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The Securities and Exchange Commission

Notification of the Securities and Exchange Commission

No. Kor Thor. 65/2547

Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker

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

Clause 1. This Notification shall come into force from 16 January 2005.

Clause 2. In this notification hereto:

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

(2) “manager” means any person who is authorized by the board of directors of the company to take the highest responsibility in managing the company, regardless of the title;

(3) “institutional investor” means institutional investor under Section 3 of Derivatives Act B.E. 2546 (2003) and the notifications of the SEC related to additional determination of type of juristic person classified as institutional investor.

(4) “derivatives exchange” means derivatives exchange licensed from the SEC.

(5) “derivatives regulatory association” means association approved by the SEC to be derivatives regulatory association.

(6)¹ “customer contact person for derivatives agent” means the person who contacts, solicits or gives advices regarding trading in derivatives or analysis of value or properness of trading in derivatives products or underlying products for derivatives and publicly announced those analysis.

(7)² “supporting services” means operation services of derivatives, accounting and finance service, information technology services which related to customer’s information, internal audit, compliance or other services which are similar to above.

¹ As added by the SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02/05/2006

² As added by the SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02/05/2006

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Chapter 1

General

Clause 3. In off-exchange service of derivatives broker, derivatives broker shall provide service only for institutional investor, and in such cases provisions of Clause 16 and Clause 17 shall not be applicable to the aforesaid service.

In providing service as derivatives broker in the first paragraph, derivatives broker shall trade in derivatives only with institutional investor counter party.

Clause 4.^{3 4} The provision of Clause 12 only with respect to an arrangement to have personnel responsible for soliciting, or giving advice related to derivatives trading for customer, Clause 19, Clause 20, Clause 21, Clause 22 and Clause 25 only with respect to the review of pledging and debt repayment capability of customer, shall not apply to the service of derivatives broker for institutional investor.

Chapter 2

Organization Structure, Working System, and Operational Control

Clause 5.⁵ Derivatives broker shall set organization structure, policies and scopes of duties and responsibilities including business operation of working units related to undertake derivatives brokerage business to demonstrate the availability of system to prevent conflict of interest, system to prevent leakage of information among working units and personnel, risk management system, operational management and internal audit and control system in order to be able to efficiently operate derivatives business, including having control and follow up measures to ensure the implementation in accordance with the aforementioned.

Clause 6. Derivatives broker shall arrange to have an acceptable and reliable compliance unit. Such unit shall independently operate to monitor the operation of derivatives broker.

Clause 7. Derivatives broker shall arrange to have an efficient financial and operational risk management system.

In the information technology risk management, derivatives broker shall arrange to have an operational control and information technology security as specified in the notification of the SEC Office.

³ As amended by the SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02/05/2006

⁴ As amended by the SEC Office Notification No. Kor Thor 25/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 3) dated 25/10/2006

⁵ As amended by the SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02/05/2006

Clause 8.⁶ Derivatives broker shall arrange to have independent director of at least one out of four directors

⁷In case of the death of independent director, resign or terminate by the SEC office or where Derivatives broker is a part of financial conglomerate which has share holding structure, examination of internal audit and regulated by other competent regulators according to the notification of the SEC. The SEC Office has the power to waive the appointment of independent director temporary or permanently according to paragraph one for such Derivatives broker. However, the SEC Office may set out other requirements for such Derivatives broker to follow accordingly.

Clause 9.⁸ Derivatives broker shall arrange to have personnel with knowledge, capability or experience that can be of use in the undertaking of derivatives broker business, sufficient to efficiently undertake derivatives business.

Clause 10. Derivatives broker shall arrange to have information system to ensure the information related to undertaking derivatives business, both in document or electronic format, are accurate, complete, can be able to efficiently use within appropriate time, including having security system sufficient to prevent an access or amendment of such information by non-responsible person.

Clause 11. Derivatives broker shall arrange to have evidence related to the derivatives trading and maintain such evidence in complete and up-to-date, including keeping of report or article analyzing value or advisability of trading in derivatives, products or variables prescribed in a derivatives contract, in accordance with the rules specified in the notification of the SEC Office.

