

(UNOFFICIAL TRANSLATION)

Codified up to No. 9

As of 4 May 2016

Readers should be aware that only the original Thai text has legal force, and that this English translation is strictly for reference.

Notification of the Capital Market Supervisory Board

No. Tor Jor. 13/2552

**Re: Application and Approval for Offer for Sale of
Newly-issued Securitization Bonds**

By virtue of Section 16/6 of the *Securities and Exchange Act B.E. 2535 (1992)*, as amended by the *Securities and Exchange Act (No. 4) B.E. 2551 (2008)*, and Section 35, Section 40(11), Section 41(3) and (4), Section 42(10), Section 43(3), and Section 46 of the *Securities and Exchange Act B.E. 2535 (1992)*, which contain certain provisions relating to restriction of rights and liberties of persons which Section 29, in conjunction with Section 33, Section 34, Section 41, Section 43, Section 44, and Section 64, of the Constitution of the Kingdom of Thailand so permit by virtue of law, the Capital Market Supervisory Board hereby issues the following regulations:

Clause 1 This Notification shall come into force as from 31 March 2009.

Clause 2 In this Notification:

(1)¹ The terms “*short-term bond*”, “*structured note*”, “*institutional investor*”, “*high net worth investor*”, “*subsidiary*”, “*executive*”, “*controlling person*”, “*special purpose vehicle*”, and “*business under foreign law*” shall have the same meanings as defined in the *Notification of the Securities and Exchange Commission concerning Determination of Definitions in the Notifications Relating to Issuance and Offer for Sale of All Types of Debt Securities*;

(2) “*company*” means a limited company or public limited company;

(3) “*program*” means a securitization program;

(4)² *repealed*;

¹ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 2)* dated 18 March 2011;

² Repealed by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 2)* dated 18 March 2011;

(5) “**originator**” means a person who intends to securitize its assets in a securitization program;

(6) “**financial institution**” means

(a) a commercial bank, finance company or credit foncier company under the law governing the financial institution business;

(b) a financial **institution** established under a specific law which is a **financial institution** under the law governing interest on the loans of financial institutions;

(7) “**terms and conditions**” means the provisions governing the rights and duties of the bond issuers and the bondholders;

(8) “**Thai Bond Market Association**” means the **Thai Bond Market Association** which has been licensed by and registered with the SEC Office;

(9) “**registered debt securities**” means the debt **securities** registered with the **Thai Bond Market Association**;

(10)³ “**newly-issued bonds under the program**” means any newly-issued bonds, but excluding structured notes that are **convertible bonds** ;

(11) “**subordinated bonds**” means the unsecured bonds where the rights of the bondholders are prescribed to be subordinate to those of the ordinary creditors.

(12) “**convertible bonds**” means the bonds that may be convertible into shares;

(13) “**servicer**” means a person who provides services of collecting debts or receiving repayments of debts incurred from the receipts of transfer of assets which are rights of claims, and takes any action for the benefits under a securitization project.

Clause 3 Any person that intends to offer the **newly-issued bonds under the program** shall comply with the following criteria:

(1) the application and approval for an offer for sale of the **newly-issued bonds under the program** for public offering shall comply with the criteria, conditions, and procedures prescribed in Chapter 1 and Chapter 2;

(2) the application and approval for an offer for sale of the **newly-issued bonds under the program** for private placement shall comply with the criteria, conditions, and procedures prescribed in Chapter 1 and Chapter 3;

(3) the application and approval for an offer for sale of the **newly-issued bonds under the program** to investors abroad shall comply with the criteria, conditions, and procedures prescribed in Chapter 1 and Chapter 4.

³ Amended by the Notification of the Capital Market Supervisory Board No. Tor Jor. 14/2559 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 9) dated 4 May 2016;

⁴The applicant may specify that the newly-issued bonds under (1) or (2) of Paragraph 1 will be settled in Thai baht or a foreign currency. In the case where the settlement is made in a foreign currency, the applicant shall also comply with the criteria prescribed in Chapter 4/1.

Chapter 1 General Provisions

Clause 4 The *special purpose vehicle* shall file an application for approval for sale of the *newly-issued bonds under the program* with the SEC Office in accordance with Clause 7 prior to each offer of the bonds under that *program*.

Clause 5⁵ *Repealed.*

Clause 6 The *special purpose vehicle* that will be granted an approval for sale of the *newly-issued bonds under the program* shall be a *company* incorporated under Thai law with its objectives restricted to the specific business operation for securitization and shall comply with the following criteria:

(1) The *special purpose vehicle* has never been approved by the SEC Office for the offering for sale of bonds under another *program*, exception for the case that the rights of claim under such bonds have been cancelled;

(2) The *program* for the bonds complies with the requirements of the *Notification of the Securities and Exchange Commission governing Criteria, Conditions, and Procedures for Approval of Aecuritization Programs* and approval has been granted by the SEC Office;

(3) The *program* has a clear purpose that the proceeds will be used for the repayment to the *originator* in consideration of the transfer of the assets under the *program*;

(4)⁶ In the case where the *originator* is a *business under foreign law* and the *special purpose vehicle* intends to offer the newly-issued bonds for sale whereby the

⁴ Added by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554*
Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 2)
dated 18 March 2011;

⁵ Repealed by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 29/2558*
Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 7)
dated 10 July 2015;

⁶ Added by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554*
Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 2)
dated 18 March 2011;

settlement of the bonds will be made in Thai Baht, the *special purpose vehicle* shall be granted an approval by the Ministry of Finance for the offering of bonds denominated in Baht in Thailand.

