

The Stock Exchange of Thailand Issues Guidelines to Practice Regarding Amalgamation

At present, there have been amalgamation announcements of several listed companies in the Stock Exchange of Thailand. To ensure that the listed companies have proper guidelines to follow while investors have equal access to correct, complete and adequate information when making investment decision in securities of companies planned to be amalgamated, the Board of Governors of The Stock Exchange of Thailand deems appropriate to issue guidelines on how listed companies shall disclose information upon amalgamation as follows.

Guidelines on how to disclose information of listed companies upon amalgamation

1. Principle

1.1 This is to ensure that shareholders of listed companies and general investors will learn complete, correct and adequate information regarding the amalgamation of the listed companies, which may affect the change of price and trading volume of their securities, within due time. In addition, the guidelines are also intended for the listed companies' management and relevant parties to practice with caution and prudence to avoid making or releasing information that may cause factual confusion or misunderstanding to their shareholders, general investors and information users.

1.2 The Stock Exchange of Thailand supports the listed companies to fully disclose their information so that shareholders and general investors will have appropriate, adequate and equal information for their investment decisions. The Stock Exchange of Thailand will employ the measure of posting "H" or "SP" sign to suspend the trading of listed companies' securities only if it is necessary; for example, when it considers that investors may not get equal access to information, or when information they acquire may cause confusion or misunderstanding, or it may cause damage to shareholders and general investors.

However, in case the listed companies consider and deem that there may be incident which can lead to confusion or misunderstanding or which may damage their shareholders and general investors, they may ask the Stock Exchange of Thailand to suspend the trading of their securities. It is however the Stock Exchange of Thailand's discretion to consider and suspend the trading of such companies' securities.

1.3 In general, the Board of Directors of listed companies about to be amalgamated with others should initially acknowledge and approve the action before the management proceeds to negotiate the amalgamation with others. It is the responsibility of the Board of Directors and the management of listed companies to keep information highly confidential until there is a clear and definite conclusion with regard to the amalgamation.

1.4 As soon as the management of a listed company has negotiated with the other firm and comes up with clear conclusion regarding the amalgamation with other firms, it shall submit the matter to the Board of Directors for thorough consideration before forwarding it to the Shareholders' Meeting for consideration and approval in accordance with the regulations of relevant laws and legislations.

2. Recommended practices regarding the amalgamation

2.1 During the time the Board of Directors initially approves and the management proceeds to discuss the amalgamation with other companies, the Board of Directors and the management of a listed company has to supervise those involving in the discussion to ensure that information relating thereto is kept confidential.

2.2 In case the information is disclosed or the company considers and deems that it is necessary to do so or that it is no longer possible to keep such information in secret, a listed company shall disclose such fact to shareholders and general investors without delay through the Stock Exchange of Thailand's information dissemination system. When consider disclosing the information, the listed company must proceed with extreme caution by taking into consideration shareholders' benefit as a major factor.

2.3 Listed companies shall refrain from releasing news having the following characteristics:

- Release of news of which the contents are still not complete and sufficient for investors to make decision;
- Release of news during trading hours, to avoid causing confusion and/or to ensure that all investors get access to the information at the same time.
- Release of news to general investors without reporting to the Stock Exchange of Thailand

3. Procedures and details of information disclosure of listed companies

3.1 In case a listed company is at an initial stage of discussion

In case the amalgamation information is leaked or disclosed while the discussion is at a initial stage where no clear conclusion is yet developed, a listed company shall disclose the information to the Stock Exchange of Thailand immediately as follows.

1. Facts about the amalgamation
2. Objectives of the amalgamation
3. Procedures and expected timeframe for preliminary conclusion

3.2 In case a amalgamation discussion with other companies is sufficiently clear for a certain level

In case it is clear at a certain level that the amalgamation will continue; for example, in case there is a signing in the Memorandum of Understanding or in any other agreement or undertaking in similar manner, a listed company shall disclose the following information.

1. Name of company to be amalgamated with the listed company. In case this company is not a listed company, the name, background, type of business, list of directors, major shareholders and relationship with listed company (if any) must be disclosed.
2. Name of lead company in the amalgamation.

3. Impact to the status of the listed company and/or member companies in the Stock Exchange of Thailand (if any) and a new company resulted from the amalgamation.

4. Steps, timeframe and procedures of amalgamation together with material contents regarding the amalgamation as much as the company can disclose without jeopardizing its interests.

5. Name of independent financial advisor

6. Material contents of the preliminary Memorandum of Understanding or any other agreement or undertakings in similar manner containing information of

a. conditions of amalgamation or value of shares set to be exchanged, (if any)

b. conditions regarding cancellation of the preliminary agreement such as conditions about due diligence result which fails to meet requirement, or that there is a major incident affecting the success of the amalgamation.

c. other conditions necessary for shareholders to make decisions

7. Issues expressly requiring advanced approval in case the amalgamation needs permission from the authorities or government agencies, or important conditions such as approval from the Shareholders' Meeting of the involved parties.

8. Any other information necessary to make an investment decision in the securities of the company.

3.3 In case the Board of Directors of a listed company resolves to approve the amalgamation

Once the Board of Directors of a listed company resolves to allow the company to amalgamate with the other, the listed company has to disclose information in accordance with the Notification of the Stock Exchange of Thailand governing The Events which a Listed Company is Required to Report in accordance with Section 57 (6) dated 19 May 1995, the Regulations of the Stock Exchange of Thailand governing Consideration of Listing of Securities of the Company Formed by Amalgamation of Companies dated 14 March 1996, and the Regulations of the Stock Exchange of Thailand governing Disclosure of Information or any Act of a Listed Company dated 30 April 1993. Details can be summarized as follows.

3.3.1 When the Board of Directors of a listed company resolves to amalgamate the company:

1. Name of companies to be amalgamated together and tentative information about the business

2. New company's name (if any)

3. Objectives or benefits expected to receive out of the amalgamation

4. Steps, timeframe and procedures of amalgamation together with material contents regarding the amalgamation; for example, how to allocate shares in a new company to shareholders, number of allocated shares, ratio and price per share.

5. Conditions to comply according to the regulations of relevant agencies (if any)

6. Shareholders' Meeting date and closing date of a registration book to suspend share transfer for the right to attend the Shareholders' Meeting.

7. Any other information which affects or may affect the rights and benefits of shareholders, their investment decisions or to the change of securities price of the listed company.

3.3.2 When the Shareholders' Meeting approves the amalgamation

1. New company's name
2. Details of new company's share allocation to shareholders
3. Capital of the new company
4. List of directors, independent directors and authority of directors of the new company
5. New company's auditor
6. Joint meeting date of shareholders of companies about to be amalgamated and closing date of registration book to suspend share transfer for the right to attend the Shareholders' Meeting.
7. Other matters as required by the Stock Exchange of Thailand

3.3.3 When shareholders of both companies have joint meeting

Resolution of the joint Shareholders' Meeting

3.3.4 When applying for registration of amalgamation

Applying date for registration of amalgamation

3.3.5 When the Companies and Partnerships Registrar accepts the registration

Registration result of the company's amalgamation

*Upon every Shareholder's Meeting, a listed company has to submit the Minutes of Shareholders' Meeting to the Stock Exchange of Thailand within 14 days from the Shareholders' Meeting date.

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