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Notification of the Capital Market Supervisory Board

No. TorThor/Nor/Khor. 87/2552

**Re: Qualifications and Prohibited Characteristics of Directors and Executives of
Derivatives Business Operators
(Codified)**

By virtue of Section 18 and the first paragraph of Section 24 of the Derivatives Act B.E. 2546 (2003) which contain certain provisions in relation to restriction of rights and liberty of persons which Section 29, in conjunction with Section 33, Section 34, Section 36, Section 41, Section 43 and Section 45 of the Constitution of the Kingdom of Thailand, so permits by virtue of law, the Securities and Exchange Commission acting as the Capital Market Supervisory Board pursuant to Section 6 of the Derivatives Act (No.2) B.E. 2551 (2008) hereby issues the following regulations;

Clause 1. In this Notification,

(1) “derivatives business operator” means any company licensed to undertake derivatives business;

(2) “executive” means manager or person with power of management;

(2/1)¹ “manager” means any person assigned by the board of directors of the company to be ultimately responsible for the management of the company regardless of what the title may be;

(3)² “person with power of management” means a deputy manager, an assistant manager, a departmental director, a branch manager, and also means any persons holding equivalent position called otherwise and such person shall be responsible for a line of work relating to derivatives services, derivatives operation, supervision of derivatives operation, or research on derivatives, or other similar lines of work regardless of the fact that such function provides services for other persons or for the benefit of the derivatives business operator itself, including a person who is a member of a committee which performs the duty of derivatives business management such as risk management committee, investment committee, operation supervisory committee, as well as advisor to such committees.

¹ Added by the Notification of the Capital Market Supervisory Board No. TorThor/Nor/Khor. 6/2553 Re: Qualifications and Prohibited Characteristics of Directors and Executives of Derivatives Business Operators (No.2) dated 1 February 2010.

² Repealed and replaced by the Notification of the Capital Market Supervisory Board No. TorThor/Nor/Khor. 6/2553 Re: Qualifications and Prohibited Characteristics of Directors and Executives of Derivatives Business Operators (No.2) dated 1 February 2010.

(4) “departmental director” means any person who is responsible for the operation at a departmental level in the company;

(5) “work experience” means work experience in a financial institution or other organizations in a line of work relating to money market or capital market, or work experience in the management level that is beneficial to management of derivatives business, or experience as an academic expert or professional in accounting, finance, business administration, economics or law;

Clause 2. The person with power of management of the derivatives business operator must obtain approval from the SEC Office.

Clause 3. The directors and executives of the derivatives business operator shall have the following qualifications:

(1)³ having the academic qualifications and work experience in accordance with the following criteria unless a waiver has been obtained from the SEC Office:

(a) any director who is an authorized signatory of the company, independent director, manager, or any person holding equivalent position called otherwise shall:

1. possess a bachelor’s degree or higher or an equivalent degree certified by the Office of the Civil Service Commission with at least three-year work experience; or

2. possess a degree lower than a bachelor’s degree with at least five-year work experience;

(b) any deputy manager, assistant manager, department director, branch manager, a person who is a member of a committee of which performs the duty of derivatives business management, or any other equivalent positions called otherwise shall:

1. possess a bachelor’s degree or higher or an equivalent degree certified by the Office of the Civil Service Commission with at least one-year work experience; or

2. possess a degree lower than a bachelor’s degree with at least three-year work experience.”

(2) An independent director shall:

(a) hold shares of not more than five percent of the total shares with voting rights of the derivatives business operator, parent company, subsidiary company, affiliate company or any person who may have conflicts of interest;

³ Repealed and repealed by the Notification of the Capital Market Supervisory Board No. TorThor/Nor/Khor. 39/2553 Re: Qualifications and Prohibited Characteristics of Directors and Executives of Derivatives Business Operators (No.3) dated 15 September 2010.

(b) not be an employee, staff, advisor who earns salary, or controlling person of the derivatives business operator, parent company, subsidiary company, affiliate company, or any person who may have conflicts of interest;

(c) not be a parent, spouse, brother, sister and child, including spouse of child, either by blood or by law, of the director, executive, major shareholder, controlling person or the candidate for the position of director, executive or controlling person of the derivatives business operator or its subsidiary;

The executive according to the first paragraph of (c) shall exclude the person assigned by the board of directors of the company to be director who is a member of the committee which performs the duty of derivatives business management.

(d) not have a business relationship with the derivatives business operator, parent company, subsidiary company, affiliate company or person who may have conflicts of interest that may impede the exercise of independent judgment, and not have any characteristic that causes the inability to freely give comments on the operation of the derivatives business operator;

The words “parent company,” “subsidiary company,” “affiliate company,” “person who may have conflicts of interest,” “major shareholder” and “controlling person” shall, *mutatis mutandis*, have the same meaning as defined in the Notification of the Securities and Exchange Commission governing definition in the notifications relating to issuance and offering of securities issued by virtue of the Securities and Exchange Act B.E. 2535 (1992).