Clause 6/1⁷ In the case where the *originator* is a *business under foreign law* or in the case of the offer for sale of newly-issued bonds denominated in a foreign currency that is made concurrently or during a proximate period in other countries, the offeror of the bonds shall file the information or documents prepared in Thai or English with the SEC Office, provided that such information or document is a translation of information or documents in other languages, such offeror of the bonds shall also comply with the following action:

(1) arrange for the translator to certify that the substance of the translated information is accurate and consistent with the substance of the original; and

(2) certify that the substance of the translated information has truly occurred or is in existence, and that there is no concealment of any fact that should be disclosed.

Documents filed with the SEC Office under this Notification, when prepared in any language for the first filing, shall always be prepared in such language for all subsequent filings, except for a waiver has granted by the SEC Office due to the necessary and reasonable ground.

Clause 7 Documents or evidence filed with the SEC Office as specified under this Notification, whether before or after approval, shall comply with the rules, conditions and procedures prescribed and notified by the SEC Office.

Clause 7/1⁸ In the underwriting of the *newly-issued bonds under the program* in a public offering under Chapter 2, the approved *special purpose vehicle* has an obligation to comply with the *Notification of the Capital Market Supervisory Board concerning Distribution of Newly Issued Debt Securities and Derivative Warrants of Securities Issuing Companies*.

⁷ Added by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 2)* dated 18 March 2011;

⁸ Added by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 47/2557 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 6)* dated 7 November 2014;

Chapter 2
Public Offering of Bonds under the Program

Division 1
Approval Criteria

Clause 8 The *special purpose vehicle* shall have the following additional criteria in order to be granted an approval for sale of the *newly-issued bonds under the program* under this Chapter:

(1) the auditor's report of the applicant's financial statements and consolidated financial statements for the most recent fiscal year and financial statements for the most recent quarter prior to the application filing shall not have the following meaning:

(a) a disclaimer of opinion on the applicant's financial statements and the consolidated financial statements or an adverse opinion;

(b) a qualified opinion on any material transaction as non-compliance with the accounting standards applicable to public limited companies;

(c) an expression of opinion that the auditor's scope of audit is limited by any act or omission to act of the applicant, its directors or *executives*;

(2)⁹ the *special purpose vehicle* is able to demonstrate that it does not fail to file reports required by the SEC Office or the Stock Exchange of Thailand under Section 57 or Section 199 in conjunction with Section 57, and is not subject to any issue with respect to the disclosure of information to retail investors in the following manner:

(a) the *special purpose vehicle* has failed to file the financial statements or related reports under Section 56 or Section 199 in conjunction with Section 56, as the case may be;

(b) the *special purpose vehicle* is in process of rectifying its financial statements or reports required to be prepared under Section 56 or Section 57 or Section 199 in conjunction with Section 56 or Section 57 as ordered by the SEC Office or the Stock Exchange of Thailand, as the case may be;

(c) the *special purpose vehicle* has an ongoing obligation to comply with the order of the SEC Office or the *Stock Exchange* under Section 58 or Section 199 in conjunction with Section 58, as the case may be.

⁹ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554*
Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 2)
dated 18 March 2011;

(3)¹⁰ the directors and *executives* of the *special purpose vehicle* shall be listed on the database of directors and *executives* of the securities issuing companies under the *Notification of the Capital Market Supervisory Board concerning Rules for Listing Names of Persons on the Database of Directors and Executives of Securities Issuing Companies*;

(4)¹¹ in the case where the *controlling person* is not a *foreign entity established under foreign law*, the *controlling person* of the *special purpose vehicle* shall not have any of the untrustworthy characteristics under the *Notification of the Securities and Exchange Commission concerning the Determination of Untrustworthy Characteristics of Directors and Executives of Companies, mutatis mutandis*;

(5)¹² within five years prior to the filing date of the application, the applicant has never violated or failed to comply with the *law governing special purpose vehicle for securitization*, or post-approval conditions in a significant matter;

(6)¹³ the *special purpose vehicle* has never offered any type of bonds, bills or Sukuk in violation of the criteria for offer for sale in a private placement to *institutional investors* or *high net worth investors* within two years prior to the filing date of the application, unless an exemption is granted by the SEC Office on the ground that the *special purpose vehicle* has demonstrated that offering is necessary, reasonable and adequate measures for the offering for sale have been adopted

(7)¹⁴ the *special purpose vehicle* is able to demonstrate that the *originator* shall not have any of the characteristics under Clause 8/1, except the case that the *originator* is a listed *company*, it shall not have any characteristics described under Clause 8/1 (1)(a).

¹⁰ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 2)* dated 18 March 2011;

¹¹ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 2)* dated 18 March 2011;

¹² Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 59/2558 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 8)* dated 13 July 2015;

¹³ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 34/2557 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 5)* dated 29 September 2014;

¹⁴ Added by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 59/2558 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 8)* dated 13 July 2015;

Clause 8/1¹⁵ The *originator* shall not have any of the following characteristics, with the exception of the circumstance under Clause 8/2:

(1) within a period of five years prior to the filing date of the application for an offer for sale of the *newly-issued bonds under the program*, the *originator* shall not have any of the following characteristics:

(a) having a record of contravening a regulation or condition related to securities offering in a significant matter;

(b) having been rejected by the SEC Office regarding an application for an offer for sale of newly issued shares due to a significant suspicious ground regarding management mechanism in any of the following manners:

1. the *originator may* have a possibility to be unable to treat shareholders fairly by giving benefits to any group of shareholders, which will create an advantage over other shareholders or give inappropriately more benefits than other shareholders;

2. the *originator* may be unlikely to be able to protect shareholders' rights by allowing any person to receive financial gain beyond what should be received normally or by causing the company to lose a benefit that should have been received.

