

(Translation)

*Readers should be aware that only the original Thai text has legal force and that this English translation is strictly for reference. The SEC, Thailand cannot undertake any responsibility for its accuracy, nor be held liable for any loss or damages arising from or related to its use.*

-----

**The Office of the Securities and Exchange Commission**

Notification of the Office of the Securities and Exchange Commission

No. OrNor. 3/2544

Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor

\_\_\_\_\_

In pursuance of the Notification of the Office of the Securities and Exchange Commission governing the qualifications of the mutual fund supervisor – one such qualification therein being that such person shall be registered as a qualified fund supervisor – for the benefit in considering the registration of such qualified fund supervisor, the Office of the Securities and Exchange Commission hereby issues guidelines for such consideration and procedures as follows:

**Clause 1.** In this Notification;

“Fund supervisor” means the mutual fund supervisor;

“Mutual fund” means any closed-end fund and open-end fund;

“Registered person” means any person who is registered as a qualified fund supervisor;

“Association” means any association relating to securities business, which has been approved by and registered with the Office, whose main objective is to promote and develop securities business in the category of asset management;

<sup>1</sup>“Custody agent” means any person whom a registered person appoints as an agent to perform duties relating to the custody of mutual fund assets;

“Management company” means any securities company licensed to undertake securities business in the category of mutual fund management;

“Office” means the Office of the Securities and Exchange Commission.

---

<sup>1</sup> This is added by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor (No.2) dated 09/03/2004.

**Clause 2.** Any commercial bank under the laws governing commercial banks, finance company under the laws governing the undertaking of finance, securities and credit foncier businesses, securities company under the laws governing securities and exchange, life insurance company under the laws governing life insurance or financial institution established under specific laws, who seeks to be registered with the Office as a qualified fund supervisor shall;

(1) Maintain capital adequacy and capital reserves as specified by the rules of laws governing the business operation of such person, and has no reasonable grounds to be believed that its financial condition has worsened significantly during the course of one year preceding the date when the Office considers the qualifications for the registration of qualified fund supervisor;

(2) During the course of three years preceding the year when the application is filed up until the date of registration as a qualified fund supervisor, not have records of commission of offense under the laws governing the business operation of such persons, the laws governing anti-money laundering or any other laws relating to financial businesses, regardless of whether such laws are Thai or foreign laws, which concern unfair practices of securities trading or business operations with the nature of deceit, fraud or dishonesty;

(3) During the course of three years preceding the year when the application is filed up until the date of registration as a qualified fund supervisor, not have operational records indicating the nature of deceit or dishonesty or irresponsibility, carelessness in protecting clients' benefits or lack of cautiousness or unfair or unreliable business conducts;

(4) Be able to show that its systems for operating fund supervisor business, at least the followings, are or will be at the ready:

(a) Systems for separating mutual funds' assets from those of the fund supervisor's, for attending and safekeeping of such assets, and for internal control to prevent dishonest abuses of such mutual funds' assets;

(b) Systems for preventing damages to mutual funds' assets, related information and documents, and for controlling the inflow and outflow of mutual funds' assets;

(c) Systems for verifying and enumerating mutual funds' assets to ensure accuracy and totality;

(d) Systems for making asset inventories that show the details and the amount of mutual funds' assets, and for recording the asset inflow and the asset outflow of each mutual fund;

(e) Systems for attending and monitoring the rights and benefits arising from mutual funds' assets;

(f) Systems for preventing conflicts of interest, and for safekeeping of confidential information of mutual funds;

(g) Systems for supervising the valuation of mutual funds' invested assets in accordance with the principle of fairness and consistency for all funds under its supervision, as specified by the rules and procedures of the Association upon the approval of the Office;

(h) Systems for supervising the augmentation and the cancellation of investment units of mutual funds, and for examining and verifying the calculation and the announcement of asset values, net asset values and selling prices and redemption prices of investment units, as specified in the fund scheme and in accordance with the rules and procedures prescribed by the Notification of the SEC or the Office;

(i) Systems for supervising investments and investment proportion of mutual funds, as specified in the fund scheme and in accordance with the rules and procedures prescribed by the Notification of the SEC or the Office;

