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**Notification of the Office of the Securities and Exchange Commission**

**No. SorKhor/Nor. 7/2551**

**Re: Rules, Conditions and Procedures for  
Advertisement Related to Promotion of Sales of Investment Units and  
Providing of Fund Management Services**

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By virtue of Section 98(10) and Section 139(4) of the Securities and Exchange Commission Act B.E. 2535 (1992) as amended by the Securities and Exchange Commission Act (No.2) B.E. 2542 (1999) which contains certain provisions in relation to the restriction of rights and liberty of persons which Section 29 in conjunction with Section 33, Section 34, Section 41, Section 43 and Section 64 of the Constitution of the Kingdom of Thailand so permit by virtue of law, along with Clause 18(6) of the Notification of the Securities and Exchange Commission No. KorNor. 30/2547 Re: Rules, Conditions and Procedures for Establishment and Management of Funds dated 10 June 2004 as amended by the Notification of the Securities and Exchange Commission No. KorNor. 1/2550 Re: Rules, Conditions and Procedures for Establishment and Management of Funds (No.4) dated 24 April 2007, the Office of the Securities and Exchange Commission hereby issues the following regulations:

**Clause 1.** This Notification shall come into force as from 1 March 2008.

**Clause 2.** The Notification of the Office of the Securities and Exchange Commission No. SorNor. 62/2543 Re: Rules, Conditions and Procedures for Advertising of Securities Company Business for Sales Promotion and Providing of Services Related to Mutual Fund and Private Fund Management dated 29 November 2000 shall be repealed.

**Clause 3.** In this Notification:

“Fund” means any mutual fund or private fund;

“Specified property fund” means any mutual fund which has specified in its scheme the actual real estate to be acquired pursuant to the Notification of the Office governing rules, conditions and procedures for establishment and management of property funds.

“Advertising” means communication made to the public regarding sales promotion of investment units, services or fund management operation, or services of brokerage, dealing or underwriting of investment units by way of text, graphic, voice or any other signs or symbols, which enables the public to understand the meanings, through any media or objects. This does not include the information which is given in the prospectus or which is aimed to be educational or to provide facts without the intention to promote sales of investment units, services or the operation of fund management, or service of brokerage, dealing or underwriting of investment units such as a fund fact sheet.

“Management company” means any mutual fund management company or 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;

“Securities company” means the followings:

- (1) Management company; and
- (2) Securities company performing the duties of brokerage, dealing or underwriting of investment units.

“Association” means any association relating to securities business, which has been approved by and registered with the Office, whose objective is to promote and develop securities business in the category of investment management;

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

## **Chapter 1**

### **General Rules**

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**Clause 4.** The securities company is allowed to advertise, except for the advertising made pursuant to Chapter 2 which must be approved by the Office prior to distribution.

**Clause 5.** To advertise, in any cases, the securities company shall comply with Advertising Rules as prescribed under Chapter 3.

## **Chapter 2**

### **Advertisement which must be approved**

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**Clause 6.** The following advertisement must be approved by the Office prior to distribution:

- (1) advertisement related to estimated return;
- (2) advertisement related to auto-redemption rate;
- (3) advertisement for which the Office directs the securities company to obtain prior approval in accordance with Clause 19.

In cases where the securities company has submitted the contents of an advertisement to the Office, and the Office does not make an objection within five business days from the date when it received such advertisement, it shall be deemed that the securities company has been granted an approval from the Office to make such advertisement.

**Clause 7.** For an advertisement referred to in Clause 6(1) and (2) to be granted an approval from the Office, it shall comply with the following conditions:

- (1) must be an advertisement for any of the following funds:
  - (a) a fund which clearly states that it shall hold the assets in which it has invested until its maturity or throughout each investment period or the term of private fund management contract;
  - (b) a specified property fund;
- (2) the advertisement must be made in print or electronic media;
- (3) presentation of the estimated return or the auto-redemption rate shall not be more prominent than other information contained in such advertisement. In case of specified property fund referred to in (1)(b), the estimated return shall be presented in term of dividend yield;
- (4) in case of specified property fund referred to in (1)(b), the estimated return mentioned in (3) shall not be presented for longer than three

accounting periods. If such property fund invests in lease hold right, it shall clearly specifies that the estimated return does not include unitholders' capital;

(5) details of the fund's investment under (1)(a) shall be disclosed, of which at least the following particulars, which are the same as those contained in the mutual fund management scheme and prospectus, or private fund management agreement, as the case may be, shall be included:

- (a) type of assets to invest;
- (b) return of each type of assets;
- (c) investment proportion;
- (d) investment duration;
- (e) fund's expenses;

(6) in case of an advertisement for specified property fund referred to in (1)(b), the following information must be presented and disclosed in the mutual fund management scheme and prospectus:

(a) the projection of incomes and expenses of the mutual fund which includes the following information:

1. key assumption applied which is clear and easy to understand, including details on forecast and risks which may cause the return or the fund's performance to be different from estimated; and

2. projection of rental income which is certified by a property valuer approved by the Office;

(b) sensitivity analysis which has been audited by an auditor or a financial advisor approved by the Office, or any other persons approved by the Office. Such analysis shall also disclose the used assumption in the manner that is clear and easy to understand;

(7) the estimated return or auto-redemption rate must be accompanied by the following statements:

(a) in case of mutual fund under (1)(a), a warning statement: "in case that the mutual fund is unable to make the investment as prescribed due to changes in the market's condition, unitholders may not receive the return as advertised" or "in case the mutual fund is unable to make the investment as prescribed due to changes in the market's condition, the management company may not accept redemption of investment units at the advertised rate," as the case may be;

(b) in case of specified property fund under (1)(b), the statement, “the dividend yield presented was calculated from the investment units’ offering price at /of ..... Baht and the occupancy rate at .....% which is the estimation for the period of ..... year(s) ending .....(date)..... and not guaranteed”;

(8) the information under (5) and the statement under (7) shall be on the same page as the information under (3) and the font size of the information under (5) and the statement under (7) shall be clear and not smaller than that of most other texts in the advertisement.

