

Share Repurchase

Rules Summary

Share repurchase by the listed company helps to adjust its financial structure and resolve the conflict among shareholders. Once the share repurchasing has ended, there will be a silent period for three years. The share repurchase is for two objectives:

- 1) Financial management, as when the company has retained earnings and excess liquidity
- 2) When the shareholders do not agree with the shareholders' resolution regarding the amendments of their voting right or the rights to receive dividend payment

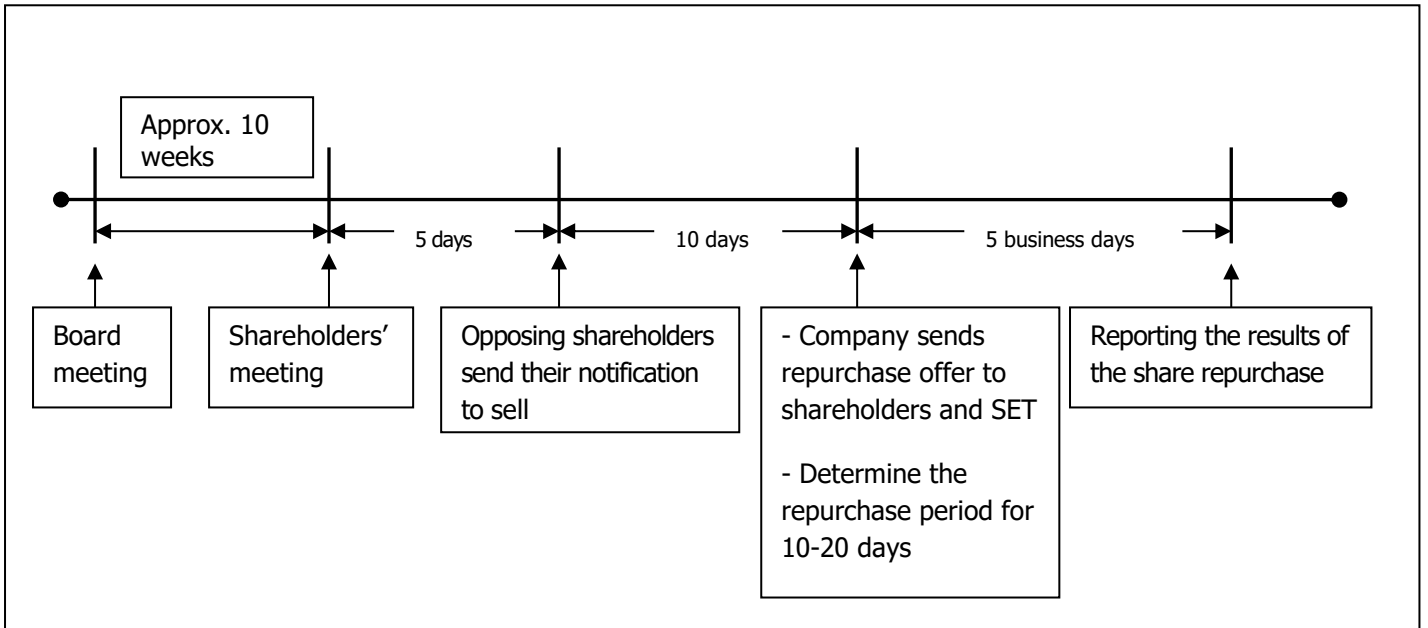
Subject	Details						
Qualifications of listed company eligible for share repurchase	<ol style="list-style-type: none"> 1) Having the share repurchase specified in the company's articles of association: <ul style="list-style-type: none"> • If the share repurchase \leq 10% paid-up capital, the board of directors can be authorized to make decision about the share repurchase • If the share repurchase \geq 10% paid-up capital, the decision must be approved at the shareholder's meeting 2) Having retained earnings on its separate financial statements, provided that the repurchase must not be more than unappropriated retained earnings, and this amount must be set aside until the repurchase is complete, or until the capital is reduced in line with outstanding share repurchase. 3) Having excess liquidity, which could be covering its debt repayment in the next 6 months, and would not be affected by the repurchase 4) With share repurchase, the company's free float ratio must not be lower than SET's minimum requirements at 15% of its paid-up capital. Also, if the retail shareholders fall below 150 persons, it will not be eligible for share repurchase. 						
Methods of share repurchase	<p>Two ways of share repurchase:</p> <ol style="list-style-type: none"> 1) In case the shareholders' views are not in accordance with the shareholders' resolution, they have to send the repurchase offer to those approved shareholders as well as notifying the company of the purpose. 2) In case the repurchase is for financial management, it can be done via two channels: SET or general offer (GO) <ul style="list-style-type: none"> • Repurchasing not over 10% of paid-up capital can be done via either SET or GO; • Repurchasing over 10% of paid-up capital can be done via GO only 						
Repurchase price via SET	<ul style="list-style-type: none"> • Repurchase price \leq 115% of 5-day average latest closing prices • Repurchase price \geq 85% of 5-day average latest closing prices 						
Required information disclosure	<p>1. When the board of directors has passed a resolution on share repurchase:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #D3D3D3;">To handle shareholders' objection</th> <th style="background-color: #D3D3D3;">To manage company's finance</th> </tr> </thead> <tbody> <tr> <td> <ol style="list-style-type: none"> 1. Period of information disclosure <ul style="list-style-type: none"> ▪ Within Day T or before 9.00 am of Day T+1 </td> <td> <ol style="list-style-type: none"> 1. Period of information disclosure <ul style="list-style-type: none"> ▪ Within Day T or before 9.00 am of Day T+1, and disclose information \geq14 days before the repurchase date </td> </tr> <tr> <td> <ol style="list-style-type: none"> 2. Required disclosure (TS-1.1 Form) <ul style="list-style-type: none"> ▪ Details of the new and old articles of association about voting rights and </td> <td> <ol style="list-style-type: