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Notification of the Securities and Exchange Commission

No. KorKhor.11/2547

Re: Characteristics of Advice Which Are Not Deemed as Undertaking Derivatives Business in the Category of Derivatives Advisory Services

By virtue of Section 3 and Section 9 of the Derivatives Act B.E. 2546 (2003), the Securities and Exchange Commission hereby issues the following regulations:

Clause 1. In this Notification:

“Giving advice” means giving advice or holding oneself out to the public as being willing to give advice to other persons, whether directly or indirectly, on derivatives contracts or suitability for purchasing or selling derivatives contracts;

¹“Foreign derivatives business operator” means any person undertaking derivatives business under the law of foreign country and under supervision of authority or agency which regulates derivatives business in such foreign country, whose rules for approval and supervision of derivatives business undertaking are *not* less strict than those prescribed under the Derivatives Act B.E. 2546 (2003) including any relevant notifications and circulars issued or prescribing any practices by virtue of the said law.

²“Institutional investor” means any of the following persons who may duly invest in derivatives contracts overseas:

- (1) Government Pension Fund;
- (2) Social Security Fund;
- (3) Life insurance companies;
- (4) Commercial banks;
- (5) Banks established under specific laws;
- (6) Securities companies for the management of proprietary portfolios;
- (7) Any other financial institutions specified by the Office with the approval of the Securities and Exchange Commission;
- (8) Securities companies for the management of assets of any persons under (1) to (7) in the form of private funds, provident funds or mutual funds.

¹ Added by the Notification of the Securities and Exchange Commission No. KorKhor. 45/2549 Re: Characteristics of Advice Which Are Not Deemed as Undertaking Derivatives Business in the Category of Derivatives Advisory Services (No. 2) dated 27 December 2006.

² *Ibid.*

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

Clause 2. Giving advice in the following manners is *not* deemed as undertaking derivatives business in the category of derivatives advisory services:

(1) giving advice in or from the Kingdom of Thailand to *not* more than fifteen investors during any period of twelve months without performing any acts deemed to be presentation of oneself as derivatives adviser;

(2) giving advice from the Kingdom of Thailand to investors in foreign countries whereby holding oneself out as providing derivatives advisory services on behalf of persons who undertake derivatives business in the category of derivatives advisory services under the law of such foreign countries;

³(2/1) giving advice by foreign derivatives business operators which is specifically intended for institutional investors and concerns derivatives contracts overseas in which institutional investors are allowed by law to invest;

(3) giving advice through radio programs, television programs, newspapers or other print media in such ways that meet all of the three following conditions:

(a) giving advice without taking into account the objectives for investment, financial conditions or specific demands of any particular persons;

(b) disseminating general advice to the public in such ways that allow persons who demand information to get a convenient access without requirement for member subscription; and

(c) giving advice without any core objectives of providing advisory services to other persons regarding derivatives contracts or suitability for purchasing and selling derivatives contracts, based on the amount of advisory contents in accordance with the rules and procedures as prescribed by the Office.

(4) giving advice through any media or at any seminars where the media owners, program owners, columnists, website hosts or seminar organizers arrange for derivatives advisers, being natural persons or natural persons approved by the Office and acting under responsibility of derivatives advisory service providers, to give such advice.

Clause 3. This Notification shall come into force as from January 6, 2004.

Notified this 23rd day of January 2004.

(Captain Suchat Jaovisidha)
Minister of Finance
Chairman of the Securities and Exchange Commission

³ *Ibid.*

Remark:

The Notification of the Securities and Exchange Commission No. KorKhor. 11/2547 Re: Characteristics of Advice Which Are Not Deemed as Undertaking Derivatives Business in the Category of Derivatives Advisory Services dated 6 January 2004 was published in the Government Gazette, Vol. 121, Special Section 11Ngor dated 18 January 2004.

The Notification of the Securities and Exchange Commission No. KorKhor. 45/2549 Re: Characteristics of Advice Which Are Not Deemed as Undertaking Derivatives Business in the Category of Derivatives Advisory Services (No. 2) dated 27 December 2006 was published in the Government Gazette, Vol. 124, Special Section 6Ngor dated 16 January 2007.