

Private Placement: A Fundraising Opportunity for Private Companies in Thailand

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Pursuant to the Civil and Commercial Code of Thailand, new shares issued by a private company must be offered to its existing shareholders on a proportional basis. This legal restriction makes it difficult for a private company to raise capital from external investors, especially in the case of SMEs or startups for which funding from institutions, venture capitals or private equity investors are vital. To address this limitation, the Securities and Exchange Commission ("SEC") has introduced a private placement scheme to facilitate access to capital for private companies, enhancing their opportunities to raise funds through the capital markets and reduces certain regulatory burdens while ensuring compliance with disclosure standards.

This private placement scheme allows certain types of private companies, as defined in the relevant regulations, an opportunity to raise funds in Thailand's capital markets through equity or convertible debentures without the need to submit an application for approval or a filing (i.e. a formal submission of full disclosure reports and prospectus) to the SEC. Normally, the offering of shares or convertible debentures (CDs) is considered as a securities offering under the Securities and Exchange Act B.E. 2535 (1992) (as amended), and is therefore regulated by the SEC. As a safeguard for the investors, the offerings can be made to a limited types or number of investors and an issuing company is still required to prepare a factsheet summarising key details including their business operations, financial status, type of securities, and associated risks, to ensure investors receive adequate information.

Eligible Private Companies

As previously mentioned, the private placement scheme is available only to certain types of private companies. Such private companies must possess the following characteristics:

Category	Definition	Required to be Registered under PP-SME with the Authority*
Small Enterprises	<ul style="list-style-type: none">Manufacturing: ≤ 50 employees <u>or</u> \leq THB 100 million in annual revenueService/Wholesale/Retail: ≤ 30 employees <u>or</u> \leq THB 50 million in annual revenue	✓
Medium Enterprises	<ul style="list-style-type: none">Manufacturing: 51–200 employees <u>or</u> THB 100–500 million in annual revenueService/Wholesale/Retail: 31–100 employees <u>or</u> THB 50–300 million in annual revenue	✓
Large Enterprises	Private companies that do not fall under definitions of Small or Medium Enterprises	✗

**The Capital Market Fundraising Promotion Project for SMEs (PP-SME) with the Office of Small and Medium Enterprises Promotion*

Permissible Offering Structures

Furthermore, each type of private company is permitted to offer securities exclusively to certain categories of investors as specified below:

Category	Institutional Investors*	ESOP**	PP10***
Small Enterprises	✓ <i>No limit</i>	✓ <i>No limit</i>	✖
Medium Enterprises			✓
Large Enterprises			<ul style="list-style-type: none"> • <i>Not exceeding 10 specific investors; and</i> • <i>Not exceeding Baht 50 million</i>

* *Institutional Investors as defined in the relevant notification of the SEC, which include institutional investors, venture capital, private equity, and angel investors.*

** *Directors or employees of the issuer or its subsidiaries including any legal entity (SPV) established to hold shares on behalf of such directors or employees for the purpose of share allocation to directors or employees.*

*** *PP10 refers to a private placement offering to not more than 10 specific investors, with a total offering value (calculated based on the offering price of the securities) not exceeding Baht 50 million at any given time. This does not include offerings to Institutional Investors and ESOP.*

Post Obligation Sales Report

At the end of the offering period, a private company undertaking a private placement scheme shall report the results of the securities offering (including shares or CDs) to the SEC within 15 days. In case of CDs, the exercise of conversion rights shall be reported to the SEC within 15 days from the date, on which the conversion right is exercised.

Conclusion

The private placement scheme aims to facilitate access to capital for smaller businesses, enhancing their opportunities to raise funds through the capital markets and reduces certain regulatory burdens while ensuring compliance with disclosure standards.

This document is solely intended to provide an update on recent developments in Thailand's legislation and is not purported to provide a legal opinion, or a legal advice to any person. Stakeholders are advised to seek professional legal counsel for specific legal guidance related to the above issue.