

(Translation)

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The Securities and Exchange Commission

Notification of the Securities and Exchange Commission

No. KorThor. 68/2547

Re: Custody of Customer Assets of Licensed Derivatives Broker

By virtue of Section 9 Section 18 Section 33 and Section 34(2) of the Derivatives Act B.E. 2546 (2003), the Securities and Exchange Commission hereby issues the following regulations:

Clause 1. In this notification hereto:

(1) “derivatives broker” means any person licensed to undertake derivatives business in the category of derivatives broker.

(2) “client’s assets” means

(a) assets which derivatives broker received or held as collateral for derivatives trading positions held by a client;

(b) profit or any other interests resulted from derivatives transaction of a client;

(c) warehouse receipt, bill of lading, or any other instruments which represent entitlement in assets held by a derivatives broker for its client for delivery settlement according to client’s derivatives transaction;

(d) cash, securities, or any other assets which a derivatives broker received from a client for clearing and settlement purpose, or which a derivatives broker received for or on behalf of a client for clearing and settlement of a client’s derivatives transaction;

(e) proceeds remain from the sale of client’s securities held under the name of a derivatives broker as a result of client’s default pursuant from derivatives transaction.

Clause 2. Derivatives broker shall arrange a contract or an agreement in written relating to custody of customer assets that specifies the right, duty, and responsibility of each party and contains at least the materials as specified in the notification of the SEC Office.

A contract or an agreement in the first paragraph shall not have any statement denying the derivatives broker’s responsibility to clients from any act or omission of any act, willfully or negligently, of the derivatives broker or its staffs.

Clause 3. Derivatives broker shall not appoint any person to be its agent to undertake custody of customer assets.

Clause 4. In taking custody of customer assets, derivatives broker shall arrange a system, rules or operating procedure to ensure that client's assets are secured and completed and are segregated from its own in the manner that is distinguishable without any suspicion, and there must be separate account for each client's assets and segregated from the account of its own, which should be kept it accurate, complete and up-to-date. Also, the derivatives broker shall submit clients in accordance with the rules specified in the notification of the SEC Office.

Clause 5. Derivatives broker shall not engage in any act which results in creating, altering, transferring, reserving or extinction of client's right in his/her own asset, without or fail to comply with instruction or consent in writing from the client or any person authorized in writing from the customer.

Clause 6. Derivatives broker shall proceed as necessary for clients to obtain rights and benefits arising from their securities or any instruments in the custody of derivatives broker from securities or instrument issuer within appropriate time.

Derivatives broker shall not declare its intention to employ the client's right and benefits without client's permission or consent in writing.

Clause 7. Derivatives broker may deposit customer's cash with commercial bank or other bank established under the specific law, or invest in promissory notes issued by finance company or TSFC Securities Limited, or invest in other investment specified in the notification of the SEC Office, with a statement in such bank deposits or promissory notes or investment, clearly specified that such transaction is proceed by derivatives broker for client's benefit.

In cases where bank deposits or promissory notes in the first paragraph are pay-to-maturity, such bank deposits or promissory notes shall not have any restriction to redeem before date of maturity.

Clause 8. Derivatives broker shall monitor and supervise to ensure that its personnel perform in accordance with this notification and its guidelines specified for implementation in accordance with this notification.

Clause 9. In case where it appears to the SEC Office that any derivatives broker violates or fails to comply with this notification or its guidelines specified for implementation in accordance with this notification or improperly conducts itself, the SEC office may order such person to rectify, do or refrain from doing any act for implementation in accordance with this notification.

Clause 10. This Notification shall come into force from 16 January 2005.

Notified this 22nd day of December 2004.

- Signature -
(Mr. Somkid Jatusripitak)
Minister of Finance
Chairman of the Securities and Exchange Commission