



## **The SEC announced the Draft Notification regarding the retention of customer's assets**

On 23 August 2021, the Office of Securities and Exchange Commission of Thailand (“SEC”) announced that the SEC has planned to implement the new rules regarding the business conduct including the retention of customer's assets in order to enhance the supervision of digital asset operators which is currently in the draft process.

The Draft Notification of the SEC No. Kor Thor. /2564 on Rules, Conditions and Procedures for Undertaking Digital Asset Business (No. ...) (“Draft”) provides additional rules concerning the retention of customer's assets which are as follows:

### 1. The retention of customer's money

- Current rules: Money of the customers must be separated from money of a business operator and to be deposited with a commercial bank or other bank established by specific laws which must be clearly stated in the deposit account as actions are taken by business operators for the benefit of customers
- Additional rules: imposing withdrawals or transfers of money in the account opened for the benefit of the customers to be in line with the principle of decentralization, multi-sign and checks and balances.

### 2. The retention of customer's money and digital assets

- Prohibiting the use of one customer's asset for the benefit of another customer.
- Requiring customer's assets to be reviewed in relation to the accounts created and the assets held for accuracy and up to date in every business day.

### 3. Using customer's assets to procure benefits

- Prohibiting the use of the customer's money to procure profit by any method other than depositing it at a commercial bank. However, it can be negotiated on the interest rate with the customer not exceeding the rate actually received from the commercial bank.
- Prohibiting the use of the customer's digital assets. This includes lending the customer's digital assets to other people.

The Draft also require a person who withdraws or transfers money in the account of 50 million baht or more to submit the following documents:

1. Documentation evidence showing that the customer has requested a withdrawal/transfer; and
2. Evidence of approval of the request for withdrawal or transfer of money according to the business operator's procedures.

In this regard, the business operator must comply with the aforementioned rules within 1 month from the effective date of the amended notification (the announced date in the Government Gazette).

Should you have any question, please do not hesitate to contact us via [info@bgloballaw.com](mailto:info@bgloballaw.com)

