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Notification of the Capital Market Supervisory Board
No. TorDor. 2/2554
Re: Provisions on Issuance for Sale of Sukuk and Disclosure of Information

By virtue of Section 16/6 of the Securities and Exchange Act B.E. 2535 (1992) (SEA), as amended by the Securities and Exchange Act (No. 4) B.E. 2551 (2008), and Section 35, Section 56, Section 67 and Section 69 of the Securities and Exchange Act B.E. 2535 (1992), which contain 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 permits by virtue of law, the Capital Market Supervisory Board hereby issues the following regulations:

Clause 1. In this Notification and the forms attached hereto:

(1) “sukuk” means any financial instrument which contains the following characteristics;

(a) being a trust certificate issued by an asset trustee;

(b) determining the structure of trust transactions for the purpose of using the money from an issuance of a financial instrument to seek benefits in the forms that comply with the Islamic principles;

(c) determining clearly in advance the conditions for reimbursement of the investment capital and rate or proportion of benefits that the trust property is entitled to receive from the originator for the benefit of the financial instrument holders and there shall be a condition for reimbursement of the investment capital and rate or proportion of benefits that the trust property shall pay to the financial instrument holders. The determination of rate and proportion of such payment of benefits shall comply with the Islamic principles;

(2) “short-term sukuk” means sukuk that specifies the period of redemption not exceeding two hundreds and seventy days as from the issue date of sukuk;

(3) “short-term sukuk newly issued in the form of program” means newly issued short-term sukuk that has obtained an approval from the SEC Office for multiple offers for sale without the obligation to repeat the application for approval under the conditions specified by this Notification;

(4) “originator or obligor” means any business that benefits from the money received from the sale of sukuk, which may be the same person as the asset trustee;

(5) “trust property” means any trust instrument which is established under the Trust for Transactions in Capital Market Act B.E. 2550 (2007) and related to the issuance of such sukuk;

(6) “sukuk holder” means any holder of securities in the form of trust certificate who receives the benefits from trust property as a result of issuance of sukuk;

(7) “asset trustee” means any trustee who issues and offers for sale of sukuk under the notification regarding issuance of sukuk and is the trusteeship or has the rights to the assets in the trust property under the law for the benefits of sukuk holders;

(8) “sukuk trustee” means any trustee who has the duty to protect the rights and benefits of sukuk holders;

(9) “Shariah advisor” means any advisor who has the duty to consider transactions in accordance with the Islamic Principles;

(10) “applicant” means any person who wishes to issue sukuk for sale and has filed an application for approval of such issuance under this Notification;

(11) “Thai Bond Market Association” means the Thai Bond Market Association which has obtained a license and has been registered with the SEC Office;

(12) “registration statement” means the registration statement for offer for sale of sukuk;

(13) “Notification relating to determination of fees” means the Notification of the Securities and Exchange Commission Re: Determination of Fees for Application for Offer for Sale of Newly Issued Securities and Application for Securitization Projects;

(14) the terms “institutional investor,” “major investor,” “listed company,” “parent company,” “subsidiary,” “associate,” “person who may have potential conflicts,” “management,” “major shareholder,” “person who has power of control,” “related party,” “credit rating,” “electronic information,” and “consolidated financial statements” shall, *mutatis mutandis*, have the same definitions as prescribed by the Notification of the Securities and Exchange Commission Re: Determination of Definitions in the Notification Relating to Issuance and Offer for Sale of All Types of Debt Securities, and in cases where the sukuk issuer is a juristic person separate from the originator, the term “debt securities issuer” under such Notification shall include the originator;

Clause 2. An issuance and offer for sale of sukuk including the duties after such offer for sale shall comply with the following regulations:

(1) the application for approval, the approval for offer for sale of newly issued sukuk and the conditions that shall apply after the approval has been granted shall be in accordance with the regulations prescribed by Part 1;

(2) the filing of the registration statement shall comply with the regulations prescribed by Part 2;

(3) the subscription, underwriting and allocation of sukuk shall comply with the regulations prescribed by Part 3;

(4) the disclosure of financial condition and the operating results of the asset trustee and the originator shall comply with the regulations prescribed by Part 4;

Clause 3. In cases where the asset trustee undertakes trustee business under the Notification of the Securities and Exchange Commission Re: Regulations on Application and Approval for Undertaking Trustee Business, the duties and responsibilities of such asset trustee shall be restricted to issuance of sukuk only.