none"> 2. Required disclosure (TS-1.2 Form) <ul style="list-style-type: none"> ▪ Maximum fund for share repurchase, amount and </td> </tr> </tbody> </table>	To handle shareholders' objection	To manage company's finance	<ol style="list-style-type: none"> 1. Period of information disclosure <ul style="list-style-type: none"> ▪ Within Day T or before 9.00 am of Day T+1 	<ol style="list-style-type: none"> 1. Period of information disclosure <ul style="list-style-type: none"> ▪ Within Day T or before 9.00 am of Day T+1, and disclose information \geq14 days before the repurchase date 	<ol style="list-style-type: none"> 2. Required disclosure (TS-1.1 Form) <ul style="list-style-type: none"> ▪ Details of the new and old articles of association about voting rights and 	<ol style="list-style-type: none"> 2. Required disclosure (TS-1.2 Form) <ul style="list-style-type: none"> ▪ Maximum fund for share repurchase, amount and
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	<p>getting dividends, reasons and the needs to amend the articles of association</p> <ul style="list-style-type: none"> ▪ Shareholders’ meeting schedule ▪ Repurchase offer to shareholders opposing the amendment ▪ Period and methods of rights exercise ▪ Repurchase price ▪ Price setting method, BV price, market price 	<p>proportion of the repurchase, method and period of repurchase, the price must be compared with 30-day average market prices</p> <ul style="list-style-type: none"> ▪ Retained earnings, debt obligations in six months from the repurchase date and ability to pay, source of fund for debt repayment, free float, and the shareholding distribution report ▪ Reasons of the share repurchase ▪ Effects to the shareholders and the company after the repurchase ▪ Period of repurchase offer and cutoff with details about the method, when an offer starts, and the price setting method ▪ Details of the past share repurchases
	<ul style="list-style-type: none"> • For both purposes of share repurchase, specific or general, the company has to send the share repurchase form to shareholders via SETLink to disseminate to the investors, with following details: <ol style="list-style-type: none"> 1) To handle shareholders’ objection: Submit the share repurchase form (TS-2.1 Form) to opposing shareholders within 10 days from the day the sale notification is due. The share repurchase will take 10-20 days. 2) To manage the company’s finance: Submit the share repurchase form (TS-2.2 Form) to the shareholders 10 days ahead of the repurchase date. The share repurchase should not be less than 10 days. <p>2. Reporting the results of share repurchase</p>	
	Case of opposing shareholders and general offer	Repurchasing shares via SET
	<p>1. Period of information disclosure</p> <ul style="list-style-type: none"> ▪ Within 5 days from after the share repurchase ends 	<p>1. Period of information disclosure</p> <ul style="list-style-type: none"> ▪ Within Day T or before 9.00 hrs. of Day T+1
	<p>2. Required disclosure (TS-3.1 / TS-3.2)</p> <ul style="list-style-type: none"> ▪ Amount of each and total repurchase ▪ Max-Min price, or repurchase price ▪ Total value ▪ Period of repurchase ▪ Method of repurchase, Board’s resolution date, amount of shares to be repurchased 	<p>2. Required disclosure (TS-3.2)</p> <ul style="list-style-type: none"> ▪ Amount of each and total repurchase ▪ Max-Min price ▪ Total value ▪ Period of repurchase ▪ Method of repurchase, Board’s resolution date, amount of shares to be repurchased

