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(Unofficial Translation)

17 October 2025

To: President of the Stock Exchange of Thailand
President of the Association of Thai Securities Companies
Chairperson of the Custodian Club
Managers of all securities companies

SEC Circular Nor Por. (Wor) 37/2568 Re: Clarification regarding the Sale of Securities without Having Possession of Such Securities and Provision of Securities Borrowing and Lending Services by Securities Companies

The Office of the Securities and Exchange Commission ("SEC Office") has issued this clarification to assist securities companies ("SC") in complying with applicable laws and regulations under the Securities and Exchange Act B.E. 2535 (1992) ("SEA") on the following matters:

1. Sale of securities without possession by securities companies under Section 98(5) of the SEA[1], which relevant notifications[2] permit only in the following cases:

(1) Short selling: a sale of securities that must be borrowed for delivery, whether the short sale is executed in the name of SC itself or as ordered by a client

[1] Section 98 (5) prescribes that "no securities company shall sell securities without having possession, or without receiving an order to sell from another person, unless the Capital Market Supervisory Board issues a notification allowing such transaction."

[2] Notification of the Capital Market Supervisory Board regarding the Sale of Securities without Possession by Securities Companies, including other relevant notifications of the SEC Office and operating guidelines.

(2) Long selling: a sale of securities in accordance with the order of a client who has not delivered the possession of such securities to SC when the client made the sale order, but the SC is confident that the client owns the securities, regardless of whether such securities are in the client's possession, deposited with another SC, or deposited with a securities depository (Custodian).

In this regard, a sale of securities owned by the seller but lent out under an agreement allowing recall at any time and where recall occurs without delay upon matching the sell order so that delivery can be made within the time frame specified by the clearing house, may be considered a long sell.

2. Provision of brokerage services by SC pursuant to the notifications issued by virtue of Section 113[3] of the SEA in the part related to communication and provision of services to clients, acceptance of buy/sell orders from clients, and other related operations[4].

3. Provision of securities borrowing and lending ("SBL") services by SC pursuant to relevant notifications[5].

This clarification shall replace Letter No. Nor Thor. 891/2562 regarding Response to Inquiries concerning Rules on Securities Borrowing for Short Selling, dated 11 April 2019.

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[3] Section 113 prescribes that "In operating the business of securities brokerage, a securities company shall comply with the rules, conditions and procedures as specified in the notification of the Capital Market Supervisory Board."

[4] Ex., Notification of the Capital Market Supervisory Board regarding Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries, including other relevant notifications of the SEC Office and operating guidelines.

[5] Notification of the Capital Market Supervisory Board regarding Rules, Conditions and Procedures for Undertaking Securities Business in the Category of Securities Borrowing and Lending, including other relevant notifications of the SEC Office and operating guidelines.

1. Short Selling on Behalf of the SC Itself

1.1 SC wishing to engage in short selling on behalf of itself must put in place appropriate and adequate policies and management structures to enable efficient business operations and ensure compliance with applicable laws and regulations, covering at least the following matters:

(1) Setting policies, risk management frameworks, operational guidelines for short selling, which cover determination of roles, authority, duties and responsibilities of the personnel involved;

(2) Selecting securities eligible for short selling, as designated by the Stock Exchange of Thailand ("SET");

(3) Securing reliable sources for securities borrowing and arranging for securities borrowing agreements that must be carefully and comprehensively prepared, comply with standards, and contain the descriptions and essences as specified in the Notification of the SEC Office[6], such as the Global Master Securities Lending Agreement (GMSLA);

(4) Establishing risk management systems, such as controls for aligning securities borrowing with short sale orders, investment limits, collateral requirements and calculations, securities repurchase, recall procedures, and monitoring of short sale positions. In all cases, SC must segregate borrowed securities from their own holdings.

1.2 Before placing a short sale order, SC must:

(1) Have already borrowed sufficient securities for intended short sale; or

(2) Have located a source of securities borrowing, whereby SC has verified and obtained confirmation from the party with whom it has entered into a securities borrowing agreement that securities can be lent in sufficient quantity as desired by SC for short selling, and are available for immediate borrowing, provided that SC has sufficient collateral for the securities borrowing (in cases where the securities borrowing agreement requires collateral to be posted).

