

(UNOFFICIAL TRANSLATION)

Codified up to No.4
As of 14 December 2012

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. TorThor. 63/2552
Re: Rules, Conditions and Procedures for Brokerage and Dealing of
Securities Which Are Not Debt Instruments or Investment Units**

By virtue of Section 16/6 and Section 133 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 Paragraph 2 of Section 100 and Section 114 of the *Securities and Exchange Act B.E. 2535 (1992)*, which contains certain provisions in relation 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 Securities and Exchange Commission acting as the Capital Market Supervisory Board under Section 60 of the *Securities and Exchange Act (No. 4) B.E. 2551 (2008)* hereby issues the following regulations:

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

Clause 2 The following Notifications shall be repealed:

(1) *Notification of the Capital Market Supervisory Board No. TorThor. 10/2551 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Instruments* dated 16 May 2008;

(2) *Notification of the Capital Market Supervisory Board No. TorThor. 17/2552 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Instruments (No. 2)* dated 25 March 2009.

Clause 3 In this Notification, unless otherwise specified:

(1) “*executive*” shall have the same meaning as the definition of such term under the *Notification of the Capital Market Supervisory Board governing Qualifications and Other Prohibited Characteristics of Directors and Executives of Securities Companies*;

(2) “*securities*” means any securities which are not debt instruments or investment units;

(3) “*securities company*” means a company licensed to undertake securities business in the category of securities brokerage or securities dealing which is not limited to debt instruments or investment units;

(4) “*institutional client*” means a person who makes transactions with a *securities company* in securities brokerage or securities dealing, as follows:

- (a) a commercial bank;
- (b) a finance company;
- (c) a *securities company*;
- (d) a credit foncier company;
- (e) an insurance company;
- (f) a juristic person established under specific law other than the juristic persons under (h);
- (g) an international financial institution;
- (h) a governmental agency and a state enterprise under the law on budgetary procedures;
- (i) the Financial Institutions Development Fund;
- (j) the Government Pension Fund;
- (k) a provident fund;
- (l) a mutual fund;
- (m) a juristic person whose audited financial statements of the latest year record capital investment in the amount of one hundred million baht or more;
- (n) a juristic person whose shareholders are the persons under (a) to (m) collectively holding shares in the amount exceeding seventy-five percent of the total shares with voting right;
- (o) a foreign investor of the same characteristics as those under (a) to (n) *mutatis mutandis*;

(5) “*retail client*” means a client other than *institutional clients*;

(6) “*inside information*” means material facts which affect the change in the price of *securities* but have not yet been disclosed to the public and a *securities company* has acquired during the course of business undertaking;

(7)¹ “*investor contact*” means any person who performs duties in contacting, soliciting, giving advice or planning related to the purchase or sale or investment in *securities* for investors. There are two categories of *investor contacts* which are category A *investor contact* who is allowed to conduct an analysis on the value or suitability of the purchase or sale or an investment in *securities*, and category B *investor contact* who is not allowed to conduct an analysis on the value or suitability of the purchase or sale or an investment in *securities*;

(8) “*analysis of securities investment*” means an analysis of data relating to *securities*, for the purpose of giving advice or publishing, whether directly or indirectly, on the value of *securities* or suitability of investment relating to such securities;

(9)² “*foreign securities business operator*” means any person licensed to undertake securities business by a regulatory agency on securities and securities exchanges in a foreign country which is a member of the International Organization of Securities Commissions (IOSCO).

¹ Amended by the *Notification of the Capital Market Supervisory Board No. TorThor. 1/2553 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Securities or Investment Units (No.2)* dated 1 February 2010.

² Added by the *Notification of the Capital Market Supervisory Board No. TorThor. 1/2553 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Securities or Investment Units (No.2)* dated 1 February 2010.

Clause 4 For the purpose of regulating securities brokerage business undertaken by a *securities company*, the term “personnel” and “employee” under this Notification shall also include any person who is assigned to perform duty for a *securities company*.

Clause 5 The provisions in Clause 19 shall also apply to securities dealing of a *securities company mutatis mutandis*.