(c) having an application rejected, or an approval for an offer for sale of newly issued shares revoked, by the SEC Office on a suspicious ground related to disclosure of information to the public or the SEC Office that was incomplete, contrary to facts, insufficient for making an investment decision, or that misled investors in a manner of concealing or disguise or making up non-existing facts in material transactions or operation.

(d) having withdrawn an application for an offer for sale of newly issued shares without a clarification of the suspicious grounds under (b) or (c) to the SEC Office or with a clarification that does not contain facts or reasonable ground for refuting the suspicious grounds under (b) or (c).

(2) during the period of ten years prior to the filing date of the application for an offer for sale of the *newly-issued bonds under the program*, the *originator* has been sentenced by a final judgement in an offense concerning property, only for a cause arising from a deceitful, fraudulent or dishonest act that results in widespread damage, either under Thai or foreign laws;

(3) the *originator* is subject to a criminal complaint or legal prosecution for an offense concerning property by a relevant agency, only for a cause arising from a deceitful, fraudulent or dishonest act that results in widespread damage, either under Thai or foreign laws;

¹⁵ Added by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 59/2558*
Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 8)
 dated 13 July 2015;

(4) there are suspicious grounds that the structure of the *securitization* is arranged for the person with the characteristics under (1)(2) or (3) to avoid compliance with the regulations for consideration under (1)(2) or (3) imposed by the SEC Office.

Clause 8/2¹⁶ The provisions under Clause 8/1(1) and (2), as the case may be, shall not apply to the *originator* who has rectified the causes, work system, management structure and operating control, which has caused the *originator* to have the characteristics in Clause 8/1(1) or (2).

Clause 9¹⁷ After the SEC Office receives the application for approval and a complete set of supporting evidentiary documentation in accordance with the Licensing Manual for the Public, the SEC Office shall conduct a due diligence of the facts in accordance with the steps and procedures specified in the Licensing Manual for the Public, and shall inform the *special purpose vehicle* of any observation from the due diligence in order for the *special purpose vehicle* to clarify such observation within the period specified in the notice of observation. In this regard, the SEC Office shall conduct the due diligence and notify the *special purpose vehicle* of any observation within 45 days from the date on which the SEC Office receives a complete set of supporting evidentiary documentation in accordance with the Licensing Manual for the Public.

The SEC Office shall notify the result of its consideration of within 30 days from the date the SEC Office received the clarification upon observation from the due diligence from the *special purpose vehicle*.

If the *special purpose vehicle* intends to apply for a waiver of the criteria under this Notification, the *special purpose vehicle* shall apply for a waiver and file any supporting evidentiary documentation with the SEC Office before the SEC Office commences the consideration under Paragraph 2, in accordance with the steps and procedures specified in the *Licensing Manual for the Public*. The SEC Office shall complete the consideration of the application for a waiver within the same period as the consideration of the application for approval under Paragraph 2.

¹⁶ Added by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 59/2558*
Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 8)
dated 13 July 2015;

¹⁷ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 29/2558*
Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 7)
dated 10 July 2015;

Clause 10¹⁸ In the cases it appears to the SEC Office a fact causing the following suspicious grounds, the SEC Office may not grant approval for the offer for sale of the bonds under the *program*:

(1) the *special purpose vehicle* or the offer for sale of bonds under the *program* has the characteristics or structure in compliance with the rules or conditions for approval under this Notification but certain facts lead to the consideration that the true intention or the substance of the offer for sale of the bonds under the *program* constitutes an avoidance of the provisions of the *Securities and Exchange Act* or this Notification;

(2) the offer for sale of the bonds under the *program* may contradict public or governmental policy;

(3) the offer for sale of the bonds under the *program* may have a negative impact on credibility of the Thai capital market; or

(4) the offer for sale of the bonds under the *program* may cause damage or unfairness to investors in general, or the investors may not receive correct or sufficient information to support their investment decision making.

Clause 10/1¹⁹ In case where additional facts appear to the SEC Office after the approval for the offer for sale of bonds under the *program* indicating that the facts and circumstances that the SEC Office used in its consideration of the approval of the offer for sale of the bonds under the *program* have changed, and if such facts and circumstances had been known to the SEC Office prior to the approval of such offer for sale, the SEC Office may not have granted approval of that offer of the bonds under the *program*. The SEC Office shall have the authority to:

(1) order the approved entity, or its directors or *executives* to clarify or disclose additional information within a specified period and suspend the approval of the offering of the bonds under the *program*, or suspend the offer of the bond under the *program* until clarification has been given or correction has been made, and if the approved entity, its directors or *executives* fail to give clarification or make correction within the specified period, the SEC Office may revoke the approval pursuant to (2); and

(2) revoke the approval of the offer of the portion of the bonds under the *program* that has not been offered for sale or not yet been subscribed for.