Part 1

Application and Approval for Offer for Sale of Newly Issued Sukuk and Compulsory Conditions after Obtaining Approval

Clause 4. Application and approval for newly issued sukuk shall comply with the following regulations:

(1) public offering of newly issued sukuk in Thailand shall comply with the regulations under Chapter 1 and Chapter 2;

(2) private placement of newly issued sukuk in Thailand shall comply with the regulations under Chapter 1 and Chapter 3;

(3) offer for sale of newly issued sukuk to investors in a foreign country shall comply with the regulations under Chapter 4;

Chapter 1

Provisions for Offer for Sale of Sukuk in Thailand

Division 1

Characteristics of Sukuk

Clause 5. Any sukuk issued under this Chapter shall have a specific name for the purpose of making a reference to each issuance of sukuk. The name of such sukuk shall clearly indicate the year of maturity and the special characteristics of such sukuk (if any) such as a sukuk that reaches its maturity when the originator liquidates its business whereof the sukuk holders have no right to redeem investment money from the asset trustee before the business liquidation of the originator (perpetual sukuk), or the sukuk holders have the right to redeem investment money from the asset trustee before the originator liquidates its business only when the specified conditions on period of time are satisfied clearly.

Clause 6. In cases where a sukuk to be offered for sale is called a subordinate sukuk, such sukuk shall not be insured and the trust instrument shall specify that the trust property shall be entitled to receive payment after the ordinary creditors of the originator at least in the following circumstances:

- (1) the originator is under receivership or a bankrupt by court order or;
- (2) the business of the originator has been liquidated.

Clause 7. In case of an offer for sale of an insured sukuk, the regulations prescribed under the Notification of the Capital Market Supervisory Board Re: Application and Approval for Offer for Sale of Newly Issued Debt Securities in the parts concerning the characteristics of insured bonds, the procedures for enforceability of assets or guarantee ship as collaterals and the valuation of such collaterals shall apply, *mutatis mutandis*.

Clause 8. Any sukuk issued under this Chapter shall have an agreement that the payment of sukuk to the asset trustee shall be in the Thai Baht currency.

Division 2

Provisions on Trust Instrument and Relating Parties

Clause 9. A trust instrument for an offer for sale of sukuk shall contain the particulars as specified by the Notification of the Office of the Securities and Exchange Commission Re: Additional Provisions on Offer for Sale of Sukuk, and shall include the minimums as follows:

- (1) the objective of the offer for sale of sukuk;
- (2) the structure, procedure and transaction (if any) through which the trust property shall use the money received from the offer for sale of sukuk to make an

investment or seek benefits, providing that it shall be clearly specified in what manners and under which Islamic principle the trust property shall use the money to make an investment or seek benefits from the originator;

(3) the provisions on conditions for return of investment capital and rate or proportion of benefits which the trust property is entitled to receive from the originator for the benefit of the sukuk holder;

(4) the provisions on conditions for return of investment capital and rate or proportion of benefits which the trust property shall pay to the sukuk holder;

(5) the undertaking of changes, revision and termination of trust instrument;

(6) the provisions on appointment of sukuk trustee who has the duty to protect the rights and benefits of sukuk holders in accordance with the trust instrument until maturity of sukuk;

(7) the rights, duties and relationship of the asset trustee, the sukuk trustee, the originator and the sukuk holders;

For the purpose of considering the term, “trust instrument” under the first paragraph and the succeeding provisions under this Notification, the definition of such term shall include the letter of intention to create trust in cases where the settlor and the trustee are the same person;

Clause 10. The originator shall be any business that possesses either one of the following characteristics:

(1) being a limited company or public limited company established under the Thai law;

(2) being a juristic person established under a specific law;

(3) being a branch of a foreign commercial bank which is licensed to undertake commercial bank business under the law governing businesses of financial institutions;

The originator under the first paragraph shall receive a clear resolution for fund raising through issuance of sukuk from the board of directors of the originator unless the originator is a public limited company under the first paragraph (1), in which case such shareholders’ meeting resolution shall receive at least three fourths of the total voting rights of the attending shareholders.

