

The Derivatives Act

B.E. 2546

SECTION 3. In this Act:

“goods” means securities, gold, crude oil, or any other property as specified in the notification of the SEC with the approval of the Cabinet, excluding currencies.

“variable” means any exchange rate, interest rate, financial index, securities index or any other variables as specified in the notification of the SEC with the approval of the Cabinet.

“derivatives” means a contract having one or any combination of the following characteristics:

- (1) a contract in which one party is obliged to deliver goods as specified in the contract to the other party at a given time in the future, and the other party, in turn, is obliged to make payment for such goods at a price specified therein;
- (2) a contract in which one party is obliged to make payment to the other party, or *vice versa*, in the amount which is equivalent to the difference between the price or value of goods or variable specified in the contract and the price or value of such goods or variable prevailing at a given time or period of time in the future as specified in the contract;
- (3) a contract in which one party is entitled to demand the other party to deliver goods, or make payment for goods, or make payment in the amount which is equivalent to the difference between the price or value of goods or variable specified in the contract and the price or value of such goods or variable prevailing at a given time or period of time in the future as specified in the contract, or to demand the other party to enter into a contract under subsection (1) or (2).

“derivatives business” means the undertaking to provide services as the following:

- (1) a derivatives broker;
- (2) a derivatives dealer;
- (3) a derivatives advisor;
- (4) a derivatives fund manager;
- (5) any other service providers relating to derivatives as specified in the notification of the SEC.

“derivatives broker” means any person who, in the ordinary course of business, engages or holds himself out to the general public as being ready to engage as an agent in the business of trading in derivatives with others, and has

been licensed or registered under this Act, excluding those derivatives brokers with the characteristics as specified in the notification of the SEC.

“derivatives dealer” means any person who, in the ordinary course of business, holds himself out to the general public as being ready to engage as a counter party in a derivatives contract with any person who intends to trade in derivatives, by entering or offering to enter into such contract, and has been licensed or registered under this Act, excluding those who trade in or offered to trade in derivatives for their own accounts on any derivatives exchange licensed under this Act or those derivatives dealers with the characteristics as specified in the notification of the SEC.

“derivatives advisor” means any person who, in the ordinary course of business, gives advice to others, or holds himself out to the general public as being ready to give advice to others, whether directly or indirectly, concerning derivatives or advisability of trading in derivatives, and has been licensed or registered under this Act, excluding those persons whose giving of advice is solely a part of or an incidental to the conduct of business as a derivatives broker or a derivatives dealer, or any other persons who give advice in a manner as specified in the notification of the SEC.

“derivatives fund manager” means any person who, in the ordinary course of business, engages in the business of managing funds for others, or holds himself out to the general public as being ready to manage funds for others, with the intention of investing in derivatives, for profit and has been licensed or registered under this Act, excluding those derivatives fund managers with the characteristics as specified in the notification of the SEC.

“derivatives exchange” means any center or network through which derivatives trading is provided in the ordinary course of business, whether by way of matching orders or arranging for counter parties, or by way of providing a trading facility for or facilitating those having intention to trade in derivatives to be able to agree upon or enter into a contract, and has been licensed or registered under this Act, excluding any center or network with the characteristics as specified in the notification of the SEC.

“derivatives clearing house” means any center or network where services for clearing and settlement of obligations under derivatives are provided as an ordinary course of business, and has been licensed or registered under this Act, excluding any center or network with the characteristics as specified in the notification of the SEC.

“trade in derivatives” means to enter into a derivatives contract.

“derivatives position” means an obligation or right of a person arising from derivatives trading.

“close out a derivatives position” means to discharge an obligation or terminate rights under derivatives an equal and opposite trade which results in an offsetting of the position or by any other means under the rules of a derivatives clearing house.

“securities” means securities under the Securities and Exchange Act.

“Stock Exchange” means the Stock Exchange of Thailand under the Securities and Exchange Act.

“securities trading center” means any securities trading center under the Securities and Exchange Act.

“securities clearing house” means any securities clearing house under the Securities and Exchange Act.

“institutional investor” means any investor which is a financial institution under the Commercial Banking Act, securities company, non-life insurance company, life insurance company, statutory company, mutual fund, private fund, the Government Pension Fund, provident fund or any other legal entities as specified in the notification of the SEC.

“competent officer” means any person appointed by the Minister to perform duties under this Act.

“SEC Office” means the Office of the Securities and Exchange Commission under the Securities and Exchange Act.

“SEC” means the Securities and Exchange Commission under the Securities and Exchange Act.

“Minister” means the Minister in charge of this Act.