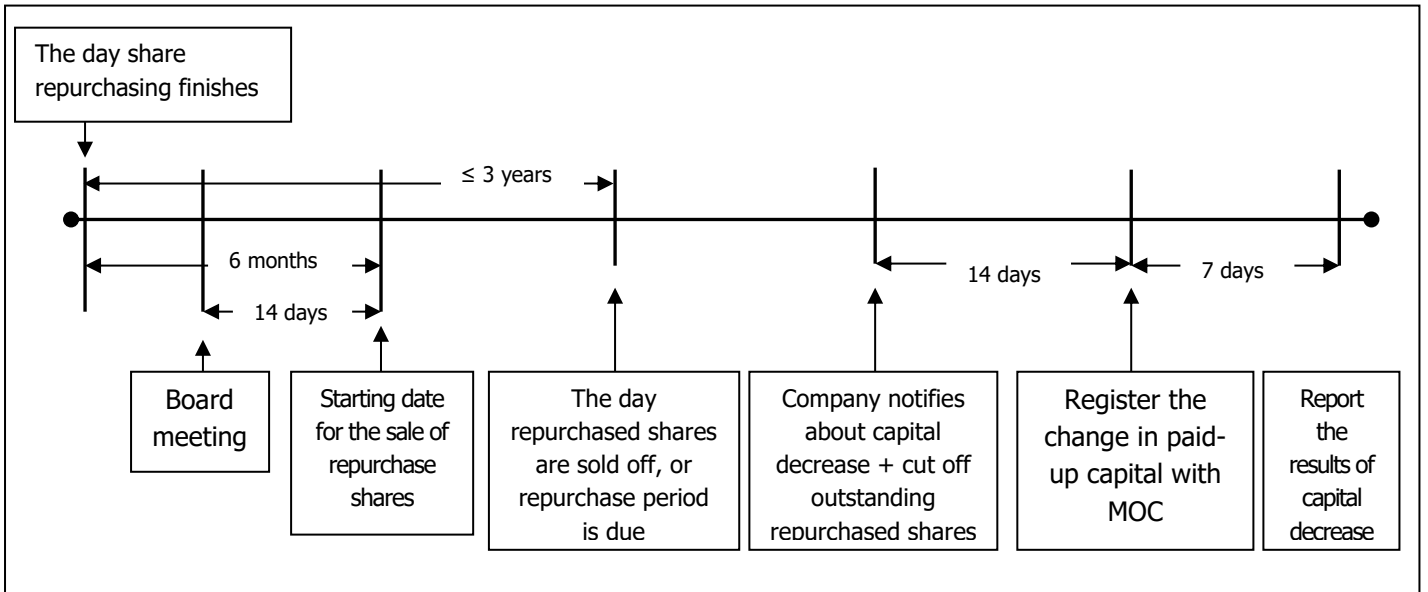
Subject	Details	
	3. When the board of directors has a resolution to sell the repurchased shares	
	PO sale	Selling repurchased shares through SET
	1. Period of disclosure <ul style="list-style-type: none"> ▪ Within Day T or before 9.00 am of Day T+1, and ≥ 14 days before the selling date of repurchased shares 	
	2. Required disclosure (TS-7 Form) <ul style="list-style-type: none"> ▪ Amount and proportion of repurchased shares to be sold ▪ Method and period for the sale of repurchase shares ▪ Price setting criteria for the sale of repurchase shares 	
	4. Reporting the sale of repurchased shares	
	PO sale	Selling repurchased shares through SET
	1. Period of information disclosure <ul style="list-style-type: none"> ▪ Within 5 business days from the date that the sale of repurchased share ends 	
	2. Required disclosure <ul style="list-style-type: none"> ▪ Results of the sale e.g. selling date, amount of shares, selling price, total value ▪ Amount of repurchased shares outstanding 	
	1. Period of information disclosure <ul style="list-style-type: none"> ▪ Within Day T or before 9.00 am of Day T+1 	
	2. Required disclosure (TS-4 Form) <ul style="list-style-type: none"> ▪ Results of the sale e.g. selling date, amount of shares, min-max prices, total value ▪ Amount of repurchased shares outstanding 	
	5. When the board of directors has a resolution to cutoff repurchased shares and decrease capital	
	PO sale	Selling repurchased shares through SET
1. Period of disclosure <ul style="list-style-type: none"> ▪ Within Day T or before 9.00 am of Day T+1 		
2. Required disclosure (TS-5 Form) <ul style="list-style-type: none"> ▪ Amount of shares in capital decrease ▪ Paid-up capital before and after capital decrease 		
6. When the company has registered its capital decrease with the Ministry of Commerce (MOC)		
PO sale	Selling repurchased shares through SET	
1. Period of disclosure <ul style="list-style-type: none"> ▪ Within Day T+7 or before 9.00 am of Day T+8 		
2. Required disclosure (TS-6 Form) <ul style="list-style-type: none"> ▪ Paid-up capital before and after capital decrease, and amount of shares decreased ▪ Registration date with MOC and submitting the capital certificate by MOC to the SET as for documentation. 		