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[6]Clause 19 of the Notification of the SEC Office regarding Rules in Detail on Communication with and Providing Services to Clients of Securities Companies and Derivatives Intermediaries.

1.3 When placing a short sale order, SC must indicate in the SET trading system that the order is a short sale transaction (flag S), comply with the price rules, and place the short sale order only up to the number of securities that have been borrowed or located in advance;

1.4 In cases where SC arranges a source of securities borrowing in the form of a locate under 1.2 (2), SC must proceed to borrow the securities without delay upon the matching of the short sale order, unless SC has already borrowed such securities in advance;

1.5 SC must monitor and keep the short-selling status up to date, report outstanding shorts not yet repurchased, and submit any other relevant reports as required by the SEC and the SET.

2. Short Selling Ordered by a Client

2.1 SC may accept a client's short sale order only for eligible securities designated by the SET;

2.2 SC must ensure that a client can deliver securities within the time frame specified by the clearing house, provided that the client has borrowed securities or located a borrowing source in any of the following manners:

(1) Client has already borrowed sufficient securities for the intended short sale;

(2) Client has used SBL services of SC (in cases where SC is the lender), having borrowed or requested a locate of the securities and obtained confirmation from SC of the lending of such securities in an amount sufficient to cover the client's intended short sale order. SC must also comply with Item 4;

(3) Client confirms or provides assurance to SC that the client has borrowed or located a source of securities borrowing in an amount sufficient to cover the intended short sale order, and will borrow the securities without delay upon the matching of the sale order to ensure delivery within the time frame specified by the clearing house, only in cases where the client does not keep the securities being sold with SC, as specified in Item 3.

2.3 SC must exercise oversight to ensure that client short sale orders comply with relevant SET rules, including the "S" flag designation, compliance with price rules for order submission, and reporting requirements related to short selling.

3. Acceptance of Sale Orders Where Clients Do Not Keep the Securities Being Sold with SC (Applicable to Both Short Sales and Long Sales)

To ensure clients not keeping securities with SC are able to deliver securities within the time frame specified by the clearing house, and to prevent evasion of relevant regulations, SC must implement the following measures:

3.1 Conduct Know Your Customer and Due Diligence (KYC-CDD) to ensure the client's ability to procure securities for delivery or locate a securities borrowing source , as the case may be, by:

(1) Ensuring the client's ability to settle payment and deliver securities within the time frame specified by the clearing house, having procedures for verifying securities sale orders and compliance with short selling regulations, order execution in accordance with the SET's rules, including borrowing or locating borrowing sources before order placement to prevent naked short selling;

(2) In the case of inter-broker clients[7], SC must ensure that the clients are able to communicate the relevant rules to their downstream clients and that their operations comply with the applicable regulations.

3.2 Enter into a brokerage service agreement with the client to ensure that the client agrees to notify and provide information related to order placement to SC upon request[8].

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[7] A securities business operator under foreign law that provides services as a broker or agent for the purchase, sale, or exchange of securities on behalf of others.

[8] Clause 17 of the Notification of the SEC Office regarding Rules in Detail on Communication with and Providing Services to Clients of Securities Companies and Derivatives Intermediaries.

3.3 Require a client to provide assurance[9] that the client has borrowed or located a source of securities borrowing in accordance with Item 2.2 before placing a short sale order;

3.4 Conduct a post-trade audit according to a risk-based approach to ensure that clients comply with the relevant rules and maintain supporting documentation for the SEC inspection.

Examples of transactions with risk of non-compliance with relevant regulations, which SC should monitor and request additional supporting documentation[10] from clients include cases where clients sell and repurchase the same securities on the same day in high volume without designating the transactions as short sales, cases where the SEC or the SET requests further inspection, or cases of late deliveries or failed settlement in large volumes, not attributable to technical issues or human errors.

4. SBL Services

4.1 Policy and Risk Management

SC offering SBL services must have sufficient and effective work systems and risk management frameworks that enable compliance with applicable laws and regulations[11], covering at least the following areas:

(1) Establishing policies, risk frameworks for providing SBL services, defining the roles and responsibilities of relevant personnel, as well as preparing and maintaining

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[9] The assurance can be made in various forms that allow for documentation of evidence, such as verbal assurance with audio recording, confirmation via email, or presentation of documents evidencing the securities borrowing.

