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**Notification of the Securities and Exchange Commission**  
**No. KorNor. 13/2548**  
**Re: Rules for Maintaining Capital Adequacy and**  
**Professional Indemnity Insurance of Management Companies**

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By virtue of Section 14, Section 97, Section 109, Section 117, Section 133 and Section 143 of the Securities and Exchange Act B.E. 2535 (1992), the Securities and Exchange Commission hereby issues the following regulations:

**Clause 1.** This Notification shall come into force from 1 July 2005.

**Clause 2.** The Notification of the Securities and Exchange Commission No. KorNor. 41/2543 Re: Determination of Working Capital Adequacy, Rules, Conditions and Procedures for Maintaining Working Capital Adequacy, Collateral or Excess Liquid Assets of Management Companies and Provisions of Management Companies dated 18 September 2000 shall be repealed.

**Clause 3.** In this Notification,

“Securities law” means the laws governing securities and exchange;

“Fund” means any mutual fund or private fund;

“Provident fund” means any provident fund under the laws governing provident funds;

“Management company” means any mutual fund management company and private fund management company;

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

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

“Executive” means any director, manager or person responsible for the operation of the management company;

“Customer” means any person who authorizes a management company to manage a private fund;

“Shareholder’s equity” means the shareholder’s equity which appears in the financial statements of the management company and is calculated in accordance with accounting standards;

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

## **Chapter 1**

### **Mutual Fund Management Companies**

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**Clause 4.** Any mutual fund management company shall maintain capital adequacy on the last day of each month by maintaining shareholder’s equity of at least twenty million baht.

**Clause 5.** Any mutual fund management company shall arrange to have a professional indemnity insurance against errors occurring from business undertaking or job performance of the mutual fund management company, executives and staff in accordance with the following rules:

(1) In cases where the net asset value of all funds under management on the last business day prior to the execution date of the professional indemnity insurance agreement does not exceed twenty five billion baht and the shareholder’s equity of the mutual fund management company is lower than one hundred and twenty million baht, such mutual fund management company shall execute the professional indemnity insurance at the amount of not less than the difference between the amount of one hundred and twenty million baht minus the shareholder’s equity of such mutual fund management company;

(2) In cases where the net asset value of all funds under management on the last business day prior to the execution date of the professional indemnity insurance agreement exceeds twenty five billion baht, and the shareholder’s equity of the mutual fund management company is less than two hundred and twenty million baht, such mutual fund management company shall execute the professional indemnity insurance at the amount of not less than the difference between the amount of two hundred and twenty million baht minus the shareholder’s equity of such mutual fund management company;

In cases where the mutual fund management company also manages private funds which are provident funds, the net asset value of all provident funds shall be included in the net asset value of the mutual funds under the first paragraph.

**Clause 6.** In cases where the mutual fund management company has the shareholder's equity of less than thirty million baht but not less than twenty million baht on the last day of any month, such mutual fund management company shall take the following actions:

(1) Report the shareholder's equity to the Office within the next business day following the date on which the mutual fund management company knows or anticipates the insufficiency of the shareholder's equity which fails to reach the specified amount;

(2) Formulate a plan to raise the shareholder's equity to not less than thirty million baht and submit the plan to the Office within fifteen days from the date on which the mutual fund management company knows or anticipates that the shareholder's equity will be less than the specified amount unless the mutual fund management company can raise the shareholder's equity to such specified amount within the aforesaid deadline;

(3) Implement the plan submitted to the Office under (2) and report the progress of the implementation of such plan including the shareholder's equity on the last day of each month to the Office by the seventh business day of the following month until the mutual fund management company has raised the shareholder's equity to not less than thirty million baht.

The mutual fund management company shall report in writing to the Office within the next business day from the date on which the mutual fund management company has raised the shareholder's equity to not less than thirty million baht.

**Clause 7.** In cases where the mutual fund management company cannot maintain capital adequacy under Clause 4, such mutual fund management company shall proceed as follows;

(1) Report to the Office within the next business day following the date on which the mutual fund management company knows or anticipates the inability to maintain capital adequacy;

(2) Arrange for another mutual fund management company to manage the mutual fund or the investment scheme approved under the laws governing the undertaking of finance businesses, securities businesses and credit foncier businesses as per the procedure specified in Clause 8 within fifteen days from the date on which the mutual fund management company knows or anticipates its inability to maintain capital adequacy except when it is deemed necessary and expedient, the Office may consider extending the specified deadline. In this regard, the selection of a new mutual fund management company shall be based on the best interest of the unitholders and the original mutual fund management company shall be responsible for the expenses occurring from the change of mutual fund management company.