Process

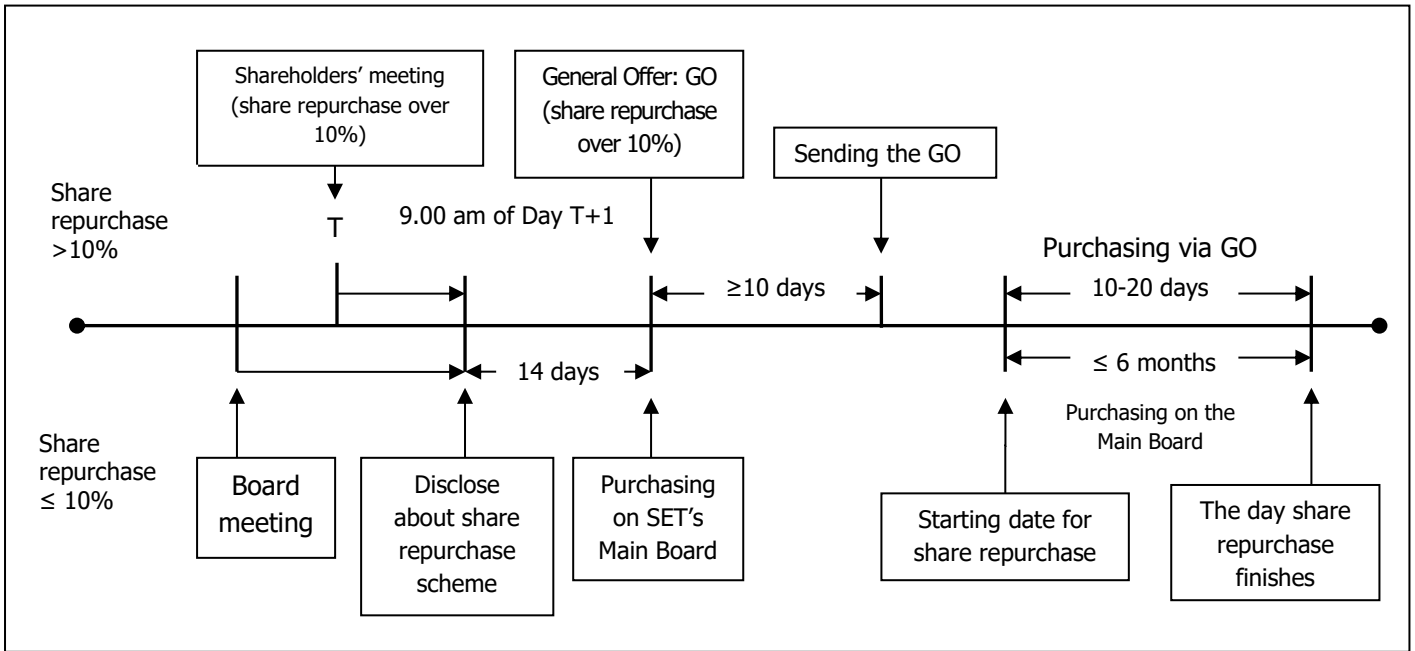
1. Share repurchase when the shareholders are opposing to the meeting resolution