Clause 11. For any transaction relating to issuance of sukuk which falls under the conditions required to obtain a resolution from the board of directors of the business or the shareholders’ meeting under the Public Limited Company Act or Chapter 3/1 of the Securities and Exchange Act B.E. 2535 (1992), the originator may solicit such resolution and that under the second paragraph of Clause 10 in a parallel manner.

Clause 12. The applicant shall receive a clear resolution for issuance of sukuk from the board of directors of the applicant and shall be a trustee under the Trust for Transactions in Capital Market Act B.E. 2550 (1997). In cases where the applicant has not received an approval to become a trustee under the said Act, the applicant shall apply for approval to become an asset trustee under the Notification of the Securities and Exchange Commission Re: Regulations for Becoming Trustee in Sukuk Transactions.

Clause 13. A sukuk trustee shall be an entity who has received an approval to undertake trustee business under the Notification of the Securities and Exchange Commission Re: Regulations for Application and Approval for Undertaking Trustee Business.

Clause 14. In cases where the applicant is required to have a Shariah advisor give an opinion whether the sukuk seeking approval complies with the Islamic principles, the SEC Office shall have the power to prescribe characteristics or qualifications of Shariah advisor who is eligible to give such opinion.

Division 3

Power of SEC Office Related to Application and Approval

Clause 15. The SEC Office may not grant an approval for an offer for sale of sukuk to any application when it appears to the SEC Office certain facts that lead to the following suspicious circumstances:

(1) although the applicant, the originator as well as the characteristics or other agreements relating to issuance of sukuk are in the manners or forms which comply with the regulations or conditions for granting of approval under this Notification, certain facts lead to the consideration that the objective or substance of such offer for sale of sukuk has the intention to evade provisions under the law governing securities and exchanges or this Notification;

(2) the offer for sale of sukuk may contradict public or governmental policy;

(3) the offer for sale of sukuk may affect the overall credibility of the Thai capital market;

(4) the offer for sale of sukuk may cause damage or fail to provide the overall investors with fairness or correct and adequate information for making investment decisions.

Clause 16. In cases where any one of the following characteristics applies, the SEC Office may exempt the regulations under this Notification when considering an application for approval or may not impose the conditions under this Notification on the offer for sale of sukuk which has already been approved;

(1) there is a clear fact that leads to the consideration that such regulations or conditions to be exempted are immaterial to the consideration of the application for approval in such particular case and the benefits to be gained are not worth the cost of complying with such regulations or conditions;

(2) the applicant or the originator is subject to restrictions under other laws, which does not allow them to comply with the regulations or conditions to be exempted;

(3) the applicant or the originator has other measures which are adequate and sufficient to compensate for the compliance with the regulations or conditions to be exempted.

The granting of exemptions under the first paragraph shall take into significant consideration the appropriateness and sufficiency of information for making investment decisions and measures for investor protection. In any case, the SEC Office may specify conditions for the applicant or the originator to comply with.

Chapter 2

Public Offerring of Sukuk in Thailand

Clause 17. Any person who wishes to offer for sale newly issued sukuk to the general public shall file with the SEC Office an application for approval together with documents under Clause 18 and pay for the application fee for the approval of such offer for sale of newly issued sukuk according to the rates specified by the Notification regarding determination of fees whether or not such application is for an approval for offer for sale of each newly issued sukuk or newly issued short-term sukuk in the form of program.

Any application for approval and supplementary documents other than those specified under Clause 18 shall comply with the rules, conditions and procedures as specified by the SEC Office.

Any application for approval under the first paragraph shall have a financial advisor who is on the approved list of the SEC Office jointly prepare and certify the information prescribed by this Chapter.

In cases where the originator and the applicant are not the same person, the originator shall submit the application for approval with the applicant.