¹⁸ Amended the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554*
Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 2)
 dated 18 March 2011;

¹⁹ Added by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 38/2555*
Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 3)
 dated 9 August 2012;

In giving an order under Paragraph 1, the SEC Office shall take the following factors into its consideration:

- (1) the seriousness of the facts or circumstances that have changed; and
- (2) the effect upon the investors who have subscribed for those bonds under the *program*.

In giving an order under Paragraph 1, the SEC Office shall take the following factors into its consideration:

Clause 11²⁰ If any one of the following characteristics is met, the SEC Office may exempt the regulations under this Notification from the consideration of applications, or may not enforce the conditions under this Notification to an offer for sale of bonds under the *program* that has been approved:

- (1) there is a clear fact leading to the consideration that the rules or conditions to be exempted are insignificant to the case and the costs outweigh the benefits derived from compliance with such rules or conditions;
- (2) the *special purpose vehicle* is subject to restrictions under other laws resulting in its inability to comply with the rules or conditions to be exempted;
- (3) the *special purpose vehicle* adopts other measures that are sufficient and can substitute its non-compliance with the rules or conditions to be exempted.

In granting an exemption under Paragraph 1, consideration shall be given to the appropriateness and adequacy of the information to support investment decisions making and the measures for investor protection. In this regard, the SEC Office may prescribe conditions with which the *special purpose vehicle* shall comply.

Clause 12 After approval is granted by the SEC Office, the *special purpose vehicle* may offer the *newly-issued bonds under the program* for sale in any of the following manners:

- (1) the *special purpose vehicle* may offer bonds for sale in one issue or several issues on one occasion;
- (2) the *special purpose vehicle* may offer a new bond for the redemption of the existing bonds within the amount specified in the *program*, provided that the bonds offered for sale for the redemption of the existing bonds shall comply with the following criteria:
 - (a) the redemption period shall not exceed the duration of the *program*;

²⁰ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 2)* dated 18 March 2011;

(b) the bonds are offered for sale under the same master *terms and conditions* or those with the rights and benefits offer to new bondholders not less favorable than those offered to the holders of the existing bonds to be redeemed. Notwithstanding the foregoing, each issue of bonds may contain different commercial terms, for example, interest rates, tenor, issue date, maturity date, etc.

The SEC Office may grant a waiver to the criteria under Paragraph 1 if the *special purpose vehicle* is able to demonstrate that the offer for sale of the bonds applied for approval shall not affect the holders of the bonds which have been issued and offered for sale by the *special purpose vehicle*.

Clause 13 In offering for sale of the *newly-issued bonds under the program* approved under this Chapter, the *special purpose vehicle* shall ensure that the bonds offered for sale under the *program* have the following characteristics:

(1) a specific title shall be assigned for reference purposes to the bonds offered for sale in each issue. The title of the bonds under the *program* shall clearly indicate the maturity date and special features (if any) of the bonds under the *program*;

(2) the interest rate is fixed or variable according to the interest rates of the *financial institution* or any other interest rate ;

(3) the total redemption value is equivalent to the par value of the bonds under the *program*, with single or multiple redemptions;

(3/1)²¹ in the case of the offer for sale of structured notes, such bonds shall only be the structured notes where the issuer of the *structured notes* has callable option or the holder of the *structured notes* has puttable option whether the return is a fixed or variable rates according to the interest rates of a *financial institution* or any other interest rates and the return shall not be relied on any other underlying;

(4) a bondholder's representative shall be arranged, except in the case of *short-term bonds*.

Clause 14 The *special purpose vehicle* shall arrange for one of the credit ratings by a credit rating agency recognized by the SEC Office:

(1) *issue rating* for each of the bonds being offered for sale; or

²¹ Added by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 14/2559*
Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 9)
 dated 4 May 2016;

(2)²² **guarantor rating** only in the case where the bond is fully guaranteed and the guarantor is obliged to liabilities jointly with the debtor without revocability before the maturity date;

The provision in Paragraph 1 shall not apply to the following cases:

(1) in cases where the **credit rating** agency approved by the SEC Office has notified the SEC Office in writing of its inability to provide credit rating arrangement of those **bonds** due to reasonable ground which is not caused by the **special purpose vehicle** of the **bonds**, the SEC Office may grant an exemption for such credit rating arrangement to be provided by other credit rating agency prescribed by the SEC Office.

(2) in cases where an exemption has been granted by the SEC Office based on necessary and reasonable ground or in cases where it can be considered that credit rating arrangement is not needed.

Division 2

Approval Conditions

Clause 15 The **special purpose vehicle** shall file an application with the **Thai Bond Market Association** for registration of the offered bonds within thirty days after the issuing date.

The **special purpose vehicle** shall arrange for the continuous credit rating of the bonds under the **program** in compliance with Clause 14 until the rights of claim under the bonds under the **program** have been terminated. If it is necessary and appropriate, the SEC Office may grant an exemption of the requirement for a credit rating of the bonds under the **program** and may prescribe the period of time or conditions thereof by considering the need of the investors to have such credit rating information.

Clause 16 Prior to the offer for sale of the bonds under the **program**, the **special purpose vehicle** shall submit a letter to the SEC Office certifying that it has prepared the **terms and conditions** of bonds under the **program** which are clear and free from any provisions unfairly taking advantage of the counterparty and signed by the authorized person of the **special purpose vehicle** and affixed with the **special purpose vehicle**'s seal (if any). In this regard, the particulars and substance of the **terms and conditions** of the bonds approved

²² Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 34/2557*
Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 5)
dated 29 September 2014;

under this Chapter shall comply with the guidelines of the *terms and conditions* as prescribed and notified by the SEC Office .

