

UNOFFICIAL TRANSLATION

Codified up to No. 4

As of 3 July 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 Securities and Exchange Commission

No. Kor Jor. 17/2551

Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Securities

By virtue of Section 14 of the *Securities and Exchange Act B.E. 2535 (1992)* as amended by the *Securities and Exchange Act (No.4) B.E. 2551 (2008)* which contains certain provisions in relation to restriction of right and liberty 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 hereby issues the following regulations:

Clause 1 Except where otherwise specified, the definitions determined in this Notification, the Notifications of the Securities and Exchange Commission or the Notifications of the Capital Market Supervisory Board shall apply, in which the rules are prescribed on the following matters:

- (1) application for and approval of offer for sale of newly issued securities;
- (2) exemption from filing of the registration statement for offer for sale of securities;
- (3) filing of the registration statement for offer for sale of securities;
- (4) disclosure of information relating to financial condition and operating results of an issuing company;
- (5) subscription, underwriting and allocation of newly issued securities.

Clause 2 In this Notification and the forms attached to the Notifications under Clause 1:

- (1) “**securities**” means shares or warrants;
- (2)¹ “**warrants**” means share warrants or transferable subscription rights;
- (3) “**underlying shares**” means newly issued shares provided for the exercise of rights under share warrants;
- (4) “**institutional investors**” means:
 - (a) commercial banks;
 - (b) finance companies;
 - (c) securities companies for management of proprietary portfolios or private funds or investment projects established under laws governing finance business, securities business and credit foncier business;
 - (d) credit foncier companies;
 - (e) insurance companies;

¹ Amended by the *Notification of the Securities and Exchange Commission No. Kor Jor. 5/2553 Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Securities (No.2)* dated 1 April, 2010.

(f) government units and state enterprises under laws governing budgetary procedures or any other juristic persons established under specific laws;

(g) Bank of Thailand;

(h) international financial institutions;

(i) Financial Institutions Development Fund;

(j) Government Pension Fund;

(k) provident funds;

(l) mutual funds;

(m) foreign investors with the same characteristics as investors under (a) to (l), *mutatis mutandis*;

(5)² “**exercise of rights under warrants**” means the exercise of rights to purchase shares under share warrants or the exercise of rights to purchase shares under transferable subscription rights;

(6) “**registration statement**” means the registration statement for offer for sale of securities;

(7) “**company**” means a limited company, a public limited company and a juristic person under specific laws;

(8) “**listed company**” means a company whose shares are listed on the Stock Exchange of Thailand;

(9) “**juristic person under specific laws**” means a juristic persons established under specific laws for the purpose of business undertaking;

(10)³ “**parent company**” means company having any of the following characteristics:

- (a) company which has control over securities issuer;
- (b) company which has control over the company under (a);
- (c) company which has control over the company under (b) and the company in the chain of control upward beginning with control over the company under (b);

(11)⁴ “**subsidiary**” means company having any of the following characteristics:

- (a) company over which securities issuer has control;
- (b) company over which the company under (a) has control;
- (c) company under the chain of control beginning with that under control of the company under (b).

² Amended by the *Notification of the Securities and Exchange Commission No. Kor Jor. 5/2553 Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Securities (No.2)* dated 1 April, 2010.

³ Amended by the *Notification of the Securities and Exchange Commission No. Kor Jor. 7/2555 Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Securities (No.4)* dated 3 July, 2012.

⁴ Amended by the *Notification of the Securities and Exchange Commission No. Kor Jor. 7/2555 Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Securities (No.4)* dated 3 July, 2012.

(12) “**same level subsidiary company**” means two or more subsidiary companies under the same parent company regardless of being in which level;

(13)⁵ “**associate company**” means a company in which securities issuer or **subsidiary company** has authority to participate in decision making related to the company’s financial policy and business operation, but has no control over such policy and is not deemed as **subsidiary company** or joint ventures.

In case where securities issuer or **subsidiary company** holds shares directly and indirectly in an aggregate amount of twenty percent or more, but not exceeding fifty percent of the total number of the voting rights of such company, it shall be presumed that securities issuer or **subsidiary company** has the authority to take part in the decision making under Paragraph 1 except where it is proven otherwise.