Clause 18. Any person who wishes to offer for sale newly issued sukuk to the general public shall submit the following documents together with the application for approval under Clause 17:

(1) an application for approval for asset trustee only for those who have not been approved to become a trustee;

(2) a copy of trust instrument to support an issuance of sukuk;

(3) a certified letter from the financial advisor who prepares the application for approval for an offer for sale of newly issued sukuk, which certifies at least the followings;

(a) the approval for sale of such sukuk has fully complied with the regulations prescribed by this Notification;

(b) the information and statements which appear in the application for approval are correct, complete and free from misleading messages, and the certification of information and statements in this case may exclude the certification of correct and complete opinion given by the Shariah advisor;

(c) the selection of legal advisor and Shariah advisor to give opinions on the issuance of sukuk has appropriately taken into consideration the knowledge, capacity, professional experience and the ability to give opinions providing that the qualifications of the Shariah advisor shall not contravene the regulations specified by the SEC Office.

(4) a copy of the opinion of the Shariah advisor;

Clause 19. The regulations on the following matters shall, *mutatis mutandis*, comply with the Notification of the Capital Market Supervisory Board Re: Application for and Approval of Newly Issued Debt Securities:

(1) the taking of responsibility for expenses on company visit of the SEC Office;

(2) the sending of notice for the applicant to clarify in person or submit additional supplementary documents;

Clause 20. The SEC Office shall notify the applicant of the result of the consideration for the application for approval for an offer for sale of newly issued sukuk within thirty days as from the date when the SEC Office has received the relevant documents in full.

Clause 21. The applicant who submits the application under Clause 17 shall receive an approval for offer for sale of each newly issued sukuk or newly

issued short-term sukuk in the form of program only upon compliance with the regulations prescribed by Division 1 and Division 2.

Division 1

Giving of Opinions by Relating Parties

Clause 22. The applicant shall have a legal advisor who gives an opinion whether or not the trust instrument is enforceable under the law.

In cases where it is necessary for the benefits of investors, the SEC Office may require that the applicant seek additional opinion of the legal advisor on other related issues.

Clause 23. The applicant shall certify that the sukuk applied for approval has been considered by the Shariah advisor who is of the opinion that the characteristics of such sukuk have already complied with the Islamic principles.

Division 2

Regulations Related to Applicant and Originator

Clause 24. The regulations on the characteristics of the applicant who shall receive an approval for offer for sale of newly issued debt securities in a general case under the Notification of the Capital Market Supervisory Board Re: Application for and Approval of Offer for Sale of Newly Issued Debt Securities shall, *mutatis mutandis*, be enforced on the characteristics of the applicant and the originator.

In cases where the applicant is a juristic person separate from the originator, the applicant and the originator shall use the same accounting period.

Division 3

Compulsory Conditions after Obtaining Approval

Clause 25. In taking the following actions, the asset trustee shall, *mutatis mutandis*, comply with relevant regulations under the Notification of the

Capital Market Supervisory Board Re: Application and Approval for Offer for Sale of Newly Issued Debt Securities:

(1) arranging for credit rating before each issuance of sukuk and on a continuous basis until the rights of sukuk holders end;

(2) submitting an application for registration of sukuk to the Thai Bond Market Association;

Clause 26. The asset trustee shall proceed or act in accordance with the following conditions:

(1) to have a sukuk trustee and to make a trust instrument in accordance with the substance that has been considered by the SEC Office providing that such trust instrument is prepared and a copy of such document is submitted to the SEC Office prior to the offer for sale of sukuk;

(2) to have the subscription form contain a material statement that by affixing signature to subscribe or order to purchase such sukuk, the buyer agrees to be bound by the trust instrument of such sukuk;

(3) to perform duties in accordance with the regulations under the Notification of the Securities and Exchange Re: Regulations for Becoming Trustee in Sukuk Transactions;

(4) in cases where there is an amendment to the trust instrument, such amendment shall comply with the conditions specified in the trust instrument and is not inconsistent with or in contravention of the provisions under this Notification, and a copy of the trust instrument which has been amended shall be submitted to the SEC Office within fifteen days as from the date when the signature is affixed or the amendment has been done, as the case may be, to allow investors to review, and in cases where such amendment to the trust instrument has an impact on the benefits or returns of the invested capital of sukuk, the asset trustee shall send a copy of such additional amendment to the Thai Bond Market Association in a parallel manner within the aforesaid period of time;