In addition to the particulars under Paragraph 1 the *terms and conditions* of the bonds under the *program* shall also contain the following particulars at a minimum:

(1) the general description of the *program* shall contain the name and address of the *originator*, as well as the type, features, and value of the assets transferred from the *originator* to the *special purpose vehicle* at a minimum.

(2) the *terms and conditions* must contain a provision requiring that the *special purpose vehicle* or the bondholders' representative convene a meeting of the bondholders to reasonably perform any necessary act without delay in the case that the *originator*, the *special purpose vehicle* or any other person that is a contractual party having a contractual obligation created in the interest of the implementation of the *program* materially fails to perform the agreement.

(3) the names and the address of the *servicer* and the backup *servicer* (if any), as well as the provision requiring that the appointment of a new *servicer* shall be approved by the bondholders's representative.

(4) the *terms and conditions* must contain the provision requiring that the *special purpose vehicle* report to the bondholders' representative (if any) of any purchase, acceptance of transfer or transfer of any asset to the *originator* within 15 days from the end of the month in which such transaction is entered into.

Clause 17 If the bonds offered for sale under the *program* are bonds which a bondholders' representative is appointed, the *special purpose vehicle* shall ensure that the agreement for the appointment of the bondholders' representative is consistent with the *terms and conditions* with the following particulars and subject matters at a minimum:

(1) names and addresses of the counterparty;

(2) effective date of the agreement;

(3) power, duties and liabilities of the counterparty with a provision indicating that the *special purpose vehicle* and the bondholders' representative have fully power, duties, and liabilities as stipulated in the *terms and conditions*;

(4) pre-determined rate and method for payment of compensation or remuneration for duty performance of the bondholders' representative, including rate and method for repayment of money paid in advance by the bondholders' representative during the course of its duty in accordance with the *Securities and Exchange Act B.E. 2535 (1992)*;

(5) the *terms and conditions* shall contain a provision requiring that the *originator*, the *special purpose vehicle*, the *servicer*, and the backup *servicer* (if any) or any other person that is a counterparty having contractual obligations created for the offer for sale of the bonds under the *program* implement the agreement in connection with the *program*;

(6) termination clause.

Clause 18 In the case of any replacement of the bondholders' representative after the offer of the bonds under the *program*, the *special purpose vehicle* shall submit documents to the SEC Office in accordance with Clause 7. After the *special purpose vehicle* has submitted a complete set of documents under Paragraph 1 to the SEC Office, the *special purpose vehicle* shall replace the bondholders' representative and the *special purpose vehicle* shall be deemed granted approval from the SEC Office. The *special purpose vehicle* shall deliver a copy of the agreement for appointment of the replacement bondholders' representative to the SEC Office within 15 days from the date of the appointment under that *program*.

Clause 19 In the case that the bonds offered for sale under the *program* are *subordinated bonds*, the right of the holders of the bonds under the *program* shall be subordinated to those of ordinary creditors only in relation to the acceptance of debt repayment under those bonds under the *program* upon any occurrence of the following events:

- (1) the *special purpose vehicle* is under receivership or declared bankrupt by a court judgment;
- (2) the *special purpose vehicle* is subject to liquidation for dissolution; or
- (3) any other case approved by the SEC Office.

Clause 20 In the case of secured bonds, whether the collateral of such bonds is provided at the time of making an offer for sale of such bonds or thereafter, the collateral of such bonds shall have the following characteristics:

(1)²³ being assets or pledge taken into legal force and considered the condition of each category of collateral. The collateral shall have an ability to surpass the maturity date and being monitored by the *bondholders' representative*. If the collateral or its related asset is not a financial instrument, such asset shall be located in Thailand.

(2) in the case where the collateral is an immovable property or a long-term lease agreement, a valuation of such collateral by a valuation company listed in the SEC Office's approved list is required. The valuation or calculation of the collateral value shall take into account any rights and liabilities incurred, whether by legal provisions or by agreement over such collateral and shall be made no longer than one year from the issue date of those *bonds*. Except where the price or value of the collateral has changed significantly

²³ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 2)* dated 18 March 2011;

during such period, the issuer shall make a re-valuation of the collateral.

Clause 21 In the case of secured *bonds* where the collateral is immovable property or movable property which shall be registered under the law, the approved entity shall assure that the *bondholders' representative* is a legally assignee of the collateral.

Clause 22 Any amendment to the rights, duties, liabilities or collateral under the bonds under the *program* after the offer of the bonds under the *program* shall only be made if such amendment is not inconsistent with or contrary to the provision of this Chapter and such amendment is made rightfully according to the *terms and conditions*. The *special purpose vehicle* shall notify the SEC Office and the *Thai Bond Market Association* of such amendment and submit a copy of the related documents to the SEC Office and the *Thai Bond Market Association* within 15 days from the effective date of such amendment.

In the case where amendment under Paragraph 1 is an amendment to the *terms and conditions* that requires a resolution of a meeting of the bondholders under the *program*, the notice calling the bondholder's meeting shall clearly indicate the reason of such amendment and the effect which occurs or may occur to the bondholders for their decision making.