### **Chapter 3**

#### **Rules for Advertising**

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**Clause 8.** The securities company shall advertise any mutual fund only after the company has submitted an application for approval of such fund’s establishment to the Office. In case that the application for establishment and management of the mutual fund has not been approved by the Office, the company shall state [in the advertisement] that the mutual fund is under the Office’s consideration for approval of establishment and management.

**Clause 9.** In case of advertisement of guaranteed fund or private fund with the same investment policy, the securities company must disclose details of the guarantee or the guarantor of such mutual fund or private fund.

**Clause 10.** For an advertisement related to a promotion which provides investors who invest in investment units with gifts, rights or any other benefits, such advertisement is permitted only when the promotion period, value and amount of gift, rights or any other benefits are appropriate and fair, following the Office’s guideline which will be notified in advance.

**Clause 11.** The advertisement shall not contain the followings:

- (1) information that is false, exaggerating or misleading;
- (2) information and estimated return, unless otherwise approved by the Office pursuant to Chapter 2;
- (3) information that urges investors to purchase investment units within a certain timeframe or by a certain time, except for the advertisement of retirement mutual fund and long-term equity fund that urge investors to make the investment in time for acquiring tax benefits in such tax year.

**Clause 12.** In case the advertisement contains a statement that is partially copied or referred from another statement, article or speech made by any persons or past performance, such copied or referred statement shall be true and shall copy or refer the material information in full without editing or adding any statement that may be misleading. The source of information and date of dissemination of such copied or referred statement shall be clearly specified.

**Clause 13.** The advertisement related to return or performance in the past of the fund shall be in accordance with the following rules:

(1) The advertisement which presents return or performance in the past of the fund shall be made in print or electronic media;

The presentation of such information shall not be more prominent than other information in the advertisement, and shall have the following statements:

(a) a warning stating that “the past performance of (specify the name of the fund) is not indicative of future performance.” The warning and the fund’s past performance shall be on the same page;

(b) a statement specifying that the measurement of fund performance has been prepared in accordance with performance measurement standards set out by the Association. The statement shall be placed after the statement under (a) and on the same page;

(2) The calculation of the return or performance in the past shall be prepared in accordance with performance measurement standards as set out in the notification of the Association;

(3) The advertisement with comparison of past performances of funds shall be made in accordance with performance measurement standards as set out by the Association;

(4) The advertisement which presents the comparison or the difference between return from investment in the fund and other investments shall incorporate material information which enables the investors to understand the differences among various types of investment.

**Clause 14.** The advertisement related to ranking or awards received by the securities company or the fund shall comply with the following conditions:

(1) The advertisement related to ranking or awards on past performance of the fund shall be made only when it complies with the following rules:

(a) the ranking or award specified in the advertisement has been granted by an agency or institution which follows the performance measurement standards as set out by the Association;

(b) at least the following information is presented on the same page:

1. rank, name, or type of awards received;
2. date, time or the period when the award was granted;
3. name of the institution giving the award or rank;
4. statement as referred to in Clause 13(1) (a) and (b);

(2) In case of advertisement related to ratings or awards other than that specified in (1), the securities company shall present only information under (1)(b) 1. to 3.

**Clause 15.** In advertising the fund, the securities company shall at least have statement or warning as follows:

(1) a statement related to how investors can acquire additional information or prospectus;

(2) a warning stating that “investment contains certain risks; investors are recommended to study related information before making investment decision”;

(3) in advertising long-term equity fund and retirement mutual fund, the securities company shall have a warning stating that investors are recommended to study tax manual of long-term equity fund or retirement mutual fund, as the case may be; and

(4) if the advertisement indicates that the fund has been approved by the Office, it must also states that “the approval for establishment and management of the ..... (fund name)..... on ...(date)... does not mean the SEC or the Office certifies the completeness or the correctness of the information in the offering documents nor guarantees the price or the return of the fund”.

**Clause 16.** The securities company shall have statements or warnings under Clause 15 or any other warnings presented clearly through any media or object and ensure that they are at least as prominent as the majority information in such advertisement. For example, the texts must be clear, legible or audible.

The provision under the first paragraph shall apply *mutatis mutandis* to the footnote of the advertisement.

**Clause 17.** The securities company shall not delegate the function of advertising to a natural person appointed as an agent who sells or accepts redemption of investment units. Nevertheless, delegation is permitted for the function of disseminating or distributing documents or advertisements produced by the securities company.

**Clause 18.** In cases where it appears to the Office that the securities company fails to comply with the advertising rules prescribed under this Chapter, the securities company shall, as per the direction of the Office, perform one or more of the following acts:

- (1) cease the advertising;
- (2) rectify the information in the advertisement;
- (3) provide additional information so that complete and accurate information is provided to investors;
- (4) act or refrain from doing any acts within a specified period of time to ensure that the acknowledgement of information is accurate and *not* misleading.

**Clause 19.** To protect the interest of investors with regards to the information presented to them, the Office may order the securities company under Clause 18 to obtain prior approval for each advertisement.

Notified this 6<sup>th</sup> day of February 2008.

(Mr. Thirachai Phuvanatanarubala)

Secretary-General

The Office of the Securities and Exchange Commission

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**Note:**

The reason for issuing this Notification is to ensure that the advertisement concerning investment units' sale promotion and providing of services related to fund management is appropriate in terms of content and format, which will enable the investors to receive factual, correct and not misleading information related to the sale of investment units or the fund management.