(5) in cases where a resolution of the sukuk holders' meeting is required for an amendment to the trust instrument, a written notice calling for the meeting shall clearly state the rationale for such amendment and the impacts on sukuk holders that have arisen or may arise to provide sukuk holders with information for decision-making;

(6) in cases where the sukuk trustee is changed under the trust instrument or the governing law, the asset trustee shall notify such change to sukuk holders within the period of time as specified in the trust instrument and shall notify the SEC Office according to the procedure specified by the SEC Office within such period of time;

Clause 27. In cases where the SEC Office approves an offer for sale of a short-term sukuk program, the asset trustee may offer for sale under such program for unlimited times and issues, providing that the following conditions are abided by:

(1) a short-term sukuk to be offered for sale each time or in each issue shall be of the same type and subject to the same obligations for issuance of short-term sukuk but shall exclude the obligations related to the benefits and lifespan of sukuk.

(2) the period for an offer for sale of each issue of sukuk and at each time shall be within one year as from the date when the registration statement filed under Clause 45 becomes effective;

(3) the value of any offer for sale, when combined with other short-term sukuk that has not reached maturity, shall not exceed the value specified in the registration statement which has been filed under Clause 45;

Clause 28. An approval for an offer for sale of newly issued short-term sukuk in the form of program shall cease upon occurrence of the following circumstances.

(1) the asset trustee or the originator possesses characteristics that are inconsistent with Clause 24.

(2) the asset trustee fails to act in compliance with the provisions under Clause 27.

Chapter 3

Private Placement of Sukuk in Thailand

Clause 29. In considering the characteristics of an offer for sale of sukuk in the form of private placement, the regulations on the characteristics of an offer for sale of debt securities in the form of private placement and the associated rules under the Notification of the Capital Market Supervisory Board Re: Application and Approval for Offer for Sale of Newly Issued Debt Securities shall apply *mutatis mutandis*.

Division 1

Registration of Transfer Restrictions and Approval

Clause 30. Any person who wishes to offer for sale newly issued sukuk in the form of private placement shall be deemed to have obtained an approval from the SEC Office for an offer for sale of newly issued sukuk under this Chapter after having registered transfer restrictions of sukuk to be offered for sale with the SEC Office. The filing for transfer restrictions shall require the following documents:

(1) a certification that such person who wishes to offer for sale newly issued sukuk has complied with the provisions under this Notification and has acted with best care to ensure enforceability of the trust instrument under the law;

(2) an application for approval for becoming an asset trustee in cases where the person who wishes to offer for sale newly issued sukuk has not yet obtained an approval for becoming a trustee;

(3) a draft trust instrument in support of issuance of sukuk;

(4) a copy of the statement of opinion of the Shariah advisor that the characteristics of such sukuk are in accordance with the Islamic principles;

(5) an application for registration of transfer restriction of sukuk seeking approval;

(6) any other additional documents required by the SEC Office;

Clause 31. The transfer restriction under Clause 30(5) shall have a statement which indicates that the asset trustee shall not accept any registration for transfer of sukuk, at any time, if such transfer will cause the sukuk offered for sale at that time to lose the characteristics for offer for sale in the form of private placement under this Chapter, unless the transfer is a result of inheritance.

Division 2

Compulsory Conditions after Obtaining Approval

Clause 32. In case of an offer for sale of newly issued sukuk in the whole amount to institutional investors that are established under the Thai law or to major shareholders, the asset trustee shall proceed as follows whereas the relevant regulations under the Notification of the Capital Market Supervisory Board Re: Application for Approval of Offer for Sale of Newly Issued Debt Securities shall apply *mutatis mutandis*:

(1) to arrange for credit rating of sukuk prior to each offer for sale and on a continuous basis until the rights of sukuk holders end;

(2) to submit an application for registration of sukuk to the Thai Bond Market Association.