Clause 23 The approved *special purpose vehicle* shall comply with the following criteria:

(1) the *special purpose vehicle* shall implement the securitization in accordance with the *program* by accepting the transfer of assets at the minimum level set out in the *program* within 6 months from the date the SEC Office approves the *project*, unless a waiver has been granted by the SEC;

(2) the *special purpose vehicle* shall complete the offer for sale of the bonds under the approved *program* within 3 years from the date of approval, except in the case of the offer for sale of a new issue for the redemption of an existing issue of bonds under Clause 12(2);

(3) the *special purpose vehicle* shall arrange for the *servicer* and a backup *servicer* may be arranged as well.

If the *servicer* or the backup *servicer* (if any) is not the *originator*, the *servicer* shall be:

- (a) a *financial institution*;
- (b) a securities company licensed to operate the securities business of securities brokerage;
- (c) an agency established to manage the non-performing assets of *financial institutions* in accordance with the law or governmental policy; or,
- (d) a juristic person with the characteristics prescribed and notified by the

SEC Office, provided that it has the capability to provide services or arrange a system to accommodate debt collection;

(4) the *special purpose vehicle* shall comply with the *program* which has been approved by the SEC Office;

(5) the *special purpose vehicle* shall report to the SEC Office the early redemption of bonds under Clause 7 within 15 days from the redemption date.

Clause 24 In the case of bonds issued under the *program* which has been approved under the *Royal Decree on Special Purpose Vehicle for Securitisation B.E. 2540 (1997)*, the *special purpose vehicle* shall undertake the following actions:

(1) the *special purpose vehicle* shall incorporate in its name that the bonds are issued under the *program* approved by such law and whether or not the *special purpose vehicle* is exempted from corporate income tax;

(2) after the termination of the *special purpose vehicle*, the *special purpose vehicle* shall return any remaining assets and benefits to the *originator* within 30 days from the termination date, unless an exemption is granted by the SEC Office where it is necessary and reasonable and shall report the transfer of such assets and benefits to the SEC Office under Clause 7 within 30 days from the termination date.

Clause 25 The appointment agreement of the *servicer* shall contain the following information which are material to the performance of the duties of the *servicer* at a minimum:

(1) provision on an accounting system for its operation and a system for storing related documents separately from the other work units of the *servicer*;

(2) provisions on the duties of the current *servicer* to perform in order for the new *servicer* to be able to continue performing the duties in case of any change of the *servicer* and the causes for replacing the *servicer* shall be clearly stated;

(3) the transfer of payments collected from the assets to the account of the *special purpose vehicle*, which shall be made as soon as possible, but not later than 15 days from the date on which such payment is collected, with the provision prohibiting the *servicer* from using the payments received for the *special purpose vehicle* for any other purposes. In the case that the *special purpose vehicle* agrees to set off the cost of assets purchased or other costs related to the assets with the *originator* which also acts as the *servicer*, the *servicer* is entitled to set off the cost of the assets purchased against the payments collected, but the remaining sum shall be transferred to the account of the *special purpose vehicle* within the same period;

(4) the preparation and submission of quarterly reports to the *special purpose vehicle* and bondholders' representative (if any) within 15 days from the end of a quarter. The reports shall contain, at a minimum, details relating to the collection of payments from

the assets, and the remaining assets of the *program*.

In the case that a backup *servicer* is appointed, the appointment agreement of the backup *servicer* shall contain the material information related to the performance of the duties of the backup *servicer* under Paragraph 1, *mutatis mutandis*.

Chapter 3

Offer for Sale of Bonds under the Program in Private Placement

Division 1

Offer for Sale in Private Placement and Approval Criteria

Clause 26 An offer for sale of bonds under the *program* in a private placement shall comply with the following criteria:

(1) an offer for sale to *institutional investors* or *high net worth investors*, excluding an offer made to *institutional investors* or *high net worth investors* with a transfer restriction that has been registered for no more than ten investors in any four-month period, in which case such offer is considered an offer under (2);

(2) an offer for sale to no more than ten specific investors within any four-month period.

In cases in which the Thailand Securities Depository, custodian, securities broker, securities dealer or any person holds the bonds under the *program* on behalf of other persons, the number of the investors under Paragraph 1 shall be counted based on the actual owners of those bonds under that *program*;

(3) an offer made to a person being a creditor of the *company* prior to the offer for sale of bonds under the *program* for the purpose of debt restructuring;

(4) an offer for sale to any waiver which is granted by the SEC Office whereby the *special purpose vehicle* can prove that:

- (a) the offer for sale is necessary and reasonable;
- (b) such offer will not have broadly impact to the investors; and
- (c) adequate measures for investor protection have been adopted.

Clause 27 In the case of an application for a waiver of the requirement for the offer for sale of the newly-issued bonds under Clause 26(4), the *special purpose vehicle* shall be able to prove that such offering is necessary and reasonable; that such offering will not have broadly impact to the investors; and that adequate measures for investor protection have been adopted. The SEC Office may grant a waiver for applying the criteria or

conditions prescribed in this Chapter, in whole or in part, for the offer for sale of bonds under the *program*, as it deems necessary, by taking into consideration the appropriateness and adequacy of the measures for investor protection.