Chapter 1 Operational Control

Clause 6 A *securities company* shall establish rules in writing, which are approved by its *executive* committee or board of directors, on the following matters:

- (1) effective systems for internal control and prevention of conflicts of interest;
- (2) risk management system for prevention of damage caused by risks arising from business undertaking to assure that there will not be any adverse effect on business undertaking of the *securities company*. All types of risks which may occur during the course of business undertaking shall be taken into account in making risk appraisal;
- (3) measures for prevention of *inside information* leaking between work units and personnel of a *securities company* (Chinese wall). There shall be at least measures for prevention of *inside information* leaking between work units and personnel who have an opportunity to access *inside information* of a securities issuer and those who have an opportunity to make use of such *inside information*;
- (4) clear scope of authority, duty and responsibility of directors, *executives* and work units.

Clause 7 A *securities company* shall have independent directors in the number of at least one-fourth of its board of directors.

In cases where an independent director of a *securities company* deceases, resigns, or whose approval is revoked by the SEC Office, or where a *securities company* is part of a financial conglomerate with a shareholding structure, internal audit and supervision by other regulatory bodies as specified by the SEC Office, the SEC Office shall have the power to grant the *securities company* a temporary or permanent exemption from appointment of independent directors as prescribed in Paragraph 1. In such case, the SEC Office may prescribe other requirements for compliance by the *securities company*.

Clause 8 A *securities company* shall establish a compliance unit and an internal control unit which meet acceptable and reliable standards. Such units shall have an independent operation and shall be free from other work units.

Clause 9 A *securities company* shall separate work units and personnel whose duty, responsibility, or nature of operation may create conflicts of interest. At least, it shall separate the work units and personnel responsible for contacting, soliciting, or giving advice on *securities* investment to clients from those responsible for making decisions on *securities* trading for the *securities company*.

Clause 10 A *securities company* shall separate work units and personnel responsible for providing *securities* services (front office) from those responsible for operational function (back office), and shall put in place a check and balance system among personnel of such units. At least, no persons shall be assigned to be responsible for the entire process of work in such a manner that may give him an opportunity to commit frauds.

Clause 11 A *securities company* shall provide a sufficient security system to prevent unauthorized persons from accessing or amending information relating to its business operation.

Clause 12 A *securities company* shall provide evidence on *securities* trading and maintain such evidence complete and up-to-date for at least five years from the transaction date and the maintenance of such evidence during the first two years shall be in such a manner that can be promptly retrieved and inspected by the SEC Office. The *securities company* shall maintain reports or articles on *securities* investment analysis for at least two years from the publication date in such a manner that can be promptly retrieved and inspected by the SEC Office.

³In arranging the giving of advice by a *foreign securities business operator*, a *securities company* licensed to undertake *securities* business in the category of *securities* brokerage shall keep documents relating to the giving of advice including analysis report or any other documents supporting the giving of advice for at least two years from the date on which such giving of advice is made in Thailand.

Chapter 2 Operation

Division 1 Contacting, Soliciting, or Giving Advice to Clients and Performance of Duty as Professional

Clause 13⁴⁵ A *securities company* licensed to undertake the securities brokerage business shall do fundamental analysis report and provide such information to client, provided that such process shall comply with the following regulations:

³ Added by the *Notification of the Capital Market Supervisory Board No. TorThor. 1/2553 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Securities or Investment Units (No.2)* dated 1 February 2010.

⁴ Repealed by the *Notification of the Capital Market Supervisory Board No. TorThor. 8/2555 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Securities or Investment Units (No.3)* dated 18 January 2012.

⁵ Amended by the *Notification of the Capital Market Supervisory Board No. TorThor. 1/2553 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Securities or Investment Units (No. 2)* dated 1 February 2010.

- (1) the fundamental analysis report shall be made according to guidelines prescribed by Association of Thai Securities Companies approved by the SEC office;
- (2) the company shall have a process ensuring that the person who performs a duty of an investment advisor has acknowledged and understood the information in the analysis report well enough to be able to give accurate and suitable investment advice for clients.