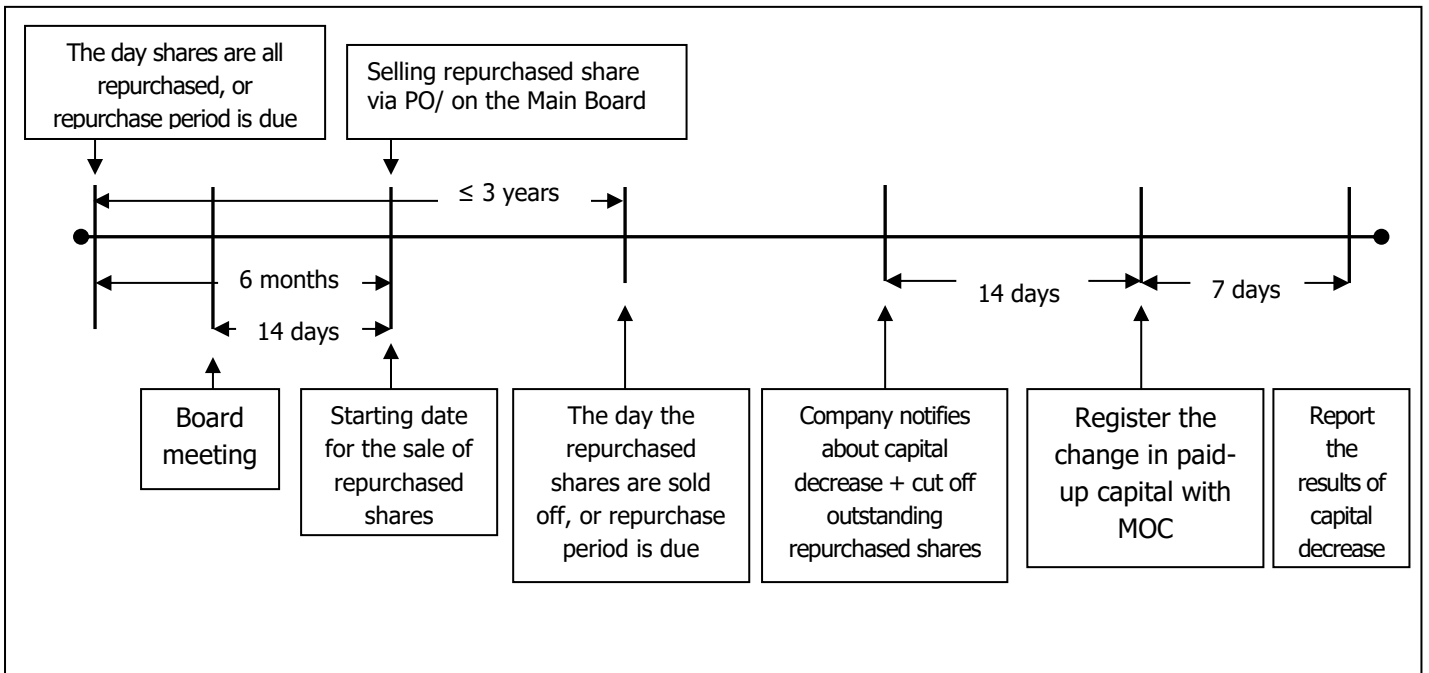
2. Selling the shares repurchased when the shareholders are opposing to the meeting resolution