Clause 28²⁴ In the case that the *special purpose vehicle* offers for sale of the *newly-issued bonds under the program* in a private placement under Clause 26, the *special purpose vehicle* shall be deemed approved for the offer of those newly-issued bonds under the *program* by the SEC Office if the *special purpose vehicle* has complied with the following criteria:

(1) the *special purpose vehicle* has registered the transfer restriction for the *bonds* to be offered for sale with the SEC Office in accordance with the provisions of Paragraph 2, and file the documents in accordance with the provisions of Paragraph 3;

(2) the *special purpose vehicle* has never breached any provisions of the limited offer for sale of any type of debentures, bills or sukuk during the period of two years prior to the registration of the transfer restriction, unless a waiver is granted by the SEC Office on the ground that such offering was necessary and reasonable and adequate measures for the offering for sale were adopted;

The registration of the transfer restriction of the bonds under the *program* with the SEC Office under Paragraph 1 shall contain a statement that the *special purpose vehicle* shall not accept the registration of any transfer of *bonds* at any level if such transfer of bonds will make such offer for sale of bonds unqualified under Clause 26(1), (2), (3) or (4), as the case may be, except a transfer by inheritance. The SEC Office shall be deemed accepted the registration of such transfer restriction on the date which the SEC Office receives the intention of registration of transfer restriction with such statement.

If the offer is for the sale of secured bonds or bonds for which a bondholders' representative has been appointed, the *special purpose vehicle* shall propose the draft *terms and conditions* and the draft bondholders' representative appointment agreement, together with the registration of the transfer restriction.

Division 2 Approval Conditions

²⁴ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 34/2557 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 5)* dated 29 September 2014;

Clause 29²⁵ In the offer for sale of *newly-issued bonds under the program* to *high net worth investors* under Clause 26(1), the *special purpose vehicle* shall arrange for one of the following credit ratings by a credit rating agency recognized by the SEC Office prior to the offer for sale of the bonds under the *program*:

- (1) issue rating of each bond offered for sale under the *program*;
- (2) *guarantor rating* only in the case where the bond is fully guaranteed and the guarantor is obliged to liabilities jointly with the debtor without revocability before the maturity date.

The provision relating to the waiver of a credit rating prescribed in Paragraph 2 of Clause 14 and the arrangement for continuous credit ratings under Paragraph 2 of Clause 15 shall apply to the case under Paragraph 1.

Clause 30 The *special purpose vehicle* shall proceed as follows:

- (1) the *special purpose vehicle* shall obtain a resolution from the company's board of directors approving the offer of the bonds under the *program*. Except where the applicant is a public limited company, the resolution for the offer of bonds shall be obtained in compliance with the law on public limited company.;

The provision in (1) shall not apply to the case where the *company* is required to issue bonds under a business rehabilitation plan under the *Bankruptcy Law* which has been approved by the court or any other case for which a waiver is granted by the SEC Office;

- (2) the *special purpose vehicle* shall assure that the bonds to be offered for sale under the *program* have the following characteristics:

- (a) being registered bonds and having a statement in the certificate of bonds offered for sale each time that the *special purpose vehicle* shall not accept transfer registration of bonds in any level if such transfer is inconsistent with the transfer restriction as indicated and registered with the SEC Office;

- (b) having the characteristics in accordance Clause 12 and Clause 13 (1), (2), and (3);

- (c) complying with the rules prescribed in Clause 19 in the case of the offer for sale of the *subordinated bonds* under the *program*;

- (d) in the case of the offer for sale of bonds to *institutional investors* incorporated under Thai law or *high net worth investors* under Clause 26(1), the *special purpose vehicle* shall provide that the *terms and conditions* contain at least the particulars as specified in Section 42(1) to (9) and comply with Paragraph 1 of Clause 22;

²⁵ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 34/2557 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 5)* dated 29 September 2014;

(3) in the case of the offer for sale of bonds under the **program** in a private placement under Clause 26(2), (3) or (4), the approved entity shall not advertise the offer for sale of the **bonds under the program**. If documents are distributed, such documents shall be distributed only to the persons who are qualified or to the number of persons within the limits prescribed in Clause 26(2), (3) or (4) for which an approval has been granted;

(4) offer documents (if any) shall contain a statement indicating the transfer restriction under (2)(a). In the case of the offer for sale of **subordinated bonds**, such subordination shall be clearly defined;

(5) complying with the criteria prescribed in Clause 23(1), (2), Paragraph 1 of (3), (4), and (5);

(6) complying with Clause 24 in the case of an offer for sale of bonds issued under the **program** approved under the *Royal Enactment on Special Purpose Vehicle for Securitization B.E. 2540 (1997)*;

(7)^{26,27} in the case of the offer for sale of bonds under the **program** to **institutional investors** incorporated under Thai law or **high net worth investors** under Clause 26 (1), the **special purpose vehicle** shall also file an application with the **Thai Bond Market Association** in accordance with the criteria prescribed in Paragraph 1 of Clause 15;

(8)^{28,29} in the case of the offer for sale of bonds under the **program** to **high net worth investors** under Clause 26(1), the **special purpose vehicle** shall offer the bonds under the **program** for sale through securities companies that are capable of providing such services with respect to the bonds under the **program**. Such **special purpose vehicle** shall comply with the *Notification of the Capital Market Supervisory Board concerning Distribution of Newly Issued Debt Securities and Derivative Warrants of Securities Issuing Companies, mutatis mutandis*.

