

TRANSLATED VERSION
codified up to No.3 as of June 13, 2011

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. 25/2551
Re: Initial and Maintenance Margin Requirements
for Derivatives Trading in Derivatives Exchange

By virtue of Section 18 of the *Derivatives Act B.E. 2546 (2003)* which contains certain provisions in relation to the restriction of rights and liberties 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 permit by virtue of law, the Securities and Exchange Commission acting as the Capital Market Supervisory Board by virtue of Section 6 of the *Derivatives Act (No.2) B.E. 2551 (2008)* hereby issues the following regulations:

Clause 1 In this Notification:

(1) “*derivatives broker*” means any person licensed to undertake derivatives business in the category of derivatives broker;

(2) “*institutional client*” means any client who is the following persons:

- (a) commercial banks;
- (b) finance companies;
- (c) securities companies;
- (d) credit foncier companies;
- (e) non-life insurance companies;
- (f) life insurance companies;
- (g) juristic persons in the category of corporation;
- (h) mutual funds;
- (i) private funds;
- (j) Government Pension Fund;
- (k) provident funds;
- (l) Bank of Thailand;
- (m) international financial institutions;
- (n) juristic persons established under specific laws;
- (o) government agencies or state enterprises under the law on

budget procedures¹;

(p) Financial Institutions Development Fund;

(q) juristic persons in which any persons specified under sub clause (a) to (p) hold shares in an aggregate of more than 75% of the total number of voting shares;

(r) foreign investors having the same characteristics as persons under sub clause (a) to (q) *mutatis mutandis*.

(3) “*market maker*” means any person registered as market maker with a derivatives exchange to provide liquidity for derivatives trading in derivatives exchange;

¹ The law on budget procedures means The *Budget Procedures Act B.E. 2502 (1959)*

(4) “**initial margin**” means the minimum amount of assets which a client shall deposit to secure the performance of derivatives when entering a derivatives position;

(5) “**maintenance margin**” means the minimum amount of assets which a client shall maintain as long as the derivatives position is held in order to secure the performance of derivatives;

(6) “**derivatives exchange**” means any derivative trading center licensed by the Securities and Exchange Commission;

(7) “**derivatives clearing house**” means any derivatives clearing house licensed by the Securities and Exchange Commission;

(8)² “**closing time of normal trading session**” means the closing time for derivatives trading in the afternoon session of the derivatives exchange.

Clause 2 This Notification shall be applicable to derivatives brokerage who executes derivatives trading on behalf of a client in derivatives exchange.

Clause 2/1³ For the purpose of **initial** and **maintenance margin** requirements, it shall be deemed that derivatives trading by a **derivatives broker** on behalf of clients after **closing time of normal trading session** is the transaction executed on the next trading day.

Clause 3⁴ For providing service to a client, a **derivatives broker** shall proceed as follows:

(1) determine the aggregate position limits for a client including the margin rate or value, based on fluctuation of derivatives prices as well as financial status, ability to deposit of margins and debt repayment records of the client;

(2) require **initial margin** from a client no less than the rate or value prescribed by the SEC Office;

(3) calculate the market prices of derivatives held by a client including any profit or loss from positions on derivatives in order to adjust the margin value of the client at least at **closing time of normal trading session** of every business day;

Calculation for the market price of the derivatives under the first paragraph shall be in accordance with the rules prescribed by the derivatives exchange.

(4) require variation margin from the client in order to restore the amount of **initial margin** available when the margin rate or value is below the **maintenance margin** rate or value prescribed by the SEC Office;

² Added by the Notification of the Capital Market Supervisory Board No. TorThor. 13/2554 Re : Initial and Maintenance Margin Requirements for Derivatives Trading in Derivatives Exchange (No. 3) dated June 13, 2011

³ Added by the Notification of the Capital Market Supervisory Board No. TorThor. 13/2554 Re : Initial and Maintenance Margin Requirements for Derivatives Trading in Derivatives Exchange (No. 3) dated June 13, 2011

⁴ Repealed and replaced by the Notification of the Capital Market Supervisory Board No. TorThor. 13/2554 Re : Initial and Maintenance Margin Requirements for Derivatives Trading in Derivatives Exchange (No. 3) dated June 13, 2011

The assets that *derivatives broker* requires a client to deposit as the margin under sub clause (2) and (4) of the first paragraph shall be the same category as those the *derivatives clearing house* requires its member to secure the performance of derivatives trading, and the calculation of the margin value shall be complied with the rules prescribed by the *derivatives clearing house*.

