into force as from 10 September 2019. It repeals and replaces the the Notification of the Securities and Exchange Commission No. KorChor. 20/2541 Re: Determination of Definitions in the Notification Relating to Issuance and Offer for Sale of Securities.

Since an issuance and offer of transferable subscription rights (“TSRs”) to a foreign shareholder does or may cause a listed company to breach foreign laws, rules or regulations, put an extra burden on a listed company, in addition to its obligation to comply with rules and regulations relating to the issuance and offer of securities under Thai law, or not adhere to the rules, procedures or conditions relating to the issuance and offer of TSRs, the new regulation allows a listed company not to offer TSRs to its foreign shareholders in proportion to the number of shares held by each foreign shareholder, if such offering would be subject to foreign laws for reducing a listed company’s foreign regulatory burdens

Bank of Thailand Public Hearing on Banking Channel and Using Service from Outsourcer

According to the consultation paper of Bank of Thailand (“BoT”), the BoT currently has the plan to grant individual banking agent licenses for basic financial transactions to those who qualify. The BoT will allow the individual banking agents to provide low risk transactions services such as money and loan withdrawals and bill payments.

Moreover, the BoT has a plan to amend regulation for removal of the ceiling on withdrawal fixed at 5,000 Baht per transaction but money withdrawal cap at 20,000 Baht per account per day is still maintained.

The consultation period will end on 21 October 2019.

Factory Act (No.2) B.E. 2562 (A.D. 2019) will Become Effective on 27 October 2019

Factory Act (No.2) B.E. 2562 (A.D. 2019) (the “Act”) was published in the Royal Gazette on 30 April 2019 and shall become effective on 27 October 2019. The significant amendments of the Act are set forth as follows:

1. The definition of “Factory” under the Act shall mean buildings, premises, or vehicles using machine with total power from 50 horsepower or equivalent of 50 horsepower or more or a factory which employs 50 workers (increased from 5 horsepower or 7 workers), with or without machinery, in its operation;
2. The Act allows a factory to assign a private third-party auditor who is qualified and licensed to carry out inspection and produce the inspection report; and
3. A factory license will no longer expire until notice of revocation of the factory business is issued pursuant to section 14 of the Factory Act B.E. 2535 (A.D. 1992).

In the future, regulations regarding license fees and designation of the new factory categories will be issued in accordance with the Act

Prohibited and Restricted Goods under Customs Act in Thailand

In modernized era, trading opportunities are created .

Section 244 of Customs Act B.E. 2560 (2017) (the “CA”) stipulates that any person who imports goods, which have been passed through a customs formality into, or exports such goods out of Thailand, or brings goods in for transit or transshipment in any manner to avoid or attempt to avoid restrictions or prohibitions of such goods shall be subjected to civil and criminal penalties. The definition of prohibited goods in the CA shall mean goods which are prohibited from importing into or exporting out of Thailand such as pornographic materials, counterfeit trademark goods, narcotics, reserved animals while restricted goods means goods which are required by laws to receive permission in advance such as medicals , guns, vehicle parts and alcoholic beverage. Valuation of import and export duty shall depend on “condition”, “price” or “condition and price” A legal entrepreneur may store documents for customs clearance for 5 years from the date of importation or the date of exportation, for 2 year after the date of its dissolution of a legal entity..

Should you have any question, please do not hesitate to contact us via info@bglballaw.com

