

Protecting Investors









6. Protecting Investors

This section discusses the rights and protection of investors when investing in publicly traded and listed companies. Regulations for protecting minority shareholders usually centre around disclosure of information, director accountability and practices on related-party transactions, shareholder participation, good governance and other safeguards for investors.

Useful Information for Investor Protection:

Related Agencies 

-  • The Stock Exchange of Thailand
-  • The Securities Exchange Commission
-  • Ministry of Commerce


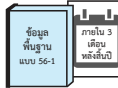
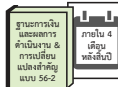



What types of company information are available?

Information Disclosure

The type and level of information disclosed reflect the level of transparency and allow investors to make informed investment decisions.

Information Disclosed:

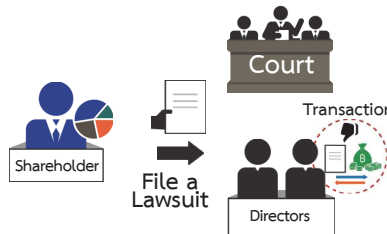
-  Financial Statements
-  Annual Information Disclosure Form
-  Annual Reports
-  News on Significant Changes/ Important Business Transactions



What is the level of accountability/ liability of Directors?

Directory Liability

Director liability indicates the ability to hold directors responsible for their actions, causing directors to exercise greater caution when making business decisions, have increased transparency and accountability, which lead to higher levels of investor confidence.



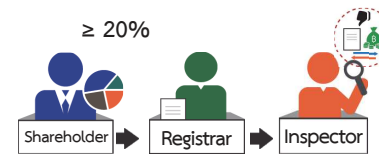
- In the case of transactions involving Directors' conflict of interest:
- Investors may file a claim against Directors for damages caused by their actions if those actions result from breach of fiduciary duties.
 - The Court may void the transaction upon a successful claim by the shareholder.
 - Directors have to repay profits made from the transaction.
 - Fines and imprisonment may be applied against the Directors.



How does the law protect minority shareholders?

Ease of Shareholder Suits

Investors have the rights to file a lawsuit to protect their own interest.



No less than 20% of shareholders may request the Registrar to appoint an inspector to investigate a transaction

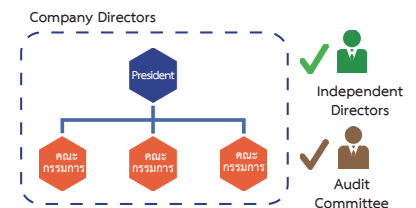


How are standards for management structure and shareholder participation in major transactions being set?

Governance

Corporate governance includes governance structure and safeguards for investors.

Governance Structure



Major transactions require approval from shareholder meetings unless under special exceptions.



Safeguards such as

- Regulation for changing of voting rights - changes require approval from the shareholder meeting
- Limitation of share blocking
- Regulation on cross-shareholding - no more than 25% and prohibited for parent and subsidiary company



- The Stock Exchange of Thailand www.set.or.th, Tel. 02 299 2222
- The Securities Exchange Commission www.sec.or.th, Tel. 1207 or 02 695 9999



Information Disclosure



Investors may access the following information of listed companies through the SET and SEC website:

Related Laws and Regulations

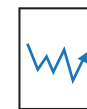
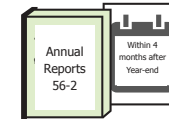
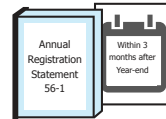
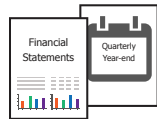


- Public Limited Companies Act B.E. 2535
- The Securities and Exchange Act B.E. 2535 and related notifications
- The Stock Exchange of Thailand's Regulations

Related Agencies



- The Stock Exchange of Thailand (SET)
- The Securities Exchange Commission (SEC)



Financial Statements

Important information showing the financial position and performance of the business

Conditions

- To be submitted according to the disclosure calendar
- Must be audited by certified auditors in SEC's approved list

Type of Information

- Quarterly Financial Statements
- Yearly Financial Statements

Annual Registration Statement

Basic information that investors need to know about the company, such as nature of business, management structure, shareholder information, financial position, operating results, risks, including information on transactions that may have conflict of interest.

