

Foreigners' Participation in Thai Listed Companies

Similar to foreign business laws existing in most Asian countries, Thai laws have imposed restrictions on foreign ownership of Thai companies. These restrictions are stipulated in the Foreign Business Act 1999 and specific laws governing certain sectors, e.g. the Banking Act, Insurance Act, and Land Act. In addition, some companies may choose to incorporate foreign ownership limit in their articles of association.

Special vehicles have been created to facilitate foreign investors so that they are able to invest in Thai securities flexibly and conveniently.

- In normal practice, foreign investors have to invest in **securities designated for foreign investors on the foreign board** to fully obtain all voting rights and financial benefits. In case that the foreign ownership limit has been reached and foreign investors cannot acquire securities designated for foreign investors, they may choose to trade in domestic liquidity pool by investing in **securities designated for local investors on the local board**. They are allowed to flexibly buy and sell securities on the local board to gain capital gain from the price movement; however, foreigners are not entitled to obtain any voting rights and dividend from the company if they hold securities designated for local investors on the book-closing date.
- Foreign investors are allowed to conveniently convert securities designated for local investors to those designated for foreign investors at anytime as long as the foreign ownership limit has not yet been reached. The conversion request can be made to a custodian who is a depository member of Thailand Securities Depository (TSD).
- In the event that the foreign ownership limit has been reached, foreign investors' conversion request will be placed on a queue, and their shares will be automatically converted to securities designated for foreign investors if the foreign ownership room becomes available. The conversion to securities designated for foreign investors will allow foreign investors to obtain all beneficial rights on the book-closing date.
- For greater efficiency, flexibility and convenience of foreign investors, SET established an alternative investment channel called **Non-Voting Depository Receipt (NVDR) on the local board** in 2000 as a special vehicle with the objectives of facilitating foreign investors to trade securities that may reach the foreign ownership limit while obtaining all financial benefits with the exception of voting rights. In practice, foreign investors have chosen to trade NVDR units even though the foreign ownership limit of these securities has not yet been reached. Since the establishment of NVDR, obstacles for foreign investors trading on SET have been significantly minimized.
- Foreign investors can easily buy and sell NVDR units on the local board, i.e., the domestic liquidity pool, with the same process and price as regular securities on the local board. Some features of NVDR can be summarized below:
 - **Beneficial rights:** Foreign investors are entitled to obtain all financial returns, but do not have voting rights;
 - **Ease of trading:** The trading of NVDR follows the general trading practice of securities designated for local investors. There is no difference in trading method. NVDR shares the same liquidity pool with securities designated for local investors; and,

- **Flexibility of holding:** Foreign investors are able to conveniently convert NVDR at anytime to securities designated for local investors or securities designated for foreigners if, in the case of the latter, the foreign ownership limit has not been reached. In the event that the foreign ownership limit has been reached, foreign investors' conversion request will be on queue, and their shares will be automatically converted to securities designated for foreign investors if the foreign ownership room becomes available.

Question: Do foreign investors have the same voting rights as domestic investors?

Answer: Yes. Foreign investors are entitled to the same voting rights as domestic investors provided that foreign investors hold shares designated for foreign investors on the book-closing date.

Foreign investors who hold NVDR units or securities designated for local investors on the book-closing date will not be entitled to voting rights. As explained earlier, it is convenient to convert NVDR units or securities designated for local investors to those designated for foreign investors if the maximum foreign ownership limit has not been reached. Unlike systems in some other countries in ASEAN, the Thai system gives certainty in advance on benefits to which foreign investors are entitled, depending on which types of securities they choose to hold.

Question: Are foreigners excluded from holding certain classes of share?

Answer: Foreigners can invest and are free to hold all three types of securities: (1) Securities designated for local investors, (2) NVDR units, and (3) Securities designated for foreign investors.

However, foreigners will not be entitled to voting rights and financial benefits if they hold shares designated for local investors and will not be entitled to voting rights if they hold NVDR units.

Question: How may non-domestic investors trade securities in which the foreign ownership limit has been reached?

Answer: Foreign investors may purchase securities designated for foreign investors on the foreign board provided that there are offers in the market. Alternatively, foreign investors can trade securities designated for local investors and NVDR units. Then, they are able to convert securities designated for local investors and NVDR at anytime to securities designated for foreigners if the foreign ownership room becomes available.