Chapter 3

Operation

Division 1

Contacting, Soliciting, or Giving Advice for Customer and Performance of Duties as Professional

Clause 12.⁹ Derivatives broker shall arrange to have personnel who obtained the approval from the SEC Office in accordance with the rules specified in the

⁶ As amended by the SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02/05/2006 which Clause 8 will be effective from 1 January 2007

⁷ As amended by the SEC Office Notification No. Kor Thor 25/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 3) dated 25/10/2006

⁸ As amended by the SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02/05/2006

notification of the SEC Office, be responsible for contacting, soliciting or giving advice related to derivatives trading for customer, or analyzing value or advisability of derivatives trading, products or variables prescribed in a derivatives contract and dissemination of such information to customer.

Clause 13. In perform of duties as a derivatives broker for customer, derivatives broker shall

(1) Perform duties with integrity and honesty, consider and maintain the best interest of the customer.

(2) Treat all customers equally.

(3) Keep confidential information of the customer and refrain from disclosing customer's profile, derivatives trading information or financial information to other persons except for the disclosure according to its duties.

(4) Not to make presentation which will guarantee profit or return at a certain rate or the loss shall not be more than the rate already specified, except for a representation given in accordance with the rules specified in the notification of the SEC Office.

(5) In cases where derivatives broker engage as a counter party in a derivatives trading with the customer, derivatives broker shall inform and get the customer's consent in written.

(6) In cases where derivatives broker giving advice related to derivatives contract, derivatives broker shall give suitable advice for customer and maintain the best interest of customer, as well as monitor and supervise that the giving advice is prepared and provided with generally accepted principles and have reliable document and evidence, including considering of investment objective of the customer, knowledge, understanding and experience in derivatives trading, financial condition, and debt repayment capability of such customer.

¹⁰In order to follow according to the requirement in paragraph one, Derivatives broker shall follow according to the standard set out in the SEC Notification.

Clause 14. Derivatives broker shall keep the records of advice and trading order in accordance with the rule specified in the notification of the SEC Office.

Clause 15. Derivatives broker shall not advertise any statement that may make the public misunderstand in its condition, operation or service.

Any advertisement referring to number, data or statistical report shall specify the source of such number, data or statistical report.

⁹ As amended by the SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02/05/2006

¹⁰ As added by the SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02/05/2006

Division 2
Opening of the Derivatives Trading Account and
Acting as the Derivatives Broker

Clause 16.¹¹ In acting as derivatives broker, derivatives broker shall enter into a written contract with the customer who authorized it to perform as his/her agent in derivatives trading, such contract shall not have any statements denying the derivatives broker's responsibilities to the customers from any act or omission of any act, willfully or negligently, of the derivatives broker or its personnel

Clause 17. For the benefits of prevention and desisting an unfair derivatives trading practices and trading abuse, derivatives broker shall specify conditions as specified in the notification of the SEC Office in the aforesaid contract in Clause 16.

Clause 18.¹² The Consideration of the application for opening of the derivatives trading account shall be prepared in written with steps and procedures sufficient to ensure that the customer is the same person as the one appearing in the documents and evidence used for opening of the account, including identification of the customer's identity, source of funds used for derivatives trading and the real beneficiary of the customer.

Clause 19. Derivatives broker shall arrange to have information or documents or evidence used for opening of the account sufficiently to identify the customer's financial condition, debt repayment capability, objective of investment and knowledge, and experience related to derivatives trading for corroboration of the consideration of the application for opening of the account and giving advice for customer.

Clause 20. Prior to opening of the account, derivatives broker shall consider pledging and debt repayment capability of the customer for the maximum level of derivatives position which the customer may hold at any time.

In consideration of pledging and debt repayment capability of the customer in the first paragraph, derivatives broker shall be prepared prudently and carefully by examine the financial condition, source of income and property used as collateral or for repay debts in derivatives trading.

Clause 21. Prior to opening the account or commencement of derivatives trading for customer, derivatives broker shall arrange to have a procedure to ensure that customer is aware of the risks in derivatives trading, by having at least a document containing risk disclosure statement which have minimal particulars and materials in accordance with the guideline for risk disclosure statement specified by the SEC Office.