(9)³⁰ in the case of the offer for sale of bonds under the **program** to **institutional investors** incorporated under Thai law or **high net worth investors** under

²⁶ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 14/2556 Re: Application and Approval of Offer for Sale of Newly-issued Securitization Bonds (No. 4)* dated 11 March 2013;

²⁷ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 34/2557 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 5)* dated 29 September 2014;

²⁸ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 34/2557 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 5)* dated 29 September 2014;

²⁹ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 47/2557 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 6)* dated 7 November 2014;

³⁰ Added by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 47/2557 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 6)* dated 7 November 2014;

Clause 26(1), the *special purpose vehicle* shall provide factsheet to such investors prior to the offer for sale of the bonds under the *program*.

Clause 31 If a person expresses his or her intention to the *special purpose vehicle* to register a transfer of bonds under the *program*, the *special purpose vehicle* shall verify the proposed bonds transfer. If the *special purpose vehicle* finds that the proposed transfer is inconsistent to the transfer restriction registered with the SEC Office, the *special purpose vehicle* shall not register the transfer of the bonds under the *program*, except a transfer by inheritance.

In the case that the *special purpose vehicle* arranges for a registrar, the *special purpose vehicle* shall ensure that the registrar complies with the rules specified in Paragraph 1.

Chapter 4

Specific Criteria and Conditions for the Project Offered to Offshore Investors

Clause 32 The provision under this Chapter shall apply to the offer for sale of *newly-issued bonds under the program* to offshore investors whereby the terms of the bonds contain a provision that the interest on and redemption of the bonds shall be settled in a foreign currency.

Clause 33 The *special purpose vehicle* shall be granted an approval for an offer for sale of the newly-issued bonds under this Chapter only when the following criteria are complied with:

- (1) being able to demonstrate that the offer for sale of the approved newly-issued bonds shall be only made to offshore investors;
- (2) being able to demonstrate that any traded or transferred of the approved bonds will be made in foreign countries.

Clause 34 The approved *special purpose vehicle* under this Chapter shall comply with the following rules and conditions:

- (1) the bonds under the *program* shall be offered for sale in accordance with the criteria specified in Clause 12;
- (2) the title of the bonds under the *program* shall contain specific name, interest rate and redemption amount in accordance with Clause 13(1), (2), and (3);
- (3) the *special purpose vehicle* shall comply with the criteria specified in Clause 23(1), (2), Paragraph 1 of (3), (4) and (5);

(4) the *special purpose vehicle* shall comply with Clause 24 in the case of an offer for sale of bonds issued under an approved *program* in accordance with the *Royal Enactment on Special Purpose Vehicle for Securitization B.E. 2540 (1997)*;

Clause 35 In the case that a bondholders' representative is appointed, the *special purpose vehicle* shall obtain approval for the person to be appointed as a bondholders' representative. Such person shall be approved only when it is able to demonstrate that it has the following qualifications:

(1) being able to act as a trustee under the law in any country which such bonds will be offered or listed on a stock exchange; or

(2) being a *financial institution* under the law in any country in which such bonds will be offered or listed on a stock exchange if it is able to demonstrate that establishing a trust is prohibited by law in such country.

The approval of the bondholders' representative under Paragraph 1 is not subject to other notifications relating to the qualifications of the bondholder's representative and actions under the authority of the bondholder's representative which is issued under Section 41(3) and Section 46.

Clause 36 The *special purpose vehicle* or its delegated person shall inform the Bank of Thailand of the sale of bonds to offshore investors within 3 business days from the last offering date and submit supporting documents with respect to such offering.

Chapter 4/1³¹

Specific Criteria and Conditions for the Program to Offer Newly-issued Bonds Denominated in Foreign Currencies

Clause 36/1³¹ The provision under this Chapter shall apply to the offer for sale of *newly-issued bonds under the program* where the terms of the bonds contain a provision that bonds shall be settled in a foreign currency.

³¹ Added by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2554 Re: Application for and Approval of Offer for Sale of Newly-issued Bonds for Securitization (No. 2)* dated 18 March 2011;

Clause 36/2³² In order to comply with the foreign exchange control rulings on the investors with respect to the Bank of Thailand which has not approved the direct investment in a foreign currency, or the investor in the bonds under the *program* is not an investor under the *Notification of the Bank of Thailand governing the determination of criteria and procedures in the investment in foreign instruments and derivatives*, the *special purpose vehicle* shall arrange for the offer for sale of bonds under the *program* to be made through securities companies in the category of securities underwriting or securities trading.

Chapter 5 Transitional Provisions

Clause 37 The following notifications of the Office of the Securities and Exchange Commission shall remain in full force and effect under this Notification unless otherwise notified:

(1) *Notification of the Office of the Securities and Exchange Commission No. Sor Jor. 35/2545 Re: Provisions on Rights and Duties of Bond Issuers and Bondholders dated 6 August 2002;*

(2) *Notification of the Office of the Securities and Exchange Commission No. Sor Yor. 45/2549 Re: Allocation of Income Flows under Securitization Program and Report of Transfer of Remaining Assets and Benefits of Special Purpose Vehicles dated 20 December 2006;*

(3) *Notification of the Office of the Securities and Exchange Commission No. Sor Yor. 37/2549 Re: Approval of Credit Rating Agencies for Offer for Sale of Debt Securities dated 6 December 2006.*

Notified this 13th March 2009.

(Mr. Vijit Supinit)
Chairman
Capital Market Supervisory Board

³² Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 14/2556 Re: Application and Approval for Offer for Sale of Newly-issued Securitization Bonds (No. 4)* dated 11 March 2013.