(13/1)⁶ “**control**” means any of the following relationships:

(a) holding of shares with voting rights of company in an amount exceeding fifty percent of the total number of the voting rights of such company;

(b) having control of the majority voting rights in the shareholders’ meeting of company whether directly or indirectly or by any other reasons;

(c) having direct or indirect control over appointment or removal of half of all directors or more

(14) “**connected person**” means a person or a partnership having relationship with a person in any of the following characteristics:

(a) a spouse of such person;

(b) a minor child of such person;

(c) an ordinary partnership in which such person or the person under (a) or (b) is a partner;

(d) a limited partnership in which such person or the person under (a) or (b) is a partner with unlimited liabilities or a partner with limited liabilities holding shares in an aggregate number of more than thirty percent of the total number of shares of such limited partnership;

(e) a limited company or a public limited company in which such person or the person under (a) or (b) or the partnership under (c) or (d) holds shares in an aggregate number of more than thirty percent of the total paid-up shares of such company;

(f) a juristic person in which such person has managing power in his position as representative of juristic person;

(15)⁷ “**person who may have a conflict of interest**” means the following persons:

(a) director or executive of securities issuer;

⁵ Amended by the *Notification of the Securities and Exchange Commission No. Kor Jor. 7/2555 Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Securities (No.4)* dated 3 July, 2012.

⁶ Added by the *Notification of the Securities and Exchange Commission No. Kor Jor. 7/2555 Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Securities (No.4)* dated 3 July, 2012.

⁷ Amended by *Notification of the Securities and Exchange Commission No. Kor Jor. 15/2554 Re: Determination of Definitions in Notifications concerning Issuance and Offer for Sale of Securities (No. 3)* Dated 21 July, 2011.

(b) major shareholder of securities issuer;
(c) controlling person of securities issuer;
(d) person having relationship by blood, marriage or legal registration with any person under (a), (b) or (c), namely father, mother, spouse, sibling, child or spouse of child;

(e) any juristic person whose shares or controlling power or any other interest are held by any person under (a) (b) or (c), whether directly or indirectly, in a significant manner;

(16)⁸ “**executive**” means a manager or the next four executives succeeding the manager and every person holding an equivalent position to the fourth executive, including persons holding the position of departmental manager or equivalent or higher in accounting or finance.”

(17) “**major shareholder**” means a person holding shares of the securities issuer more than ten percent of the total number of shares with voting rights of the securities issuer including shares held by connected persons;

(18) “**controlling person**” means a shareholder or any other person who by behavior has influence over policy making, management or operation of the company in a significant manner, whether as a result of being a shareholder or authorized under an agreement or any other matter, especially a person falling under any of the following characteristics:

(a) a person who has voting rights, whether directly or indirectly, more than twenty five percent of the total number of shares with voting rights of the company;

(b) a person who by behavior can take control over appointment or removal of a director of such company;

(c)⁹ a person who, by behavior, can take control over the persons responsible for policy making, management or operation of the company by having them follow his or her orders with regard to policy making, management or operation of the company;

(d)¹⁰ person who, by behavior, takes part in or is responsible for the operation of the company in the same manner as director or executive, including any person who holds a position with the same authority as the aforesaid persons of the company;

(19)¹¹ *repealed*.

⁸ Amended by *Notification of the Securities and Exchange Commission No. Kor Jor. 15/2554*
Re: Determination of Definitions in Notifications concerning Issuance and Offer for Sale of Securities
(No. 3) Dated 21 July, 2011.

⁹ Amended by *Notification of the Securities and Exchange Commission No. Kor Jor. 15/2554*
Re: Determination of Definitions in Notifications concerning Issuance and Offer for Sale of Securities
(No. 3) Dated 21 July, 2011.

¹⁰ Amended by *Notification of the Securities and Exchange Commission No. Kor Jor. 15/2554*
Re: Determination of Definitions in Notifications concerning Issuance and Offer for Sale of Securities
(No. 3) Dated 21 July, 2011.

¹¹ Repealed by the *Notification of the Securities and Exchange Commission No. Kor Jor. 5/2553*
Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Securities
(No.2) dated 1 April, 2010.

(20)¹² *repealed*.

(21) “***consolidated financial statements***” means consolidated financial statements of the securities issuer and the subsidiary company;

(22) “***electronic data***” means statements which are created, submitted, received, maintained or processed by electronic means.

Clause 3 In the case where any Notification of the Securities and Exchange Commission, Notification of the Capital Market Supervisory Board or Notification of the Office of the Securities and Exchange Commission permits the use of definitions prescribed in the *Notification of the Securities and Exchange Commission concerning Filing and Exemption from Filing of Registration Statement for Offer for Sale of Securities* prior to the date on which this Notification comes into force, such shall mean the permission for the use of definitions prescribed in this Notification.

Clause 4 This Notification shall come into force as from 15 December 2008.

Notified this 15th day of December 2008.

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(Mr. Vijit Supinit)

Chairman

Securities and Exchange Commission

Remark: The rationale for issuing this Notification is to determine the definitions mutually used in the notifications relating to issuance and offer for sale of equity securities.

¹² Repealed by the *Notification of the Securities and Exchange Commission No. Kor Jor. 5/2553 Re: Determination of Definitions in Notifications relating to Issuance and Offer for Sale of Securities (No.2)* dated 1 April, 2010.