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Notification of the Office of the Securities and Exchange Commission

No. SorNor. 1/2554

**Re: Examination and Disclosure of List of Foreign ETF Units and
Application for Investment Allotment for Units of Foreign ETF**

By virtue of Section 19(3) of the Securities and Exchange Act B.E. 2535 (1992) as amended by the Securities and Exchange Act (No.4) B.E. 2535 (1992) which contains certain provisions on 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, and whereas Clause 4 of the Notification of the Securities and Exchange Commission No.KorNor 24/2553 Re: Units of Foreign ETF Deemed as Securities Not Subject to Provisions on Public offering of Securities dated 24 December 2010 specifies that any person intending to make an offer for sale of units of foreign ETF in Thailand may file an application with the SEC Office for examination of such units of foreign ETF to determine whether they are subject to provisions of such Notification, and in order to control investment allotment in accordance with the rules for control of transactions related to foreign currency as specified by the Bank of Thailand, the SEC Office hereby issues the following regulations:

Clause 1 This Notification shall come into force as from 16 January 2011.

Clause 2 In this Notification:

“foreign ETF” means collective investment scheme in the category of exchange-traded fund established under law of foreign jurisdiction;

“home exchange” means exchange in foreign jurisdiction where units of foreign ETF are listed, and in cases where units of foreign ETF are listed on several exchanges, it shall mean the exchange specified by foreign ETF as home exchange;

Chapter 1

Application for Examination of Units of Foreign ETF

Division 1

Filing of Application for Examination

Clause 3 Any person intending to request an examination of characteristics of units of foreign ETF to determine whether such units of foreign ETF are subject to the Notification of the Securities and Exchange Commission Re: Units of Foreign ETF Deemed as Securities Not Subject to Provisions on Public Offering of Securities shall file an application for such examination together with the following documents and evidence:

- (1) Documents on establishment of foreign ETF as follows:
 - (a) In case of foreign ETF established by an investment company, the Memorandum of Association and the Articles of Association, or the Establishment of Company under the law of the jurisdiction where such foreign ETF is established;
 - (b) In case of foreign ETF established as trust, the Contract of Trust Establishment.
- (2) Documents used for offering for sale of units of foreign ETF under the law of the jurisdiction wherein foreign regulator under (4) is located;
- (3) Evidence that units of foreign ETF are traded on home exchange which is a member of the World Federation of Exchanges (WFE);
- (4) Evidence that foreign ETF and foreign ETF operator are subject to supervision of foreign regulator who is a member of the International Organization of Securities Commissions (IOSCO);
- (5) Certification that foreign ETF operator is not subject to limitation or suspension of business or revocation of license or registration as securities business operator by foreign regulator, and such certification shall be signed by the foreign ETF operator, or in case of juristic person, by the person authorized to affix signature in binding with such juristic person; and
- (6) Letter of appointment of representative in Thailand for foreign ETF operator.

The person who files the application under the first paragraph shall pay the fee for examination of characteristics of foreign ETF units at the amount of fifty thousands baht to the SEC Office on the date when such application for examination is filed.

Clause 4 The documents and evidence filed with the SEC Office under Clause 3 shall be prepared either in Thai or English, and in cases where such documents are translated from the information or documents written in other languages, the person filing the application shall:

(1) have the translator certify the accuracy of the substance in the translation of the original documents; and

(2) certify that the substance of the translation has happened or truly exists and that there is no concealment of facts which should be disclosed.

Subsequent filings of the documents under the first paragraph shall always be prepared in the same language as that used in the first filing except in the cases where it is necessary and appropriate, and provided that the SEC Office has granted a waiver, to be prepared in any other language.

Division 2

Announcement of Examination Results and

Disclosure on List of Units of Foreign ETF

Clause 5 The SEC Office shall announce the results of the examination of the characteristics of the units of foreign ETF within ten business days as from the date when it has received the application for examination together with documents and evidence in full.

In examining the characteristics of the units of foreign ETF, the SEC Office may instruct the applicant to make clarifications in person or submit additional documents or evidence as seen appropriate within a period of time as specified by the SEC Office. If the applicant fails to comply or proceed within such period, the SEC Office shall consider that the applicant no longer intends to have the characteristics of such units of foreign ETF examined by the SEC Office.

Clause 6 The SEC Office shall announce the list of units of foreign ETF which have met the requirements of the Notification of the Securities and Exchange Commission Re: Units of Foreign ETF Deemed as Securities Not Subject to Provisions on Public Offering of Securities on the SEC Office website as public information.

Clause 7 The results of the examination of the units of foreign ETF which the SEC Office has announced under Clause 5 and disclosed under Clause 6 are based on the information provided in the application and supplementary documents and evidence which the applicant has submitted to the SEC Office only, and such results do not

guarantee that such units of foreign ETF have had the characteristics under the Notification of the Securities and Exchange Commission Re: Units of Foreign ETF Deemed as Securities Not Subject to Provisions on Public Offering of Securities throughout the period when they are on the disclosed list.

Clause 8 In cases where it appears to the SEC Office that the units of foreign ETF which have been examined and deemed to have the characteristics under the Notification of the Securities and Exchange Commission Re: Units of Foreign ETF Deemed as Securities Not Subject to Provisions on Public Offering of Securities no longer comply with such Notification, the SEC Office shall remove such units of foreign ETF from the disclosed list under Clause 6.

Chapter 2

Application for and Allotment of Foreign Investment to Units of Foreign ETF Which Are Offered for Sale in Thailand

Clause 9 The following persons shall submit an application for foreign investment allotment to the SEC Office:

- (1) Any person intending to offer units of foreign ETF for sale to investors in Thailand; or
- (2) Any person intending to have units of foreign ETF listed on the Stock Exchange of Thailand.

The application under the first paragraph may be submitted together with the application for examination of characteristics of units of foreign ETF under Clause 3.

Clause 10 The SEC Office shall grant a foreign investment allotment to units of foreign ETF whose application for investment allotment has been submitted under Clause 9 when the unit value of the foreign ETF to be offered for sale remains within the limit of capital market transactions related to foreign currency as specified by the Bank of Thailand, and when the SEC Office has concluded that such units of foreign ETF have met the requirements of the Notification of the Securities and Exchange Commission Re: Units of Foreign ETF Deemed as Securities Not Subject to Provisions on Public Offering of Securities.

Clause 11 In case of the application for foreign investment allotment for the units of foreign ETF which have already been disclosed on the list under Clause 6, the SEC Office shall inform the result of such allotment within three business days as from

the date when the SEC Office has received the application, but in cases where the application has been submitted together with the application for examination of characteristics of units of foreign ETF, the SEC Office shall inform the result of such allotment and such examination simultaneously.

Clause 12 In cases where it appears to the SEC Office that the units of foreign ETF which have been granted an allotment for foreign investment from the SEC Office fail to be listed on the Stock Exchange of Thailand within a period of two months as from the date when the allotment is announced by the SEC Office, such allotment shall be deemed as expired.

Notified this 4th day of January 2011.

-Signature-

(Thirachai Phuvanatanarubala)

Secretary-General

Office of the Securities and Exchange Commission

Remark: The reason for promulgation of this Notification is to prescribe criteria for application for examination, application fee, examination and disclosure on list of units of foreign ETF which have the characteristics under the Notification of the Securities and Exchange Commission Re: Units of Foreign ETF Deemed as Securities Not Subject to Provisions on Public Offering of Securities, as well as to prescribe criteria governing application for investment allotment in accordance with control over capital market transactions related to foreign currency as specified by the Bank of Thailand.