## Grounds for Possible Delisting and Elimination of the Ground

**Financial conditions or operational performance not meeting requirements**

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| **Consideration criteria for the grounds of delisting** | Operation performance or financial conditions of the listed company falls within any of these following cases:  
  - The assets used in the operation has significantly lessened or are going to significantly lessen;  
  - The operation is halted entirely or almost entirely;  
  - The auditor issues a disclaimer opinion on the financial statements of the listed company for 3 consecutive years;  
  - The latest audited financial statements show that the shareholders’ equity is lower than zero. |
| **Consideration criteria in the event that the shareholders’ equity is lower than zero:** | 1. The financial condition shows that the shareholders’ equity is lower than zero.  
  2. The financial condition shows that the shareholders’ equity is higher than zero, but the auditor has issued a qualified opinion, or a disclaimer, or an adverse opinion on the financial statements. If the financial statements are to be adjusted accordingly, the shareholders’ equity will become lower than zero. |

| Procedures to the listed company facing possible delisting | To encourage the listed company to have a clear plan and expedite rehabilitation, the SET shall take the following actions:  
  - Post SP (Suspension) sign on the listed company’s securities to suspend trading from the day of the announcement that its operational performance or financial condition falls within possible delisting criteria, such as when the listed company’s audited financial statement shows that the shareholders’ equity is lower than zero.  
  - Announce that the securities of the listed company may potentially be delisted (NC Stage 1) and post NC (Non-compliance) sign within 7 business days from the day there is a ground for potentially delisting, then prohibiting the trading of securities for another 1 month.  
  - When SP sign has been posted for 1 month and the listed company has informed of its rehabilitation plan, the SET will allow trading of its securities for 1 month with NC sign posted and can be purchased with Cash Balance account only. After that, SP sign will be posted until the company can make progress in rehabilitation, eliminate the ground for delisting, and repossess the qualifications to resume trading.  
  - Order the listed company to report or disclose on the progress of rehabilitation every 3 months, or on the date the quarterly financial statement is due for submission. |
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<td><strong>Rehabilitation period</strong> is divided into two parts:</td>
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<td>1) <strong>Period for the elimination of the grounds for delisting</strong> divided into 3 parts, each period lasting for one year i.e. NC Stage 1 – 3.</td>
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<td>▪ If the listed company is able to eliminate the grounds for delisting within 3 years from the date of the announcement that its securities may be delisted due to grounds such as having negative shareholders’ equity, the listed company shall submit written notice to the SET to inform such a ground has been completely eliminated. Then the SET will announce the listed company having entered the period of repossession of qualification in order to resume trading (Resume Stage).</td>
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<td>▪ If the listed company is unable to eliminate the grounds for delisting within 3 years from the date of the announcement that its securities may potentially be delisted, the SET shall consider an order for delisting, and the trading will be allowed for 7 business days before delisting with NC sign posted and can be purchased with Cash Balance account only.</td>
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<td>2) <strong>Period for the repossesion of qualifications in order to resume trading</strong> (Resume Stage) is within 2 years from the end of the elimination of grounds for delisting period, or the date the SET has received correct and complete written notice from the listed company that such delisting grounds have been eliminated, whichever is the earlier.</td>
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<td>▪ If the listed company is able to repossess the qualifications in order to resume trading within 2 years, the listed company can submit request with SET to have NC and SP signs removed, and to allow its securities to be traded as normal.</td>
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<td>▪ If the listed company is unable to repossess the qualifications in order to resume trading within 2 years, the SET shall consider an order for delisting, and the trading will be allowed for 7 business days before delisting with NC sign posted and can be purchased with Cash Balance account only.</td>
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<td><strong>Rehabilitation period extension</strong></td>
<td>The listed company can request for rehabilitation period extension for 1) Period of the elimination of the grounds for delisting; and 2) Resume Stage, once for each period and shall not exceed one year for each period. The request shall be proceeded 7 business days before each period expires, with explanations and supporting information to show the listed company is fully qualified as follows:</td>
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<td>1) Shareholders’ equity shall not be less than baht 50 million or net profit from the operation of the main business during a period of one year is not less than baht 10 million baht, by considering the annual financial statement or the financial statements of the four latest quarters.</td>
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<td>2) Apparently, there is a main business to be operated on a continuous basis taking into account factors such as commercial revenue, assets used in the operation of the main business, licenses/concessions required to operate such business, etc.</td>
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<td>3) There is a procedure to eliminate the grounds for delisting, clear progress, such as rehabilitation plan approved by the bankruptcy court or by the shareholders, and adherence to such plan or agreement.</td>
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<td>4) Other qualifications i.e. management and controlling parties do not possess the prohibited characteristics pursuant to the notifications of the SEC, and compliance with disclosure rules i.e. submitting complete financial statements within the time period prescribed.</td>
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| **Consideration on the repossession of qualifications in order to resume trading** | The listed company shall possess all qualifications as follows:  
1) Shareholders’ equity (after the adjustment of the auditor’s opinion):  
   o Trading on mai: At least 50 million baht  
   o Trading on SET: At least 300 million baht  
2) There is a net profit from the normal operation of the main business, which shall continue to be operated in the future on a continuous basis, under the continuous majority management of the same group for at least 1 year prior to the submission of the request. The SET shall consider the annual financial statement or the financial statement of the 4 quarters audited by the auditor as follows:  
   o Trading on mai: Net profit is not less than 10 million baht, and net profit in the accumulated period prior to the submission of request.  
   o Trading on SET: Net profit is not less than 30 million baht, and net profit in the accumulated period prior to the submission of request.  
3) Debt restructuring has been conducted for more than 75% of all the listed company's debts. The listed company can repay the debts to the creditor within the time period prescribed. The debt restructuring plan shall take into account the rights and privileges of minority shareholders i.e. the equity of existing shareholders shall not be reduced to less than 10% of the paid-up capital after the undertakings.  
4) Financial position and operating results are stable pursuant to the conditions of its business on a continuous basis, taking into account cash flow and accumulated loss of the business.  
5) Possess all the qualifications pursuant to the criteria for maintaining listing status before submitting the request, and the distribution of minority shareholdings shall not be less than 15% and at least 150 minority shareholders.  
6) The listed company undertaking the habilitation pursuant to the law on bankruptcy shall no longer be under the rehabilitation as approved by the court.  

