



Legal Alert

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OTCC issued Notification on Credit terms when doing Businesses with SMEs Suppliers No. 2

In 2021, the Trade Competition Commission has announced the Notification of the Trade Competition Commission on Guidelines for Determining Fair Trade Practices regarding Credit Terms for Sellers of Goods and Services that are Small and Medium Enterprises (SMEs) (“**Notification No. 1**”), setting 45-day credit terms for business operators when engaging in general trading, manufacturing, and services with SMEs vendors or suppliers and 30-day credit terms for business operators when engaging in agricultural products or processed agricultural products with simple production process with the SMEs vendors or suppliers. (Click [here](#) for our Legal Alert on this)

Amendment to the Notification No. 1

The Trade Competition Commission has later announced the Notification of the Trade Competition Commission on Guidelines for Determining Fair Trade Practices regarding Credit Terms for Sellers of Goods and Services that are Small and Medium Enterprises No. 2 (“**Notification No. 2**”), amending the definition of SMEs and declaration of SMEs status under the Notification No. 1. The Notification No.2 has been published in the Government Gazette on 17 August 2022 and has become effective from 16 September 2022 onward.

What are the changes?

Qualifications for SMEs

According to the Notification No. 2, the business operators who sell goods or provide services that will be classified as SMEs and be entitled to the credit terms under Notification No. 1 must be either:

(a) Manufacturers of goods that employs no more than 200 workers **and** have income of no more than 500 million Thai Baht per year; or

(b) Providers of services, wholesale or retail businesses that employ no more than 100 workers **and** have income of no more than 300 million Thai Baht per year.

Starting from 16 September 2022, the business operators must both adhere to (i) the required number of employees; **and** (ii) the limitation of income per year in order to be qualified as SMEs and to be entitled to the 45-day or 30-day credit terms as the case may be.

Declaration of SMEs' Status

The SMEs sellers or service providers must declare their status of being SMEs by providing evidence regarding the number of employees being hired **and** annual income to the business operators in order to utilize the limitation of credit terms under the Notification No. 1.

Deloitte's Observation

As the Notification No. 2 brings changes to the qualifications for SMEs for entitlements of limitation of credit terms and the requirements for SMEs to declare its status, the business operators that have active, pending, or prospect sales or service agreements with the SMEs vendor or suppliers should observe and take the changes into account when screening for SMEs suppliers as well as preparing the payment process. In doing so, the business operators may assess whether the current or prospect suppliers are SMEs by considering the SMEs supplier's required business nature under Notification No. 2 as well as initially request for evidence of the suppliers' SMEs status prior to finalizing the payment process to ensure that such suppliers are qualified for the available credit terms for SMEs. Preparing in advance will proactively ease the business operators in managing the cash flows when engaging with the SMEs suppliers.

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