3. Share repurchase for financial management purpose



4. Selling of shares repurchased for financial management purpose



Q&As

Question	Answer
Can the repurchased shares be counted as quorum and the votes at shareholders' meeting?	No. The repurchased shares will not be counted as quorum and votes at the shareholders' meeting.
Can the company borrow to repurchase shares in order to manage its finance?	No. The company needs to maintain excess liquidity by considering its ability to repay debt obligation in the next six months since repurchasing. If the company has to borrow fund, it means the company doesn't have liquidity.
In the event the company repurchases more than 10% of its paid-up capital, does it have to gain shareholders' approval every time?	Yes. In the event the company repurchases more than 10% of its paid-up capital, it has to gain approval from shareholders, and the repurchase must be done within a year.
In case the repurchase is for financial management purpose, can the company choose to do both repurchasing via SET and GO?	No. Because these two methods will give different pricing for a repurchase, which is not fair for the shareholders.
What event should the company refrain from share repurchase or selling the repurchased shares?	<ol style="list-style-type: none"> 1. When the company is about to announce material information which may have an effect on the share prices, shareholders' benefits, or investment decisions in times such as before the release of financial statements, before dividend announcement, or in the process/have information spreading about the takeover 2. When the company will be repurchasing from or selling the repurchased shares to the connected persons 3. When there are anti-takeover opinions, except it is approved by shareholders
How should the company specify the price setting in the repurchase scheme?	The price setting criteria refers to the standard or theory used in determining an appropriate repurchase price, without having to be specific in numbers or price interval e.g. P/BV or P/E below X times.
What should the company do if it cannot repurchase all share portions?	The company has to cutoff the outstanding amount and registers its capital decrease with the Ministry of Commerce. Then the repurchase scheme ends.
What is the end date for repurchase scheme?	The end date for repurchase scheme refers to the end of repurchase period. It is the day the company has finished its repurchasing or the end of repurchase period previously announced, and it should be no longer than six months from the start.

Question	Answer
Once repurchased has been done, can the company decrease its capital before three years?	The company is permitted to do the repurchase so that it could manage its liquidity, not as a channel to decrease capital. The law allows a company three years to complete, the company should try its best to sell off the repurchased shares. However, if the company cannot sell off all repurchased shares within three years, then it should cutoff the repurchased amount and decrease capital.
When will the company be able to start its repurchase scheme again?	The company will be able to relaunch the repurchase scheme again after one year from the end of the last repurchase, without having to wait for three years after the last repurchase ended, or after the company sold off the latest tranche of repurchased shares.
Can the company increase its capital and sell capital increase shares after the repurchase ended?	No. As per Section 3, No.12, of the Ministerial Regulations, the company is required to sell off all repurchased shares before going to offer a new tranche.
While the listed company is doing the share repurchase, what base value should be used for the calculation of stock ratios such as EPS, Book Value Per Share?	Use the number of shares after deducting the share repurchase.
Should the purchase and sale under the repurchasing scheme for more than 5% be reported to SEC, using 246-2 form of securities acquisitions and disposition?	No, it does not need to report the 246-2 form because the SEC Act does not cover the purchase or sale of securities by the issuing company.
Will the calculation of foreign limit be using number of shares before or after deducting repurchased shares?	It will be using number of shares issued and paid, until the repurchase period is over and there is the capital decrease.
Can the company repurchase its shares on the Foreign Board, in order to prevent excessive foreign shareholding?	No. The share repurchase can only be done on the SET's Main Board.
Can the repurchased shares be used for other purposes?	No. As per Section 113 of the Ministerial Regulations, the repurchase must be done only via SET or general offer.

