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**Notification of the Securities and Exchange Commission**

**No. KorThor. 11/2553**

**Re: Registration of Derivatives Business Operator  
in the Category of Derivatives Broker and Derivatives Dealer**

By virtue of Section 9, the third paragraph of Section 16, and Section 17(4) of the Derivatives Act B.E. 2546 (2003) which contain certain provisions in relation to the restriction of rights and liberties of person 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 hereby issues the following regulations:

**Clause 1** The following Notifications shall be repealed:

(1) The notification of the Securities and Exchange Commission No. KorThor. 4/2547 Re: Registration of Derivatives Business Operator in the Category of Derivatives Broker and Derivatives Dealer dated 23 January 2004 shall be repealed.

(2) The notification of the Securities and Exchange Commission No. KorThor. 47/2547 Re: Registration of Derivatives Business Operator in the Category of Derivatives Broker and Derivatives Dealer dated 8 October 2004 shall be repealed.

**Clause 2** In this Notification:

“derivatives business operator” means a derivatives business operator in the category of derivatives broker or derivatives dealer;

**Clause 3** This notification shall apply to person registered as derivatives business operator who can only engage in business with institutional investor.

Institutional investor in the first paragraph means institutional investor under Section 3 and Notification of the Securities and Exchange Commission on the additional determination of type of juristic person classified as institutional investor.

**Chapter 1**  
**Registration**

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**Division 1**

**Types of juristic person and qualifications of applicant**

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**Clause 4** An applicant for the registration as a derivatives business operator must be a juristic person as follows:

(1) a commercial bank or a financial company under Financial Institutions Businesses Act;

(2) a securities company licensed to be a securities business operator in the category of securities broker, or securities dealer which is not limited to debt instruments or investment unit, or securities financing business under Securities and Exchange Act;

(3) a juristic person established under foreign law, which is a derivatives business operator in the category of derivatives dealer under the law of such foreign country; this is limited to only apply for derivatives dealer registration.

**Clause 5** An applicant for derivatives business operator registration who is a commercial bank, a financial company, or a securities company under Clause 4(1) and (2) shall possess the qualifications as follows:

(1) being capable of operating the derivatives business of the category under the relevant supervisory law;

(2) being capable of maintaining capital and reserve under relevant supervisory law;

(3) not being restricted, suspended or restrained of its operation by regulator

(4) no any fact indicating that the applicant has financial difficulty that may cause any damage or other incidents indicating that such applicant is facing financial difficulty. In addition, there is no any fact indicating any failure or inappropriateness in operational control and compliance with good business practices.

**Clause 6** The applicant for a derivatives business operator registration who is a foreign juristic person under Clause 4(3) shall possess the qualifications as follows:

(1) having net capital not less than 50 million USD or at equivalent

(2) being a derivatives business operator in the category of derivatives dealer in its home country continuously for at least 10 years;

(3) undertaking derivatives business in the category of derivatives dealer in its home country where its official supervision or regulator is a member of International Organization of Securities Commissions (IOSCO), whose regulation on

certain derivatives business is not inferior to those prescribed in the Derivatives Act B.E. 2546 (2003).

(4) not being restricted or suspended in undertaking derivatives business as a derivatives dealer by an official supervision or regulator of its foreign juristic person.

(5) not being accused or proceeded in the criminal case by official authorization under its law, or has a final judgment of offences in operating derivatives business without license or registration or offences related to deceive, fraud or dishonest.

(6) no any fact indicating that the applicant has financial difficulty that may cause any damage or other incidents indicating that such applicant is facing financial difficulty. In addition, there is no any fact indicating any failure or inappropriateness in operational control and compliance with good business practices.

## **Division 2**

### **Registration processes and fee**

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**Clause 7** An applicant for the registration as a derivatives business operator shall submit an application form to the Office together with the supplementing documents and evidences prescribed by the form and method that the Office provided in website.

**Clause 8** The Office shall consider and issue an order relating to the application for derivatives business operator registration within sixty days from the date of receiving the correct and complete application and evidential documents.

**Clause 9** Fees for submitting registration form and registration as a derivatives business operator are as follows:

(1) registration form for a derivatives business operator: 30,000 Baht per form.

(2) registration as a derivatives business operator: 200,000 Baht per registration type.

## **Division 3**

### **Registration processes and fee**

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**Clause 10** In case where registered derivatives business operator has ceased the status of the juristic person under Clause 2, the derivatives business registration under this Notification shall be deemed terminated.

## **Chapter 2**

### **Maintaining Registration**

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**Clause 11** A registered derivatives business operator shall maintain its qualification all the time as registered derivatives business operator as follows:

(1) registered derivatives business operator who is a commercial bank, a financial company, or a securities company under Clause 4(1) and (2) shall maintain its qualifications specified in Clause 5.

(2) registered derivatives business operator who is a foreign juristic person under Clause 4(3) shall maintain the qualifications specified in Clause 6(1) (3) (4) (5) and (6).

In case where registered derivatives business operator shall not maintain its qualifications under first paragraph, such registered derivatives business operator shall notify its qualification that cannot maintain together with related fact to the Office immediately.

**Clause 12** Unless otherwise prescribed in second paragraph, the Office shall have the power to order registered derivatives business operator who cannot maintain the qualification specified in Clause 11, make correction, undertake, or refrain from undertaking within the specified time. If any registered derivatives business operator fails to comply with the order, the Office has the power to revoke the registration of derivatives business operator.

In case where the Office knows that the cause of not maintain the qualifications specified in Clause 11 by registered derivatives business operator has a serious effect that is inappropriate to continued its derivatives business, or has the fact that registered derivatives business operator cannot maintain their qualifications, the Office has the power to revoke the registration of derivatives business operator.

## **Chapter 3**

### **Transitional Provision**

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**Clause 13** A derivatives business operator was registered under the notification of the Securities and Exchange Commission which are repealed by this notification shall be deemed to be registered as derivatives business operator under this notification in the existing type of its registration and shall maintain the status of its juristic person and its qualifications of registered derivatives business operator under this notification.

A registered derivatives business operator as a derivatives dealer under first paragraph who is a foreign juristic person established under foreign law as

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specified in Clause 4(3) shall have net capital not less than 50 million USD or at equivalent since the 1<sup>st</sup> day of August 2015.

**Chapter 4**  
**Effective Date**

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**Clause 14** This Notification shall come into force as from 1<sup>st</sup> day of August 2010.

Notified this 15<sup>th</sup> day of July 2010.

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