Clause 13/1⁶ A *securities company* licensed to undertake the *securities* brokerage business and providing advice to client by *foreign securities business operator* shall proceed as follows:

- (1) screening and selecting *foreign securities business operator* that is credible and able to give advice under the law supervising business operator in such foreign countries;
- (2) notifying regulations regarding the giving of advice complying with law concerning *securities* and exchange to the *foreign securities business operator*;
- (3) notifying name and address of such *securities company* as a source of contact for clients; and
- (4) complying with rules concerning analysis report translation specified by the bodies relating to *securities* business approved by the SEC office.

Clause 14 A *securities company* shall require that any *investor contact* who wishes to give advice or conduct *analysis of securities investment* through media seek a prior approval from the *securities company*. In this regard, the *securities company* shall set out rules on seeking and granting of approval in writing.

Clause 15 In cases where a *securities company* finds that an *investor contact* may violate or not comply with the rules prescribed by the Securities and Exchange Commission, the Capital Market Supervisory Board or the SEC Office, the *securities company* shall collect all relevant data and notify the SEC Office within seven days from the date on which such questionable conduct is found.

Clause 16 A *securities company* shall keep records of giving of advice, accepting of trading orders, and negotiation on *securities* investment with clients for at least three months from the date on which such action takes place. In cases where there is a complaint regarding such action and the handling of such complaint has not yet been finished within such period, the *securities company* shall maintain records of such action until all complaint handling procedures are completed.

In cases where giving of advice, accepting of trading orders, or negotiation with clients is made via telephone or electronic means, the *securities company* shall keep records of such action by using a tape recorder or an electronic data recording device.

Clause 17 A *securities company* shall not trade *securities* by using inside information in such a way that takes advantage of outside persons or disclose such *inside information* for other persons' use.

⁶ Added by the Notification of the Capital Market Supervisory Board No. TorThor. 1/2553 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Securities or Investment Units (No. 2) dated 1 February 2010.

Division 2
Opening of Securities Trading Account and
Undertaking of Securities Brokerage

Clause 18 In this division, “*securities company*” means a company licensed to undertake *securities* business in the category of *securities* brokerage.

Clause 19 In considering an application for account opening and entering into an agreement with a client to appoint a *securities company* as *securities* broker, the *securities company* shall establish methods and procedures for considering an application for account opening and entering into an agreement with a client in writing. There shall be sufficient measures to ensure that a client is the same person as the one appears on the application document, verify identification of the client, the beneficial owner and the person controlling *securities* trading of the client, and provide sufficient data or documentary evidence to ascertain a client’s financial status and debt repayment ability. In case of a *retail client*, the *securities company* shall provide sufficient data or documentary evidence to ascertain the client’s investment objectives, knowledge, understanding and experience regarding *securities* investment for the purpose of considering an application for account opening and giving of investment advice to such client.

A *securities company* shall conduct know-your-client procedures on a continuous basis. In this regard, data of the client, the beneficial owner and the person controlling *securities* trading of the client shall be regularly updated, as well as debt repayment ability and trading limit of each client shall be reviewed on a regular basis.

A *securities company* shall maintain complete documentary evidence as prescribed in Paragraph 1 and Paragraph 2 in such a manner that can be promptly retrieved and inspected by the SEC Office. Such documentary evidence shall be stored for at least five years from the date of account closing or agreement termination.

Clause 20 An agreement in which a *retail client* appoints a *securities company* as *securities* broker shall bear a statement of larger fonts, or being marked or done by other methods to highlight such statement to make the client aware of the following matters:

(1) risks arising from change of value of *securities* or collateral which may cause the client to suffer loss or be required to deposit more collateral;

(2) actions to be taken by the *securities* companies in cases where the client fails to make payment, deliver *securities* or deposit collateral within the specified period of time:

(a) forced collateral;

(b) forced sale or repurchase of *securities*;

(c) suspension of money which the client is entitled to be paid by the *securities company*, for payment of the client’s outstanding debt;

(d) termination of an agreement.

An agreement made between a *securities company* and a *retail client* under Paragraph 1 shall bear no statement denying the *securities company*’s responsibility to the client for any act or omission of any act, whether willfully or negligently, of the *securities company* or employees of the *securities company*.