[10] Ex., a document showing the securities held by the client before placing the sale order, and evidence of borrowing or confirmation of the securities borrowing.

[11] Notification of the Capital Market Supervisory Board regarding Rules, Conditions and Procedures for Undertaking Securities Business in the Category of Securities Borrowing and Lending, including other relevant notifications of the SEC Office and operating guidelines.

documentation related to SBL transactions and reporting in accordance with applicable laws and regulations;

(2) Sourcing securities available for lending, including selection of securities, managing the securities inventory, reserving securities or implementing other risk management measures to accommodate potential recalls. This should take into account liquidity, concentration of securities, and client trading behaviors;

(3) Lending process including KYC/CDD, preparing SBL agreements, verifying locate requests, segregating located or lent securities to prevent over-locating or lending without available securities (naked lending);

(4) Managing collateral including selection of collateral, determination of collateral rates reflecting client and securities risks, monitoring the status of collateral assets, and enforcing collateral liquidation;

(5) Testing stress under various scenarios, including having contingency plans to fairly protect the interests of both the lending and borrowing clients.

4.2 Master Lending Agreement

SC providing SBL services must establish an agreement containing descriptions in accordance with prescribed standards, and including material terms as specified in the Notification of the SEC Office[12] such as the GMSLA. Such agreement must also enable SC to comply with relevant rules and regulations.

4.3 Sourcing Securities For Lending Services

(1) In cases where SC sources securities for lending from another lender, SC must enter into a securities borrowing agreement with the client (lender) or make an arrangement with the client that allows the agreed-upon securities to be immediately available for lending. In case of multiple lenders, SC should establish a fair and non-discriminatory allocation process for lending the securities;

(2) In case of sourcing securities for lending from an external securities lending source, SC must verify that the source is reliable and is either an SBL licensee or an

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[12] Clause 19 of the Notification of the SEC Office regarding Rules in Detail on Communications with and Providing Services to Clients of Securities Companies and Derivatives Intermediaries.

entity legally permitted to provide SBL services under foreign law, and is subject to supervision by the securities regulator in that country;

(3) SC must segregate the securities obtained through borrowing under Item 4.3 (1) and/or (2) from its own accounts.

4.4 Confirmation of Located Securities

(1) SC may confirm the availability of securities for lending only when it is confident that it will be able to lend the securities to the client immediately upon the client's borrowing request, or when the client's short sale order has been matched, at least under the following conditions:

(a) The client has entered into an SBL agreement that includes provisions on securities borrowing verification and lending arrangement that enables SC to comply with this rule and other relevant regulations;

(b) SC has verified the collateral provided or the client's ability to provide collateral for the securities borrowing, and is confident that the client has or can provide the agreed upon collateral to enable immediate borrowing;

(c) SC has verified that the securities inventory is sufficient to cover the amount requested by the client, or has received confirmation from the securities lending source that the securities can be lent in an amount sufficient to meet the client's request.

(2) SC must reserve the full amount of securities confirmed to the client and must not use the same securities to confirm lending to or lend them to any other party;

(3) In cases where SC also acts as a broker for the short sale order, SC must lend the securities to the client without delay once the client's short sale order has been matched, unless the client has already confirmed the borrowing of the securities in advance.

(4) In cases where SC locates securities for the client from an external securities lending source, SC must borrow the securities from the securities lending source immediately when lending out accordingly.

Please be informed and take the necessary actions accordingly. For further inquiries please contact SEC Officers – Mr. Gritchanut Wonghan (Tel: 0-2033-9751, Email: gritchanut@sec.or.th), Ms. Phachisa Chocksawatdikorn (Tel: 0-2033-4620, Email: phachisa@sec.or.th), Ms. Laksika Plengpiw (Tel: 0-2033-9576, Email: laksika@sec.or.th) – or SEC Assistant Director Ms. Anudporn Titapich (Tel: 0-2263-6216, Email: anudporn@sec.or.th).

Yours sincerely,

(Mrs. Pornanong Budsaratragoon)

Secretary-General

Intermediary Policy Department

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