Conditions

- Submit to the SEC within 3 months after the end of the accounting period

Type of Information

- Annual Registration Statement (F 56-1)

Annual Report

Information showing operating results and financial position of the company, including major changes in the past year, and information on transactions that may have conflict of interest

Conditions

- Submit to shareholders together with the shareholder meeting invitation letter (Meeting must be held within 4 months from the end of the accounting period)
- Submit to SEC no later than the date submitted to shareholders and within 4 months from the end of the accounting period

Type of Information

- Annual Report (F 56-2)

News on Changes / Major Transactions

Conditions

1. All related-party transactions must be reported to the board of directors.
2. Major transactions and events must be reported to the SEC without delay.
3. Shareholder approval must be obtained for transactions under the Public Company Business Act before the transaction is executed. Related shareholders will not have the right to vote.
4. All major transactions must be disclosed to the public, SET or shareholders.
5. Independent inspectors, such as auditors and financial advisors should review the transaction and provide their opinions before execution.

Type of Information

Major changes that affect the stock price, such as

- Buying/Selling of major assets
- Issuance of shares/instruments to raise capital
- Reorganization
- Take overs
- Seize of operations
- Changes in business/management



For more information on disclosure of information, please visit www.set.or.th



The Stock Exchange of Thailand www.set.or.th/th
Tel. 02 229 2222

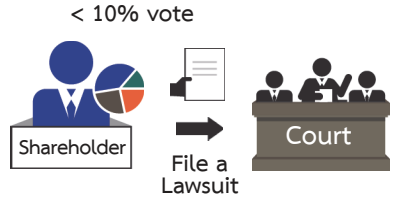
Director Liability 

Shareholders may hold directors liable in the case of related-party transactions as follows:

- Related Laws and Regulations** 
- Public Limited Companies Act B.E. 2535
 - The Securities and Exchange Act B.E. 2535

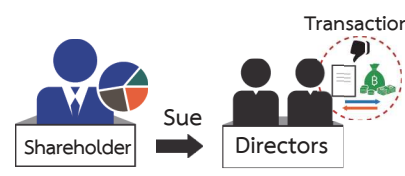
- Related Agencies** 
-  • The Securities Exchange Commission
 -  • Department of Business Development

< 10% vote



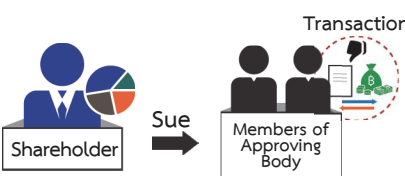
File a Lawsuit

Less than 10% of shareholders may file a lawsuit on behalf of themselves or the company for damage caused by business transactions.



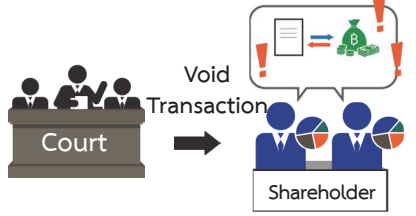
Sue

Shareholders may hold Directors liable for the damage from a business transaction if it is due to directors' negligence and breach of fiduciary duties.



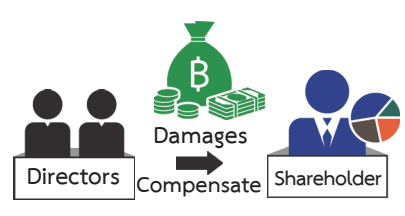
Sue

Shareholders can hold members of the approving body of the business transaction liable for the damage or unfairness caused to the shareholders.



Void Transaction

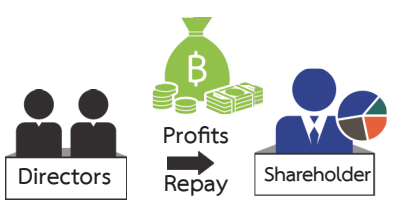
The court can void transactions that cause damages to the shareholders as a result of Directors' breach of duty.



Damages

Compensate

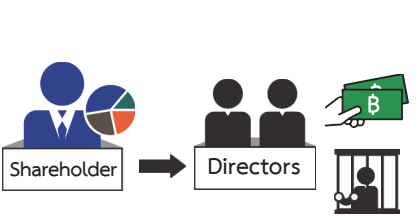
Directors need to pay for damages for the harm caused to the company upon a successful claim by the shareholder.



Profits

Repay


Directors need to repay the profits made from the transaction upon a successful claim by the shareholder.



Shareholder

Directors

Fines and Imprisonment can be applied against directors.

 For further information on investor protection, please see the Public Limited Companies Act at http://www.dbd.go.th/dbdweb_en/more_news.php?cid=249

 The Securities Exchange Commission www.sec.or.th
Tel. 1207 or 0 2695 9999

Ease of Shareholder Suits 



Shareholders have the following rights:

Related Laws and Regulations 

- Public Limited Companies Act B.E. 2535
- Code of Civil Procedure




Related Agencies 

-  • Department of Business Development
-  • Court of Justice








A shareholder may request to examine the company's balance sheet, income statement and auditor's report.