(3)⁴ Repealed. (3)

Clause 4. The directors and executives of the derivatives business operator shall not have any of the prohibited characteristics as specified in the Notification of the Capital Market Supervisory Board governing the prohibited characteristics of the personnel in derivatives business.

In cases where there appears the fact that any director or executive of the derivatives business operator possesses any prohibited characteristics, the SEC Office shall proceed as prescribed by the notification of the Capital Market Supervisory Board governing the prohibited characteristics of the personnel in derivatives business.

Clause 5.⁵ Repealed.

⁴ Repealed by the Notification of the Capital Market Supervisory Board No. TorThor/Nor/Khor. 6/2553 Re: Qualifications and Prohibited Characteristics of Directors and Executives of Derivatives Business Operators (No.2) dated 1 February 2010.

⁵ Repealed by the Notification of the Capital Market Supervisory Board No. TorThor/Nor/Khor. 39/2553 Re: Qualifications and Prohibited Characteristics of Directors and Executives of Derivatives Business Operators (No.3) dated 15 September 2010.

Clause 6.⁶ Repealed.

Clause 7. The provision under Clause 3(1)(b) shall not apply to the person holding the position of branch manager, or other equivalent positions called otherwise, of the securities company licensed to undertake derivatives business prior to 1 March 2005.

Clause 8. Any notifications of the Office of the Securities and Exchange Commission, orders and circulars issued under or prescribing guidelines for compliance with the Notification of the Securities and Exchange Commission No. KorThor/Nor/Khor. 37/2548 Re: Qualifications and Prohibited Characteristics of Executives of Derivatives Business Operators dated 13 September 2005 which have been in effect prior to the effective date of this Notification shall remain in full force to the extent that they are not inconsistent with nor contrary to the provisions of this Notification until notifications, orders and circulars issued under or prescribing guidelines for compliance with this Notification come into force.

Clause 9. Any reference made in any other notifications to the Notification of the Securities and Exchange Commission No. KorThor/Nor/Khor. 37/2548 Re: Qualifications and Prohibited Characteristics of the Executives of Derivatives Business Operators dated 13 September 2005 shall mean reference to this Notification.

Clause 10. This Notification shall come into force as from 1 September 2009.

Notified this 3rd day of August 2009.

(Vijit Supinit)

Chairman

Securities and Exchange Commission

Remarks: The rationale for issuing this Notification is that the Derivatives Act (No.2) B.E. 2551 (2008) stipulates that the rules concerning duty performance of derivatives business operators and the prescription of the persons holding the prescribed positions must obtain an approval from the SEC Office shall be the power of the Capital Market Supervisory Board; therefore, it deems appropriate to issue this Notification to replace the Notification of the Securities and Exchange Commission No. KorThor/Nor/Khor. 37/2548 Re: Qualifications and Prohibited Characteristics of Executives of Derivatives Business Operators dated 13 September 2005.

⁶ Repealed by the Notification of the Capital Market Supervisory Board No. TorThor/Nor/Khor. 39/2553 Re: Qualifications and Prohibited Characteristics of Directors and Executives of Derivatives Business Operators (No.3) dated 15 September 2010.

(UNOFFICIAL TRANSLATION)

Footnote Index:

No.	Notified Date	Notification No.	Subject	Contents	Status
Main Notification	3 August 2009	The Capital Market Supervisory Board No. TorThor/Nor/Khor. 87/2552	Qualifications and Prohibited Characteristics of Directors and Executives of Derivatives Business Operators		In use (effective as from 1 September 2009)
1	1 February 2010	The Capital Market Supervisory Board No. TorThor/Nor/Khor. 6/2553	Qualifications and Prohibited Characteristics of Directors and Executives of Derivatives Business Operators (No. 2)	Amending the Notification No. TorThor/Nor/Khor. 87/2552 as follows: 1. add (2/1) of Clause 1 2. amend (3) of Clause 1 3. repeal (3) of Clause 3	In use (effective as from 1 February 2010)
2	15 September 2010	The Capital Market Supervisory Board No. TorThor/Nor/Khor. 39/2553	Qualifications and Prohibited Characteristics of Directors and Executives of Derivatives Business Operators (No. 3)	Amending the Notification No. TorThor/Nor/Khor. 58/2552 as follows: 1. amend (1) of Clause 3 2. repeal Clause 5 and Clause 6	In use (effective as from 1 October 2010)