In case of an offer for sale of newly issued sukuk in the form of private placement other than those offered to institutional investors or major shareholders, the asset trustee shall not advertise such offer for sale of newly issued sukuk, and if there will be distribution of supplementary documents for the offer for sale, the asset trustee shall distribute such documents only to persons whose characteristics and limited number have been approved.

Clause 33. The provisions under Clause 26(3) (4) (5) and (6) shall, *mutatis mutandis*, apply to the asset trustee and the asset trustee shall proceed or act in accordance with the following conditions:

(1) to disclose information on the restrictions of sukuk transfer in the registration statement or other documents used for the offer for sale of such sukuk as well as in the sukuk certificate, and in making register of sukuk holders, there shall be examination on the applicants for registration, and to act in accordance with the restrictions of transfer that have already been registered by the SEC Office;

(2) to appoint a sukuk trustee and prepare a trust instrument in accordance with the substance of the draft trust instrument which has been filed under Clause 30(3), and the trust instrument shall be prepared and a copy of such document shall be submitted to the SEC Office prior to an offer for sale of sukuk;

(3) to have, on the subscription form, a material statement that affixing signature for subscription or order to purchase such sukuk shall mean that the purchaser agrees to accept binding at least in the following matters:

(a) consent to bindings under the trust instrument of such sukuk;

(b) acknowledgment to the restrictions of transfer of such sukuk;

(4) to have the sukuk issued under this Clause included in the category which identifies the names of the holders.

Chapter 4

Offer for Sale of Sukuk to Investors in Foreign Country

Clause 34. The sukuk applying for an offer for sale under this Chapter shall have the following characteristics:

(1) having an agreement on payment of benefits and redemption of sukuk in foreign currency and;

(2) being a sukuk that offers for sale to investors in a foreign country in the whole amount;

The provisions under Clause 12 and Division 3 of Chapter 1 shall apply, *mutatis mutandis*, to this Chapter.

Clause 35. Any person who wishes to offer for sale newly issued sukuk to investors in a foreign country shall submit an application for approval to the SEC Office together with supplementary documents in accordance with the

regulations as specified by the SEC Office, and shall pay for the application fee for approval of offer for sale of such newly issued sukuk according to the rates specified by the Notification relating to determination of fees.

Clause 36. Once the applicant has filed the application for approval, the SEC Office shall notify the result of consideration for such application within three business days as from the date when the SEC Office has received the application and supplementary documents in full.

Division 1

Regulations for Approval

Clause 37. The applicant under Clause 35 shall receive an approval for offer for sale of newly issued sukuk upon compliance with the following regulations:

- (1) being able to demonstrate that the offer for sale of newly issued sukuk which is filed for an approval shall be offered to investors in a foreign country;
- (2) being able to demonstrate that any trading or any transfer, at any time, of sukuk which is filed for approval shall be done in a foreign country;
- (3) certifying that the applicant has acted in accordance with the provisions under this Notification and has proceeded with due care to the best of their knowledge to ensure enforceability of the trust instrument.

Division 2

Compulsory Conditions after Obtaining Approval

Clause 38. The asset trustee shall proceed as follows:

- (1) to send the trust instrument to the SEC Office before starting the process of offering for sale of sukuk;
- (2) to send a sale report of such sukuk to the SEC Office in accordance with the governing regulations whereby such reporting shall be done within fifteen days as from the closing day for such offer;
- (3) to notify the Bank of Thailand of the offer for sale of sukuk to investors in a foreign country within three days as from the closing day of such offer for sale and attach the supplementary documents with such notice;

Part 2

Filing of Registration Statement

Clause 39. An offer for sale of sukuk by the asset trustee or sukuk holders shall be subject to provisions under this Chapter except in the cases where an exemption has been granted to the filing of the registration statement and draft prospectus under the Notification of the Securities and Exchange Commission Re: Exemption for Filing of Registration Statement for Offer for Sale of Sukuk.