Clause 4⁵ A *derivatives broker* shall require its clients to deposit a margin within the specified period as follows:

(1) For *initial margin*:

(a) in case of *institutional clients* or *market makers*, the margin shall be deposited at least one hour before the *closing time of normal trading session* on the next business day from the date that derivatives was executed;

(b) in case of clients other than sub clause (a), the margin shall be deposited before making a derivatives order for the client;

(2) For variation margin, the margin shall be deposited at least one hour before the *closing time of normal trading session* of the next business day from the date on which a margin call is made by the *derivatives broker*.

Clause 5⁶ In cases any client is unable to deposit a margin within the periods prescribed under Clause 4(1)(a) or Clause 4(2), a *derivatives broker* shall act as follows:

(1) cease any derivatives trading which may result in entering a new derivatives position for such client except for any derivatives trading which may reduce the risk of the outstanding position of such client;

(2) close out the client's derivatives position at least one hour before the *closing time of normal trading session* on the next business day. In this regard, the *derivatives broker* shall close out such client's derivatives position until the margin rate or value required for derivatives position held by such client is not less than the *initial margin* rate or value prescribed under Clause 3(2).

Clause 6 A *derivatives broker* shall deposit margin for derivatives position of each client with the *derivatives clearing house* as required by such clearing house. In this regard, any offsetting position between clients is prohibited.

Clause 7 A *derivatives broker* shall not lend money to clients for a purpose of depositing margin for derivatives trading.

⁵ Repealed and replaced by the *Notification of the Capital Market Supervisory Board No. TorThor. 13/2554 Re : Initial and Maintenance Margin Requirements for Derivatives Trading in Derivatives Exchange (No. 3) dated June 13, 2011*

⁶ Repealed and replaced by the *Notification of the Capital Market Supervisory Board No. TorThor. 13/2554 Re : Initial and Maintenance Margin Requirements for Derivatives Trading in Derivatives Exchange (No. 3) dated June 13, 2011*

Clause 7/1⁷ In case a *derivatives broker* has transferred its client's derivatives position to another *derivatives broker* by complying with the position transfer process of *derivatives clearing house*, the receiving *derivatives broker* shall comply with clause 3, clause 4, clause 5, clause 6, and clause 7 when the receiving accepted such position. In this regard, the delivering *derivatives broker* would be exempted from complying with clause 3 and clause 4 since such position has been transferred.

Clause 8 All notifications of the SEC Office, directives and circulars issued under or laying out guidelines pursuant to the *Notification of the Securities and Exchange Commission No. KorThor. 67/2547 Re: Initial and Maintenance Margins Requirements for Derivatives Trading in Derivatives Exchange dated 22 December 2004* and its amendment, which are in force on the date on which this Notification comes into force, shall remain in force to the extent that they are consistent with or not contrary to the provisions under this Notification until notifications, directives and circulars otherwise issued under or laying out guidelines pursuant to this Notification come into force.

Clause 9 This Notification shall come into force as from 1 December 2008.

Notified this 5th day of November 2008.

(Vijit Supinit)

Chairman

The Securities and Exchange Commission

Remarks: The rationale for issuing this Notification is to prevent risks associated with the operations of *derivatives brokers* and the trading and settlement system of derivatives exchange as well as to enhance operational efficiency of *market makers*. For such purposes, the rules governing the requirement of margins for derivatives trading in derivatives exchange have been prescribed. Furthermore, the Derivatives Act (No.2) B.E. 2551 (2008) stipulates that the Capital Market Supervisory Board, in place of the Securities and Exchange Commission, shall have the power to specify rules governing derivatives business operators. As such the requirement of margins for derivatives trading in derivatives exchange shall be in compliance with this Notification in place of the *Notification of the Securities and Exchange Commission No. KorThor. 67/2547 Re: Initial and Maintenance Margin for Derivatives Trading in Derivatives Exchange dated 22 December 2004*.

⁷ Repealed and replaced by the *Notification of the Capital Market Supervisory Board No. TorThor. 8/2553 Re : Initial and Maintenance Margin Requirements for Derivatives Trading in Derivatives Exchange (No. 2) dated February 10, 2010*