

Legal Express

Share Repurchase for Financial Management Purpose of Listed Companies

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Introduction

A share repurchase scheme, also known as treasury stock, serves as a strategic tool for financial restructuring, liquidity management and resolving shareholder conflicts. While companies are generally prohibited from holding their own shares, Section 66/1 of the Public Limited Companies Act B.E. 2535 (A.D. 1992) (as amended) (the “PLCA”) allows public companies to repurchase shares under specific circumstances.

A share repurchase scheme may be carried out either to address shareholder dissent in the case of certain amendments to the company’s articles of association, pursuant to Section 66/1(1) of the PLCA, or for financial management purposes, pursuant to Section 66/1(2) of the PLCA. This article focuses on the latter, the implementation of a share repurchase scheme by a company listed on the Stock Exchange of Thailand (the “SET”) for financial management purposes.

Benefits of a Share Repurchase Scheme

A share repurchase scheme offers several important advantages to companies listed on the SET (the “Listed Company”) and their shareholders:

1. Listed Company Benefits

A share repurchase scheme reduces the number of shares in circulation which may improve earnings per share (EPS), enhance the share price and potentially increase investor demand. It also serves as an effective tool for managing excess liquidity. In addition, directors may be subject to criminal liabilities for certain actions or omissions, including the following:

2. Shareholder Benefits

Shareholders may benefit from increased EPS and return on equity (ROE), as repurchased shares are excluded from EPS calculations. They may also receive higher dividends per share and gain from potential share price appreciation driven by improved financial ratios. Repurchased shares, while held by the Listed Company, carry no voting or dividend rights

and are not counted towards meeting quorum at shareholders' meetings, thereby strengthening the influence of existing shareholders.

Process for Implementing a Share Repurchase Scheme

The process for a Listed Company to undertake a share repurchase scheme involves the following key steps:

1. Corporate Approval

The Listed Company must obtain approval from all of its shareholders, unless the number of repurchased shares does not exceed 10 per cent of the paid-up capital and the articles of association authorise the board of directors to approve such repurchase.

2. Repurchase Procedures and Disclosure Requirements

2.1 The Listed Company shall proceed with the following actions:

- 2.1.1 hold a meeting of the board of directors to approve the share repurchase scheme and notify the SET (with Form TS-1.2) on the board meeting date or at least one hour before the SET's next trading session;
- 2.1.2 disclose the share repurchase scheme to the SET not less than three days prior to the commencement of the repurchase period;
- 2.1.3 in case of a general offer, submit Form TS-2.2 to the shareholders and the SET at least 10 days prior to the commencement of the repurchase period; and
- 2.1.4 upon repurchasing shares, report the result of the share repurchase scheme to the SET (using Form TS-3.2) no later than 9.00 a.m. of the following business day after the repurchase, when repurchasing on the SET, or within five business days from the end of the offer period, in case of a general offer.

2.2 Repurchase Price

The repurchase price shall not be lower than 115 per cent of the average closing price of the previous five trading days.

3. Disposition and Cancellation of the Shares

3.1 Disposition Method

Repurchased shares may only be disposed of by: (i) a general offer; (ii) an offer to directors or employees in accordance with the Securities and Exchange Act B.E. 2535 (A.D. 1992) (as amended); (iii) a right offering to the existing shareholders in proportion to their shareholding; or (iv) way of sale on the SET.

Disposal is permitted only after three months from the completion of the repurchase and must be completed within three years from the completion of the share repurchase scheme. Failure to do so requires a reduction of paid-up capital by cancelling the remaining shares of the Listed Company. The Listed Company is also prohibited from issuing new shares until all repurchased shares have been disposed of or cancelled.

3.2 Disposition Price

The disposition price shall not be lower than 85 per cent of the average closing price of the previous five trading days.

3.3 The End of the Share Repurchase Scheme

The share repurchase scheme shall end on the earliest of: (i) the date on which the Listed Company has reached its repurchase limit according to the share repurchase scheme; (ii) the expiration of the repurchase period; or (iii) if cancelled before the expiration of the repurchase scheme, the effective date of its cancellation. A new repurchase scheme may only be initiated after six months from the end of the previous share repurchase scheme.

3.4 Disposition Procedures and Disclosure Requirements

The Listed Company shall proceed with the following actions:

3.4.1 hold a meeting of the board of directors to approve: the disposition of repurchased shares; the period for reselling the repurchased shares; the cancellation of the unsold repurchased shares (if any) and the capital reduction (without having to obtain an approval from a shareholders' meeting); and notify the SET (with Form TS-7) on the board meeting date or at least one hour before the SET's next trading session;

3.4.2 upon selling repurchased shares, report the sales result to the SET either: (i) in Form TS-4 no later than 9.00 a.m. on the following business day, in case of disposition via the SET; or (ii) within five business days from the end of the resale period of the repurchased shares, in case of a general offer;

3.4.3 in case the Listed Company is unable to sell all the repurchased shares within the prescribed period, the Listed Company may cancel the remaining repurchased shares and proceed with a capital reduction as approved by the board of directors, and notify the SET (with Form TS-5) on the last day of the resale period or at least one hour before the SET's next trading session;

3.4.4 register the capital reduction with the Ministry of Commerce within 14 days from the cancellation date; and

3.4.5 report the foregoing registration to the SET in Form TS-6 within three days from the registration date.

4. Current Development

Currently, the proposed amendments to the share repurchase regulation are underway. These include: (i) the elimination of a six-month cooling-off period, allowing companies to launch a new share repurchase scheme immediately after the completion or cancellation of the prior scheme; and (ii) in the case of a Listed Company, the extension of a disposal period of repurchased shares by up to two years if the share price during the resale period is equal to or lower than the average repurchase price, and an extension of an additional one year if such repurchased shares remain unsold. Any such extension is subject to prior approval by the shareholders' meeting before the expiration of the prior resale period. Such proposed

amendments are expected to provide greater flexibility to the Listed Company in managing its excess liquidity through share repurchase scheme.

Whilst the Cabinet has granted an in-principle approval to the proposed amendments in June 2025, the Ministry of Commerce is in the process of consolidating comments from the second public hearing before submitting the revised draft ministerial regulation to the Office of the Council of State for further consideration. The Listed Company planning to adopt a share repurchase scheme is advised to reflect the upcoming changes.

A share repurchase scheme offers the Listed Company a flexible mechanism to restructure their capital, enhance shareholder value and efficiently manage surplus liquidity. However, the implementation of such a scheme must strictly adhere to applicable regulatory requirements, including disclosure obligations and procedural steps prescribed by relevant authorities. The Listed Company should therefore ensure full compliance to avoid regulatory breaches. With careful planning and prudent execution, a share repurchase scheme can contribute to long-term financial stability and strengthen a Listed Company's growth potential.

This document is solely intended to provide an update on recent development in Thailand legislation and is not purported to provide a legal opinion, nor a legal advice to any person

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