Chapter 1

Filing Procedure and Application Fees

Clause 40. The offeror of sukuk shall file the registration statement as specified by Chapter 2 and the draft prospectus via the form as specified by Section 72 (of the SEA) with the SEC Office by adhering to the following procedure:

(1) filing the registration statement, the draft prospectus and supplementary documents as specified on the website of the SEC Office in three sets of hardcopy;

(2) filing a fact sheet that summarizes the significant characteristics and risk factors of the financial instrument with details corresponding to those in the registration statement and the draft prospectus;

(3) sending the required information in the electronic form through the data transmission system as specified on the website of the SEC Office;

(4) the information that the offeror files with the SEC Office, both in the hardcopy and electronic forms, shall be accurate and identical;

(5) in cases where the newly issued sukuk is offered for sale by an asset trustee that is a juristic person separate from the originator, the asset trustee shall have the originator co-file the registration statement with the SEC Office.

In filing the registration statement under the first paragraph, the asset trustee shall also attach the documents wherein the originator has affixed its signature in acceptance of the obligation to prepare and submit the financial statements as well as the report on the financial condition and the results of business operation of the originator under Part 4.

(6) in cases where a sukuk holder wishes to make a public offering, such sukuk holder shall send a letter of the asset trustee and the originator which notifies the SEC Office that they have acknowledged the offer for sale of sukuk by such sukuk holder and the duty to prepare and submit the financial statements as well as the report on the financial condition and the results of business operation of the asset trustee and the originator under Part 4.

Clause 41. The offeror for sale of sukuk shall pay the fee for filing the registration statement in accordance with the rules and procedure as prescribed by the Notification of the Office of the Securities and Exchange Commission Re: Determination of Fees for Filing of Registration Statement, Registration, and Filing of Other Applications on the date when the registration statement is filed.

Chapter 2

Registration Statement

Clause 42. In cases where an offer for sale of sukuk to institutional investors or major investors contains restrictions of transfer or the condition that any transfer shall be limited to such groups of investors, the filing of the registration statement shall be as follows:

(1) In offering for sale of newly issued short-term sukuk, in several issues or multiple times, in compliance with the regulations under Clause 43, Form 69-SK attached hereto shall be filed before the first offer for sale of such newly issued short-term sukuk and when the registration statement becomes effective, the asset trustee is eligible to offer for sale newly issued short-term sukuk under such registration statement for unlimited times;

(2) In offering for sale of sukuk other than the case under (1), Form 69-SK attached hereto shall be filed before each and every offer for sale of such sukuk;

Clause 43. An offer for sale of a short-term sukuk that will benefit from filing the registration statement under Clause 42(1) shall comply with the following regulations:

(1) being a short-term sukuk of the same types and having similar binding agreements relating to issuance of short-term sukuk, but excluding binding agreements relating to the benefits and lifespan of such sukuk;

(2) the period of offer for sale, each time or each issue, shall be within one year as from the date when the filing of the registration statement under Clause 42(1) becomes effective;

(3) the value of any offer for sale, when combined with other short-term sukuk that has not expired, shall not exceed the value specified in the registration statement that has been filed under Clause 42(1);

Clause 44. In making a public offering of sukuk or an offer for sale in any manner inconsistent with the characteristics under Clause 42, Form 69-SUKUK attached hereto shall be filed prior to each and every offer for sale unless the filing of the registration statement is in compliance with the regulations under Clause 45.

Clause 45. In filing the registration statement for an offer for sale of newly issued short-term sukuk in the form of program that has received an approval under Clause 27, Form 69-SUKUK attached hereto shall be submitted prior to the first offer for sale of sukuk of such program and when the registration statement becomes effective, the asset trustee is entitled to offer for sale newly issued short-term sukuk by using the registration statement for unlimited times or issues, but the period of time and the value of the offer for sale shall be in compliance with the conditions prescribed by Clause 27(2) and (3).

Clause 46. In filing the registration statement under Clause 44 or Clause 45 and the draft prospectus for the offer for sale of such sukuk, a financial advisor who has been approved by the SEC Office shall co-prepare and certify accuracy and completeness of information.

Clause 47. The financial statements and the consolidated financial statements of the asset trustee and the originator which have been disclosed in the registration statement and the draft prospectus shall, *mutatis mutandis*, be in accordance with the rules, conditions and procedures as prescribed by the Notification of the Capital Market Supervisory Board under Section 56 (of the SEA).