In cases where the mutual fund management company cannot proceed within the specified deadline as per the first paragraph, the mutual fund management company shall dissolve the mutual fund except for the investment

scheme approved under the laws governing the undertaking of finance businesses, securities businesses and credit foncier businesses.

(3) Suspend the mutual fund management business until the capital adequacy as specified in this Notification and the Office's approval for business resumption have been obtained unless it is deemed necessary and expedient to prevent damages to the net asset value of the mutual funds under management, to exercise the rights for the benefits of the mutual fund as an owner of the invested assets, or to roll over due bills with the finance company which is the issuer of such bills;

(4) Do or refrain from doing any acts as ordered by the Office to facilitate the rectification of capital adequacy or the compliance with this Clause or to take any actions relating to investment risk management of the mutual fund management company.

**Clause 8.** In changing the mutual fund management company under Clause 7(2), the mutual fund management company shall take either one or the other action as follows:

(1) Apply for an approval from the Office; or

(2) Seek a resolution of the majority unitholders with the aggregate investment units exceeding half of the sold investment units of the mutual fund.

**Clause 9.** The mutual fund management company shall amend its mutual fund scheme approved by the Office prior to the effective date of this Notification, incorporating the details of the change of mutual fund management company under Clause 7(2) into the mutual fund scheme within one year from the effective date of this Notification.

## **Chapter 2**

### **Private Fund Management Companies**

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**Clause 10.** Any private fund management company shall maintain capital adequacy on the last day of each month in accordance with the following requirements:

(1) Any private fund management company which also manages provident funds shall maintain the shareholder's equity of not less than twenty million baht;

(2) Any private fund management company which does not manage provident funds shall maintain the shareholder's equity of not less than ten million baht;

(3) Any private fund management company which is regulated under other laws or already required to maintain a net liquid capital under the securities law shall maintain a capital fund and reserves of not less than the amount specified by such other laws or the securities law.

**Clause 11.** Any private fund management company which also manages provident funds shall arrange to have a professional indemnity insurance against errors occurring from business undertaking or job performance of the management company, executives and staff whereby the provisions of Clause 5 shall apply *mutatis mutandis*.

The provision in the first paragraph shall not apply to the private fund management company which is regulated under other laws or already required to maintain a net liquid capital under the securities law.

**Clause 12.** In the following cases, the private fund management company which abides by the duties under Clause 10(1) and (2) shall comply with the first paragraph of Clause 6 *mutatis mutandis*.

(1) Any private fund management company which also manages provident funds and has the shareholder's equity of less than thirty million baht but not less than twenty million baht on the last day of any month;

(2) Any private fund management company which does not manage provident funds and has the shareholder's equity of less than fifteen million baht but not less than ten million baht on the last day of any month.

**Clause 13.** When the private fund management company has raised the shareholder's equity to the following amounts, it shall notify the Office in writing within the next business day following the date on which such amounts of the shareholder's equity has been achieved:

(1) Not less than thirty million baht in case of the private fund management company which also manages provident funds;

(2) Not less than fifteen million baht in case of the private fund management company which does not manage provident funds.

**Clause 14.** In cases where the private fund management company cannot maintain capital adequacy under Clause 10, the private fund management company shall proceed as follows:

(1) Report to the Office within the next business day following the date on which the private fund management company knows or anticipates the inability to maintain capital adequacy;

(2) Report to the customers the inability to maintain capital adequacy within the next business day following the date on which the private fund management company knows or anticipates such condition.

(3) Neither enter into an agreement for management of private funds with new customers nor allow customers to increase capital of the private fund or amend or add provisions in the agreement with the existing customers, which may affect capital adequacy except for the following cases:

(a) The management of employee savings and employer contribution of the provident funds of the existing customers; and

(b) The payment to the provident fund members upon their termination of memberships.

(4) In cases where the customers of the private fund management company request for a change of private fund management company, the private fund management company shall arrange for another private fund management company to manage such private fund within fifteen days from the date on which the company is notified. In this regard, the original private fund management company shall be responsible for any expenses occurring from the change of private fund management company.

(5) Do or refrain from doing any acts as ordered by the Office to facilitate the rectification of capital adequacy or the compliance with the Clause or to take any actions relating to investment risk management of the mutual fund management company.

Notified this 21<sup>st</sup> day of January 2005.

-Signature-

(Mr. Somkid Jatusripitak)

Minister of Finance

Chairman of the Securities and Exchange Commission