The SET may also prescribe conditions for the listed company to take additional actions as follows:  
- That the listed company signs the new listing agreement; or  
- That the listed company takes any action or discloses additional information in order to eliminate conflict of interest between the listed company and its majority shareholder or management. |
| **Silent Period in case the Company is Qualified Resume Trading** | The listed company’s strategic shareholders are prohibited to sell their shares amounting to 55% per the paid-up capital:  
- General request to eliminate the delisting ground: One-year silent period from the date of the commencement of trading.  
- In case the listed company has its financial position and operating results improved with the involvement of a new partner or supports in terms of new business, regarded as the Backdoor Listing:  
  o One-year silent period if the new joint venture partner possesses all the qualifications pursuant to the SET’s or mai’s listed regulations, on the date of the submission of request to eliminate the delisting ground.  
  o Two-year silent period if the request to eliminate the delisting ground is submitted within one year, from the date of the joint venture or the acquisition of new business or assets. The SET shall consider the listed company’s qualifications pursuant to the general criteria for trading resumption. |
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<td>Every six months after the date of trading commencement, shareholders under the silent period can sell 25% of all the securities prohibited from being traded.</td>
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<td>Announcement of Trading Resumption</td>
<td>The SET shall disseminate information about the resumption of trading 7 business days in advance before the listed company's securities commence trading.</td>
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**Procedures**

1) In case the shareholders’ equity is negative / The auditor issues a disclaimer opinion on the financial statements of the listed company for 3 consecutive years:

![Diagram showing the procedures for shareholders' equity negativity]

2) In case the listed company's ceases business operation / Assets used in the operation has significantly lessened:

![Diagram showing the procedures for company cessation]

**Remarks:**
When the SET announces the listed company is under NC stage 1, the listed company will have 1 month to consider its choice to undertake rehabilitation. After the company has informed the SET of the rehabilitation plan, its securities will be allowed to trade for 1 month by purchasing with Cash Balance account only (with NC sign posted). After that, SP sign will be posted until the company can make improvement and repossess qualifications to resume trading. The listed company will be required to report about the progress of rehabilitation every 3 months or on the date the quarterly financial statement is due for submission.
Procedure and Guideline for Action against Listed Companies

Listed co that may potentially be delisted

The SET notifies the listed co in writing, post NC and SP signs, and announce NC Stage 1 to inform investors.

Post SP sign for 1 month

The listed co notifies its choice to undertake rehabilitation.

No

SP sign posted until notification is received.

Yes

Prepare the rehabilitation plan pursuant to the SET's procedure.

Trading allowed for 1 month before posting SP sign until the problem is rectified.

The listed co appoints a financial advisor to help prepare the rehabilitation plan.

The Board of Directors determines the date of shareholders' meeting to approve the rehabilitation plan.

14 days in advance

Determine the names of shareholders entitled to attend shareholders' meeting.

Submit documents to shareholders

Date of shareholders' meeting, the listed company and financial advisor arrange the presentation regarding the rehabilitation plan.

The listed co reports progress every 3 months (on the same day as the date for quarterly report submission)

Listed co notifies SET in writing

End of extension period

End of extension period

Announce entry of Resume Stage (2 years and extendable for 1 year)

Possess qualification for trading

Yes

Listed co submits request for trading

Consider delisting

Cannot eliminate the grounds for delisting

Grounds for delisting eliminated

No

No

Consider delisting

Disqualification for trading

End of extension period

Possess qualification for trading

No

Extension granted

End of extension period

Yes

Share trading

Information to shareholders:

1. Rehabilitation plan
2. Opinion of independent director
3. Opinion of financial advisor
4. Date, time, and venue of shareholders' meeting

Conditions:
Plan must be approved by ≥ ¾ of those attending the meeting and voting

Conditions:

Consider delisting

Such as where the listed co may potentially be delisted because the equity < 0, and has taken steps to render positive equity, etc.