≥ 20%




At least 20% of shareholders may request the registrar to appoint an inspector to investigate a business transaction.


The shareholder plaintiff may request for access to documents by requesting for a court order for submission of documents from the defendant and the witness.






Shareholders may request for documents from the defendant by specifying the documents or type of documents in the list of witness.






Shareholders may question the defendant and witness during trial.

Level of proof for civil cases  Level of proof for criminal cases



The level of proof required for civil suits is lower than that of criminal cases.

 For further information on investor protection, please see the Public Limited Companies Act at http://www.dbd.go.th/dbdweb_en/more_news.php?cid=249

 The Stock Exchange of Thailand www.set.or.th
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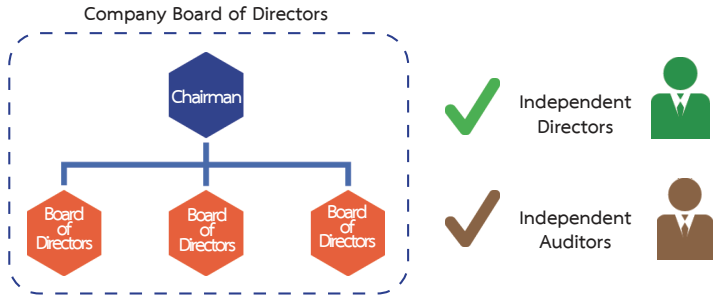
Governance 

Related Laws and Regulations 

- Public Limited Companies Act B.E. 2535
- The Securities and Exchange Act B.E. 2535
- The Principles of Good Corporate Governance for Listed Companies 2012

Related Agencies 

-  • The Securities Exchange Commission
-  • Department of Business Development
-  • The Stock Exchange of Thailand




Governance structure

- Public Limited Companies issuing new shares to the public must appoint independent directors and auditors as required by law.
- The chairman of the board of directors and the managing director have separate roles and responsibilities and should be separate persons according to the Principles of Good Corporate Governance for Listed Companies 2012.
- Major transactions must be approved in the shareholder meeting, unless under exceptional cases.

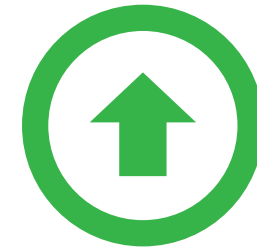
Safeguards

- Changes of voting rights must be approved by the shareholder meeting.
- In the case of takeover where the acquirer acquires at least 25% of the shares, a tender offer must be proposed.
- Share blocking is only permitted to protect the company's interests or to keep the proportion between local and foreign shareholders.
- Cross-shareholding is allowed only according to SEC's regulation, and prohibited in the case of cross-shareholding between parent and subsidiary company.

 For further information on Governance for publicly listed companies in Thailand, please visit http://www.set.or.th/en/regulations/supervision/listed_p1.html
http://www.sec.or.th/EN/RaisingFunds/EquityDebt/Pages/link-Laws_Regulations/CorporateGovernanceCG.aspx

 The Securities Exchange Commission www.sec.or.th
 Call Center 1207 or Tel. 0 2695 9999

Developments and Reforms in Protecting Investors





Developments and Reforms

The Securities Exchange Commission and The Stock Exchange of Thailand made the following developments:



Developments and Reforms

Related Agencies	Developments and Reforms	Related Laws and Regulations	Effective Date
The Stock Exchange of Thailand	<u>Developed the electronic system to allow direct submission of information from the authorized person of the publicly listed company</u> so that investors may receive up-to-date information for decision making	Rules, Conditions and Procedures Governing Submission of Information of Listed Companies, 2012	30 January 2012
The Securities Exchange Commission	<p><u>Amended the Securities and Exchange Act (No. 4) B.E. 2551 to hold directors responsible for their actions in the case that any director or executive acts in bad faith or with gross negligence which causes damage to the company or causes the company to lose benefit that it should have obtained</u></p> <p>Section 89/21 states that any director or executive who acts in bad faith or with gross negligence which causes damage to the company or causes the company to lose benefit that it should have been obtained, shall not be allowed to make use of an approval or ratification by the shareholders' meeting or the board of directors in order to release him from liabilities.</p> <p>The act or omission to act shall include the following cases:</p> <p>(1) request of a resolution of the board of directors or the shareholders' meeting by presenting a false statement or concealing material facts which should have been stated therein;</p> <p>(2) cases relevant to misappropriation of asset or benefit of the company;</p> <p>(3) cases relevant to exploiting asset of the company for benefit.</p>	Securities and Exchange Act (No. 4) B.E. 2551 Section 89/21	2011