

**TRANSLATED VERSION**

codified up to No.5 as of June 5, 2014

*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 Securities and Exchange Commission**

**No. KorThor. 18/2549**

**Re: Maintenance of Net Capital**

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By virtue of Section 14 and Section 97 of the *Securities and Exchange Act B.E. 2535 (1992)*, which contain certain provisions relating to the restriction of rights and liberties of persons which Section 29 in conjunction with Section 35, Section 36, Section 45, Section 48 and Section 50 of the *Constitution of the Kingdom of Thailand* so permit by virtue of law, the Securities and Exchange Commission hereby issues the following regulations:

**Clause 1** The following Notifications shall be repealed:

- (1) *Notification of the Securities and Exchange Commission No. KorThor. 37/2540 Re: Maintenance of Net Capital dated 15 October 1997;*
- (2) *Notification of the Securities and Exchange Commission No. KorThor. 4/2541 Re: Maintenance of Net Capital (No. 2) dated 12 February 1998;*
- (3) *Notification of the Securities and Exchange Commission No. KorThor. 34/2541 Re: Maintenance of Net Capital (No. 3) dated 10 September 1998;*
- (4) *Notification of the Securities and Exchange Commission No. KorKhor. 38/2547 Re: Maintenance of Net Capital (No. 4) dated 3 August 2004;*

**Clause 2** In this Notification:

- (1) “**net capital**” means **liquid capital** deducted by **risk haircuts**;
- (2) “**liquid capital**” means **liquid assets** deducted by **total liabilities**;
- (3) “**liquid assets**” means total sum of the following assets:
  - (a) cash and bank deposit;
  - (b) securities purchased under reverse repurchase agreement with accrued interests;

(c) promissory notes and bill of exchange issued by financial institution under the law on interest on loan of financial institution<sup>1</sup>;

(d) investments in securities, derivatives and other financial instruments;

(e) receivables of securities purchased to order;

(f) receivables of margin loan and receivables of securities borrowing;

(g) receivables of pledging account;

(h) any other asset as stipulated by the Notification of the SEC Office.

(4) “**general liabilities**” means **total liabilities** deducted by **qualified liabilities**.

(5) “**total liabilities**” means

(a) all of liabilities shown in the financial statement but not include the following liabilities;

1. subordinated liabilities being unsecured which has the remaining the maturity period more than 1 year as from the calculating date, and has not determined the condition to repay before the maturity date within 1 year, unless such condition has been waived by the SEC Office;

2. financial lease contract which a **securities company**, as lessee, would be able to terminate the contract before the maturity date without the condition to buy leased properties, except the penalty;

3. other particulars as stipulated by the Notification of the SEC Office;

(b) other contingent liabilities of **securities company** not shown in financial statement, which are:

1. contingent liabilities arising from guarantee, [or] certifying or aval on bill of exchange;

2. contingent liability which the **securities company** shall pay by cash or other assets when the specified incidents occur;

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<sup>1</sup> the law on interest on loan of financial institutions means *The Interest on Loan of Financial Institutions Act B.E. 2523 (1980)*.

3. other contingent liabilities as stipulated by the Notification of the SEC Office.

(6) “*qualified liabilities*” means

(a) liabilities which has the remaining maturity period more than 1 year as from the date of calculating, only in the portion no more than value of collateral. In this regard, such liabilities shall not have any condition of repayment before the maturity date within 1 year, regardless of the term of a put or call option or any other similar condition, unless such condition has been waived by the SEC Office;

(b) contingent liabilities which are clearly specified in a contract that the creditor has no rights to call for repayment within 1 year as from the date of calculation, only in the portion no more than the value of collateral;

(c) total sum of the following liabilities:

1. payables with obligations to return borrowed securities, only in the portion not exceeding the value of collateral;

2. payables under pledged securities;

3. payable for client account;

4. payable under securities repurchase agreement;

(d) other liabilities as stipulated by the Notification of the SEC Office.

(7) “*risk haircuts*” means risk haircuts with respect to undertaking securities business or any other operation of a *securities company*;

(8) “*collateral*” means total sum of pledged assets for exposure to derivatives according to rate or value as stipulated by the Notification of the SEC Office;

(9) “*securities company*” means a securities company licensed to undertake securities business in the following categories, excluding a securities company which is a commercial bank under the law on financial institution business<sup>2</sup>, life insurance company under the law on life insurance<sup>3</sup> and financial institution established under other laws:

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<sup>2</sup>the law on financial institution business means The *Financial Institution Business Act B.E. 2551 (2008)*.

<sup>3</sup>the law on life insurance means The *Life insurance Act B.E. 2535 (1992)*.

- (a) securities financing business;
  - (b) brokerage, dealing or underwriting of any securities, which is not limited to debt securities or the *units*;
  - (c) brokerage, dealing, or underwriting limited to *units* which:
    - 1. has securities portfolio;
    - 2. provides services of trading *investment units*, registered as listed securities, for clients through a member of *SET*.
- (9/1) “*SET*” means the Stock Exchange of Thailand;
- (10) “*Office*” means the Office of the Securities and Exchange Commission;
- (11) “*units*” means investment units of mutual fund, certificate of pooling investment trust or other securities having characteristics similar to units as specified by the Securities and Exchange Commission.

**Clause 3** A *securities company* shall maintain its *net capital* not less than 15 million baht and [net capital ratio] not less than 7% of *general liabilities* at the end of any business day.

In case of the *securities company* also licensed to undertake derivatives business in the category of derivatives brokerage under the law on derivatives<sup>4</sup>, such *securities company* shall maintain its *net capital* not less than 25 million baht and [net capital ratio] not less than 7% of *general liabilities* and *collateral* at the end of any business day. In case the *securities company* has ceased its derivatives business and already informed the cessation thereof in writing to the SEC Office, such *securities company* shall maintain its *net capital* at the end of any business day as specified in the first paragraph.

The calculation of *net capital* [and net capital ratio] under the first and second paragraph shall be in accordance with the Notification of the SEC Office.

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<sup>4</sup>the law on derivatives means The *Derivatives Act B.E. 2546 (2001)*.

**Clause 4** The provision as prescribed in Clause 3 shall not be applicable to a *securities company* which has ceased operation of all kinds of securities business and already informed the cessation thereof in writing to the SEC Office. In this regard, such *securities company* which still undertakes derivatives business in the category of derivatives brokerage has duty to comply with the *Notifications of the Securities and Exchange Commission concerning Maintenance of Financial Condition of Licensed Derivatives Brokerage*.

The SEC Office is empowered to require the *securities company* under the first paragraph to submit any necessary document or report within the appropriate period for the purpose of considering the ability to maintain *net capital* [and net capital ratio] of the *securities company*.

**Clause 5** This Notification shall come into force as from 16 May 2006.

Notified this 2<sup>nd</sup> day of May 2006.

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(Mr. Thanong Bidaya)  
Minister of Finance  
Chairman of the Securities and Exchange Commission

Note: please note that the contents added in brackets [...] have only been provided in the English version for clearer understanding.