- Book closing ≤ 21 days
- RD ≤ 2 months

Submit petition to the court to propose the rehabilitation plan pursuant to the bankruptcy law.

Trading allowed for 1 month before posting SP sign until the problem is rectified.

The listed company proceeds in accordance with the Bankruptcy Act.

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2. Opinion of independent director
3. Opinion of financial advisor
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Consider delisting

Disqualification for trading

End of extension period

Possess qualification for trading

No

Extension granted

End of extension period

Yes

Share trading
**Q&As**

1. **Q**: In considering negative shareholders’ equity which may lead to possible delisting, will this include only the shareholders’ equity, or the shareholders’ equity plus the non-controlling interests’ equity in the subsidiary?
   **A**: Only the shareholders’ equity of the listed company will be considered, not including the non-controlling interests’ equity in the subsidiary.

2. **Q**: In case the shareholders’ equity in the separate report is positive, while that in the consolidated report is negative, will this be considered for possible delisting?
   **A**: The shareholders’ equity in the consolidated financial statement will be considered. If it shows a negative equity, the company may face possible delisting.

3. **Q**: In case the auditor issues a disclaimer on the financial statement for 2 years consecutively, and issues a qualified opinion on the following year, then a disclaimer again in the following year, will this be considered as in the case where the auditor issues a disclaimer on the financial statement for 3 consecutive years?
   **A**: This will not be the case where the auditor issues a disclaimer on the financial statement for 3 consecutive years.
   However, if the SEC orders the listed company to amend its financial statement thereafter and the auditor switches from issuing an qualified opinion to a disclaimer, then it will be the case where the auditor issues a disclaimer on the financial statement for 3 consecutive years, resulting in possible delisting.

4. **Q**: In case the listed company’s operational performance or financial conditions fall within the criteria of possible delisting, will the company have to submit the financial statement as per normal schedule?
   **A**: In case the listed company’s operational performance or financial conditions fall within the criteria of possible delisting (not including the case where the auditor issues a disclaimer on the financial statement for 3 consecutive years), the listed company can choose to proceed with either of the following:
   - Submit the financial statement for the first six months of an accounting year (reviewed version not required), along with the Interim Management Discussion and Analysis, instead of the quarterly reports. These shall be submitted within 45 days from the last day of the first 6-month period of that accounting year; or
   - Submit the audited financial statements within 3 months from the last day of that accounting period.

5. **Q**: In case the listed company’s performance or financial conditions fall within the delisting criteria, and the company must report the progress of rehabilitation every 3 months on the same day as quarterly report submission, if the company submits first 6-month statements along with the Interim Management Discussion and Analysis instead of the quarterly reports, can the company report the progress of rehabilitation at the same time with the 6-month financial reports?
   **A**: When the listed company does not produce quarterly financial statements, the company still has to report the progress of rehabilitation every 3 months.
Q : When considering the net profit in the accumulated period prior to the submission of request to resume trading, what does that 'accumulated period' means?
A : When the listed company submits a request to resume trading during the period of quarterly report submission, the company has to submit financial reports for that quarter as well. For example, if the company’s accounting period ends on 31 December and the request is submitted in September, the company will have to submit the 6-month report that shows net profit from operation.

Q : Is there any difference when considering the repossession of qualifications based on different ground of performance or financial conditions i.e. the case where the listed company’s show negative equity, and the case where the auditor issues a disclaimer on the financial statement for 3 consecutive years?
A : In case the listed company’s performance or financial conditions fall within any criteria for possible delisting (negative equity / the auditor issues a disclaimer opinion on the financial statement for 3 consecutive years / assets used in operation have significantly lessened / the business ceases all or most of its operations), the consideration for repossession of qualifications to resume trading will not be different.
Related regulations

SET's regulations

1. SET Regulation: The Delisting of Securities B.E. 2542 (1999)
2. Procedure of Actions Against the Listed Company whose Performance or Financial Condition Falling Within Possible Delisting Criteria
3. Circular Memo Bor.Jor. (Wor.) 13/2560: Revision of the Rules for the Delisting of Securities
4. SET Regulation: Listing of Ordinary Shares or Preferred Shares as Listed Securities, B.E.2558 (2015)
6. Bor.Jor (Wor) 1/2019 Re: The regulations adjustment according to Regulatory Reform Plan
7. SET Regulation : Rules, conditions and procedures for temporary suspension of securities trading B.E.2562 (2019)

Regulations of other authorities:

Notification of the Capital Market Supervisory Board (CMSB) No. TorJor. 44/2556: Rules, Conditions and Procedures for Disclosure regarding Financial and Non-financial Information of Securities Issuers