Clause 21 A *securities company* shall trade *securities* according to orders of a client who is the account owner and shall have a reliable system to verify that the person submitting such trading orders or instructing the *securities company* to take any actions regarding the assets in the client's account is the rightful account owner or the person authorized by the rightful account owner in writing.

Clause 22 A *securities company* shall check the status of a client's account before trading *securities* for the client.

Clause 23 A *securities company* shall determine methods and procedures for securities trading for clients on a time priority basis and give priority to the benefit of clients over the benefit of itself. In particular, it shall trade *securities* for clients prior to trading for itself, unless clients clearly set out trading conditions otherwise.

Clause 24 A *securities company* shall clearly determine methods and procedures for amending trading transactions of clients in writing and shall supervise the amendment of transactions not to violate or fail to comply with the procedures and methods set out.

Clause 25 A *securities company* shall not trade *securities* by using an account of a client for another client who is not the account owner.

Clause 26 In undertaking *securities* brokerage business, a *securities company* may assign other persons to act as its *investor contact*, provided that the *securities company* has established measures to ensure that the *securities company* can comply with this Notification and the rules set out by the *securities company* to comply with this Notification as specified by the SEC Office.

Division 3 Conduct of Employees

Clause 27⁷ A *securities company* shall set out policies and rules governing employees' *securities* trading to prevent its employees from inappropriately using *inside information* and to prevent conflicts of interest of employees in performing their duty. In this regard, such rules shall be prescribed in writing and approved by the committee of the *securities company* as well as complying with rules prescribed by Association of Thai Securities Company and approved by the SEC office.

⁷ Amended by the *Notification of the Capital Market Supervisory Board No. TorThor. 52/2555 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Securities or Investment Units (No.4)* dated 14 December 2012.

Clause 28⁸ *Repealed.*

Clause 29 A *securities company* shall supervise and control its employees to comply with this Notification and the rules set out by the *securities company* for compliance with this Notification.

Clause 30 In addition to those specifically indicated, the SEC Office shall have the power to prescribe rules, conditions and procedures in detail relating to the matters prescribed in this Notification for more clarity in practice and for the SEC Office's examination of such matters.

Clause 31 In cases where the SEC Office finds that a *securities company* violates or fails to comply with this Notification or the rules prescribed by the *securities company* for compliance with this Notification or acts inappropriately in undertaking *securities* brokerage or *securities* dealing, the SEC Office may order such *securities company* to correct, act or omit from any act, to comply with this Notification.

Chapter 3 Transitional Provisions

Clause 32 A *securities company* shall completely provide data or documentary evidence used for verification of identity of its clients, beneficial owners and controlling persons of the clients, including any data or documentary evidence relating to its clients' financial status and debt repayment ability, with respect to all existing clients of whom the *securities company* has no records, by 31 December 2009.

Clause 33 All notifications of the SEC Office, orders and circulars issued under or prescribing guidelines for compliance with the *Notification of the Securities and Exchange Commission KorThor. 42/2543 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Instruments dated 26 September 2000* 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 34 Any reference made in any other notifications to the *Notification of the Securities and Exchange Commission KorThor. 42/2543 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Instruments dated 26 September 2000* shall mean reference to this Notification.

Notified this 3rd Day of August 2009.

⁸ Repealed by the *Notification of the Capital Market Supervisory Board No. TorThor. 52/2555 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Securities or Investment Units (No.4)* dated 14 December 2012.

- Signature -
(Mr. Vijit Supinit)
Chairman
Securities and Exchange Commission

Remark: The rationale for issuing this Notification: As the Securities and Exchange Act (No. 4) B.E. 2551 (2008) stipulates that the issuance of rules, conditions and procedures for securities brokerage and securities dealing and application for and approval of appointment of any person as agent or broker of a securities company is under the authority of the Capital Market Supervisory Board, it is therefore deemed appropriate to issue this Notification as replacement for the Notification of the Securities and Exchange Commission KorThor. 42/2543 Re: Rules, Conditions and Procedures for Brokerage and Dealing of Securities Which Are Not Debt Instruments dated 26 September 2000.