Question	Answer
<p>For the prohibition of listed company to repurchase shares or sell the repurchased ones with persons it knows as connected persons, is this only relevant for the case trading is done via SET?</p>	<p>Yes, if the transaction is intended to be the repurchase from connected persons. However, in case of General Offer, there is no restriction as each shareholder will have the right to sell proportionately to their shareholding.</p>

Related regulations

SET's regulations

1. Regulations of the Stock Exchange of Thailand Re: Rules, Conditions and Procedures Governing the Disclosure of Information and Other Acts of a Listed Company
2. Notification of the Board of Governors of the Stock Exchange of Thailand Re: Disclosure of Information and Other Acts of a Listed Company in the case that a Listed Company Repurchases Their Own Shares and Disposes of Such Repurchased Shares, 2001
3. SET Circular
 - Kor. Tor. (Wor) 46/2001 on November 30, 2001 Re: Treasury Stock Rules for Listed Companies
 - Kor. Tor. (Wor) 23/2002 on March 22, 2002 Re: Amendment to Treasury Stock Rules for Listed Companies
 - Bor. Jor. (Wor) 38/2004 on June 9, 2004 Re: Completion date of share repurchases
 - Bor. Jor. (Wor) 102/2005 on December 9, 2005 Re: Compensating for accumulated losses and losses/gains from disposal of treasury stock as they affect corporate income tax liabilities
 - Bor. Jor. (Wor) 50/2008 on November 19, 2008 Re: Amendments to treasury stock regulations to respond to the current market situation

Other organization's regulations

1. Ministerial Regulation Prescribing Rules and Procedures for the Repurchase of Shares, Disposal of Repurchased Shares and Deduction of Repurchased Shares of Companies, B.E. 2544 (2001)
2. Notification of Capital Market Supervisory Board Tor Chor. 12/2554: Rules, Conditions and Procedures for the Acquisition of Securities for Business Takeovers (Codified) (5710)
3. SEC Circular No. 2/2005 on February 14, 2005 Re: Opinions on the information disclosure of reserve retained earnings for share repurchase

Form

- Form TS-1.1 Share Repurchase Disclosure Form In the case where dissenting shareholders vote against a shareholders' resolution of a shareholders' meeting
- Form TS-1.2 Share Repurchase Disclosure Form In the case where repurchasing the company's own shares is for financial management purposes
- Form TS-2.1 Offering to repurchase shares from shareholders in the case where dissenting shareholders vote against a resolution of the meeting of shareholder
- Form TS-2.2 General Offer to repurchase shares from shareholders for financial management purposes
- Form TS-3.1 Form for Reporting Share Repurchases In the case where dissenting shareholders vote against a shareholders' resolution of a shareholders' meeting
- Form TS-3.2 Form for Reporting Share Repurchases In the case where repurchasing the company's own shares is for financial management purposes
- Form TS-4 Report Form for the Resale of Shares on the Stock Exchange
- Form TS-5 Form for Shares Written Off and a Decrease in Paid-up Capital
- Form TS-6 Form for Reporting a Decrease in Paid-up capital
- Form TS-7 Share Resale Disclosure Form