(j) Systems for receiving and processing complaints of unitholders';

<sup>2</sup>(k) In cases where the applicant for the registration of fund supervisor intends to appoint any person as a custody agent, such applicant shall declare the possession of the following systems;

<sup>3</sup>1. Systems for selecting custody agent to ensure that such custody agent has operational systems relating to asset custody, as specified by the Notification of the SEC governing rules, conditions and procedures for the approval of private fund custodian;

<sup>4</sup>2. Systems for coordinating with the custody agent to ensure that the applicant is able to perform the duties of fund supervisor correctly and completely;

<sup>5</sup>3. Systems for supervising the custody agent to perform the duties delegated by the registered person, as specified by the Notification of the Office governing rules, conditions and procedures for handling customers' assets deposited with the custodian;

---

<sup>2</sup> This is added by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor (No.2) dated 09/03/2004

<sup>3</sup> This is added by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor (No.2) dated 09/03/2004

<sup>4</sup> This is added by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor (No.2) dated 09/03/2004

<sup>5</sup> This is added by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor (No.2) dated 09/03/2004

<sup>6</sup>4. The person whom the applicant will appoint as a custody agent shall be any of the following persons;

<sup>7</sup>4.1 A fund supervisor registered with the Office;

<sup>8</sup>4.2 A private fund custodian approved by the Office;

<sup>9</sup>4.3 Any person who can operate custodial business legally in the countries where mutual funds have been invested, or be a legal custodian in the country where such custodian is located.

(5) Be able to show that the personnel of the unit responsible for work relating to fund supervisor is ready or will be ready, and such personnel shall have knowledge, abilities and experience appropriate for the nature of the responsible jobs and shall have integrity, honesty, professional ethics, fundamental knowledge and understanding of the general law governing professional practices.

Directors, managers and persons with power of management who are responsible for the work unit relating to the functioning as fund supervisor of the juristic persons under the first paragraph shall have qualifications as specified in (2) and (3).

In cases where branches of foreign banks or foreign life insurance companies licensed to undertake commercial bank businesses under the laws governing commercial banks or life insurance businesses under the laws governing life insurance, as the case may be, apply for the registration as a qualified fund supervisor, such branches of foreign banks or foreign life insurance companies shall have qualifications as specified in the first paragraph.

Branch managers and persons with power of management who are responsible for the work unit relating to the functioning as fund supervisor of such branches of foreign banks or foreign life insurance companies under the third paragraph shall have the same qualifications as the persons under the second paragraph.

**Clause 3.** In considering the qualifications for the registration of fund supervisor, the person seeks to file an application for such registration shall submit the application to the Office as per form 121-1, as attached to this Notification, and related documents together with two sets of copies of the application and related documents. The Office shall consider such application within forty-five days as from the next following date after the Office receives such application and related documents in full and with accuracy.

---

<sup>6</sup> This is added by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor (No.2) dated 09/03/2004

<sup>7</sup> This is added by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor (No.2) dated 09/03/2004.

<sup>8</sup> This is added by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor (No.2) dated 09/03/2004.

<sup>9</sup> This is added by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor (No.2) dated 09/03/2004.

**Clause 4.** Before commencing the fund supervisor business, the person registered as a qualified fund supervisor shall notify the Office at least thirty days prior to the date of commencement of such business operation and shall demonstrate to the Office that such fund supervisor has arranged to have systems ready for the operation of fund supervisor business under Clause 2(4) and shall have the personnel of the unit responsible for work relating to fund supervisor ready for performing such work under Clause 2(5), and shall commence such business after having received an approval from the Office.

The provision in the first paragraph shall not apply to persons registered as a qualified fund supervisor whom the Office considers to already have had ready operational systems under Clause 2(4) and ready personnel under Clause 2(5) as of the date when the application is filed.

To be able to make any changes to the operational systems under Clause 2(4), the fund supervisor shall notify the Office in advance in writing and if the Office has no objection in writing within fifteen days as from the next following date after the Office has been notified, such fund supervisor can then make such changes. In cases where changes to such systems are urgent, such fund supervisor may inform the Office of such urgency to request the result of the consideration for such change approval before the fifteen-day deadline is due.