In the disclosing of risk in derivatives trading in the first paragraph, derivatives broker shall sign its name in risk disclosure statement to certify that it

¹¹ As amended by the SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02/05/2006

¹² As amended by the SEC Office Notification No. Kor Thor 25/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 3) dated 25/10/2006

gave explanation of risks in derivatives trading to the customer, as well as to arrange its customer to sign his/her name in the aforesaid statement to certify that derivatives broker have given an explanation of risk in derivatives trading.

Clause 22. In cases where customer wishes to trade derivatives contract with specific risk which is different from that specified in the risk disclosure statement in Clause 21 and derivatives broker have not disclosed that risk, derivatives broker shall disclose such specific risks with any material information that may affect the derivatives trading to the customer prior to the commencement of derivatives trading.

The provision of the second paragraph of Clause 21 shall apply to the disclosure of specific risk in this clause *mutatis mutandis*.

Clause 23. Derivatives broker shall have examination system to ensure that the person order derivatives broker to proceed with the customer property is the actual owner of the account or is the person who is authorized in written from the owner of the account.

Clause 24. Derivatives broker shall prepare the account of derivatives trading for each customer as well as maintain it up-to-date. In this regard, the list of derivatives trading account shall contain at least the materials specified in the notification of the SEC Office.

Clause 25.¹³ Derivative broker shall conduct customer due diligence for time to time and shall require to update customer's information, beneficial owner and controlling person of the customer as well as review debt repayment capability and total exposure of each customer.

Clause 25/1¹⁴ Derivative broker shall keep all record according to the procedure in Clause 18, Clause 19 and Clause 25 in complete and readily for the SEC Office to examine and shall keep the said record for at least five years from the date of the account opening.

Clause 26. In the services of derivatives broker, derivatives broker shall not display false statements or conceal the truth that should be disclosed which cause deception to customer or may make them misunderstand in any material aspects.

Clause 27. Derivatives broker shall arrange to have complaints handling system, report of customer complaints and result of the complaint in accordance with the rules specified in the notification of the SEC Office.

Clause 27/1¹⁵ In servicing as Derivative broker, Derivative broker shall not appoint any other person to provide the service exception where the service provided

¹³ As amended by the SEC Office Notification No. Kor Thor 25/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 3) dated 25/10/2006

¹⁴ As amended by the SEC Office Notification No. Kor Thor 25/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 3) dated 25/10/2006

¹⁵ As amended by the SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02/05/2006

from customer contact person for Derivative broker and outsourcing services according to the SEC Notification.

Chapter 4

Others

Clause 28.¹⁶ Derivatives broker shall monitor and supervise to ensure that its personnel who provide services for derivative broker perform in accordance with this notification and its guidelines specified for implementation in accordance with this notification.

Clause 28/1¹⁷ Apart from stated in this, the SEC Office has the power to issue any specify details regarding the issues within this notification. This is to allow the clarification in practice and to allow the SEC Office to audit those practices.

Clause 29. 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.

Notified this 22nd day of December 2004.

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

Remarks:

The SEC Office Notification No. Kor Thor. 65/2547 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker, dated 22 December 2004.

The SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02 May 2006

The SEC Office Notification No. Kor Thor 25/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 3) dated 25 October 2006

¹⁶ As amended by the SEC Office Notification No. Kor Thor 13/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 2) dated 02/05/2006

¹⁷ As amended by the SEC Office Notification No. Kor Thor 25/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 3) dated 25/10/2006

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¹⁸ Derivative broker shall arrange information or documentation regarding the controlling person in derivative trading of the customer as well as financial condition and debt repayment capability of the customer for every existing customers who Derivatives broker does not possess mentioned information or documentation above within three years from the date this notification become effective.

¹⁸As amended by the SEC Office Notification No. Kor Thor 25/2549 Re: Rules for Undertaking Derivatives Business for Licensed Derivatives Broker (No. 3) dated 25/10/2006