<sup>10</sup>Any registered person who seeks to appoint a custody agent whose qualifications under Clause 2(4)(k) the Office has never considered, such registered person shall apply the third paragraph *mutates mutandis*.

**Clause 5.** The registration as a qualified fund supervisor shall be valid for a period of three years as from the date specified in the letter of notification of such registration.

In cases where a person registered as a qualified fund supervisor seeks to renew its registration, such person shall submit an application as per form 121-1, as attached to this Notification, together with related documents to the Office at least sixty days prior to the expiry date of registration.

The Office shall consider the application under the second paragraph within thirty days as from the next following date after such application is received with correct and complete related documents and while the consideration for the renewal under the second paragraph is in process, the Office may order the registered person to revise its operation within the period of time specified by the Office and such registration shall be deemed valid until the Office orders otherwise.

In cases where the Office declines to grant a renewal to any registered person, such person shall notify the decline of such renewal to the management company who has appointed such registered person as its fund supervisor within the next following date after the Office notifies such decline of renewal, and shall deliver the fund's assets and documents related to the operation of fund supervisor

---

<sup>10</sup> This is added by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to be a Mutual Fund Supervisors (No.2) dated 09/03/2004.

to the new fund supervisor appointed by the management company prior to the expiry date of registration.

**Clause 6.** In performing duties of fund supervisor relating to the custody of mutual funds' assets, a registered person shall operate as prescribed by the Notification of the Office governing rules, conditions and procedures for handling customers' assets deposited with the custodian *mutates mutandis*.

<sup>11</sup>**Clause 6/1.** A registered person shall not allow its custody agent to appoint a sub-agent unless the mutual funds under such registered person's supervision invest in foreign securities or assets and such sub-agent is a legal custodian in such foreign countries.

**Clause 7.** A registered person shall maintain qualifications as prescribed under Clause 2 and in cases where such qualifications cannot be maintained, such registered person shall notify the Office in writing and provide the reasons why such qualifications cannot be maintained within the next business day following the date when such qualifications fail to be maintained and when such qualifications are regained, such registered person shall notify the Office in writing within the next business day following the date when such qualifications are regained.

**Clause 8.** In cases where a registered person lacks any of the qualifications as prescribed under Clause 2 or does not perform the duties of custody as prescribed under Clause 6, the Office may order such person to rectify its operation within a specified period of time or may order otherwise.

<sup>12</sup>In cases where any person fails to comply with the Office's order under the first paragraph or fails to comply with the fourth paragraph of Clause 4 or Clause 6/1, the Office may revoke the registration of fund supervisor of such person.

In cases where the revoked person under the second paragraph has duties to continue as a fund supervisor of any mutual funds, such revoked person shall deliver all assets and documents related to the operation of fund supervisor to the new fund supervisor appointed by the management company without delay.

When the Office notifies the proceedings or orders according to the first and second paragraphs in writing to any registered person, such registered person shall notify such proceedings or orders to the management company who appoints such registered person as its fund supervisor in writing within the next business day

---

<sup>11</sup> This is added by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to be Mutual Fund Supervisors (No.2) dated 09/03/2004.

<sup>12</sup> This is repealed for amendment by the Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to be Mutual Fund Supervisors (No.2) dated 09/03/2004.

following the date when such registered person has been notified of the proceedings or orders by the Office.

**Clause 9.** Any registered person seeks to terminate its fund supervisor business shall inform the Office before the date of such termination and shall proceed as specified in the third paragraph of Clause 8.

**Clause 10.** This Notification shall come into force as from 1 April 2001.

Notified this 19<sup>th</sup> day of March 2001.

- Signature -

(Mr. Prasarn Trairatvorakul)

Secretary-General

The Office of the Securities and Exchange Commission

Notes:

Notification No. OrNor. 3/2544 Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor dated 19/03/2001, published in the Government Gazette dated 2 April 2001, General Issue, Special Section 31Ngor.

Notification No. OrNor. 4/2547 Re: Registration of Persons Qualified to Be a Mutual Fund Supervisor (No.2) dated 09/03/2004, published in the Government Gazette dated 9 March 2004, General Issue, Volume 121, Special Section 26Ngor.