Clause 48. Before the period of the offer for sale of sukuk ends, if the person who has filed the registration statement discloses any material fact that has not been specified in the registration statement and the prospectus to any specific individuals for the purpose of analyzing the appropriateness of an investment or making investment decisions, the person who has filed the registration statement shall disclose such additional fact in the registration statement and the prospectus without delay within the following periods of time:

(1) in cases where the registration statement has not been effective, such information shall be disclosed prior to the effective date of the registration statement;

(2) in cases where the registration statement has already been effective, such information shall be disclosed within the next working day after the date when it is disclosed to such person;

Clause 49. In cases where the offeror also offers sukuk, in the same type or issue, in a foreign country, the information in the registration statement and the draft prospectus which is filed with the SEC Office shall have details no less than that which has been disclosed for the offer for sale of such sukuk in the foreign country unless such information is insignificant for the offer for sale of sukuk in Thailand.

Chapter 3

Power of SEC Office in Relation to Disclosure of Information

Clause 50. The SEC Office shall have the power to grant an exemption for disclosure of details of information as specified by this Notification if the offeror of sukuk can demonstrate reasonable grounds for not disclosing such details of information in the registration statement. In any case, the information seeking exemption shall not be any information prescribed by Clause 69(1) to (10) and the details of such information shall not have any material impact on decision making of investors.

Clause 51. In considering the information in the registration statement and the draft prospectus, if the SEC Office views that it is necessary and appropriate to provide investors with material information that is sufficient for making investment decisions, the SEC Office shall have the power to require that the person who files the registration statement proceed as follows within the period specified by the SEC Office:

(1) clarifying, correcting or adding information or submitting additional supplementary documents;

(2) having an independent expert give an opinion on the accuracy, completeness or reliability of the information that appears in the registration statement and the draft prospectus;

In cases where the offeror of sukuk fails to act in accordance with the first paragraph, it shall be deemed that such offeror no longer wishes to file the registration statement and the draft prospectus with the SEC Office.

In specifying that the offeror of sukuk proceed in accordance with the first paragraph, the SEC Office may also require that such offeror disclose orders, actions and remarks of the SEC Office or any clarification of the offeror through the website of the SEC Office according to the guidelines as specified by the SEC Office.

Chapter 4

Certification of Information

Clause 52. The following persons shall affix their signature to certify the accuracy and completeness of the information provided in the registration statement:

(1) In cases where the registration statement is filed by the asset trustee, the affixing of signature by the asset trustee in different forms shall be as follows;

(a) Form 69-SK shall be signed by the authorized director or the executive director of the highest rank who is delegated by the authorized director;

(b) Form 69-SUKUK shall be signed by all directors and the executive of the highest rank in the accounting division;

(2) For an offer for sale by a sukuk holder, the signature of such sukuk holder is required, and in cases where the offeror is a juristic person, the signature of every person who is authorized to affix binding signature for such juristic person is required. In this regard, the sukuk holder shall also have every director and the executive of the highest rank in the accounting division of the asset trustee affix their signature;

(3) For an offer for sale of sukuk that requires participation of a financial advisor, the person who is authorized to affix binding signature for such financial advisor shall give signature.

In cases where the asset trustee is a juristic person separate from the originator, the rules for affixing signature under the first paragraph shall, *mutatis mutandis*, apply to the originator.

Clause 53. In case there is a necessary and appropriate ground for the person who is required to affix signature for a juristic person as specified by Clause 52 to become incapable of doing so, unless granted an exemption from the SEC Office, such person shall act in accordance with the following regulations:

(1) in the event that any authorized person fails to affix signature because such person is in the state of lacking sense of responsibility and self-control as a result of physical or mental sickness, the offeror shall not be required to have such person affix signature in the registration statement;

(2) in the event that any authorized person fails to affix signature due to causes other than those specified in (1), when such causes end, the offeror of sukuk shall have such authorized person affix signature immediately so that the registration statement shall become effective under Clause 54.

Chapter 5

Effective Date of Registration Statement and Draft Prospectus

Clause 54. Pursuant to Clause 75, the registration statement and the draft prospectus shall become effective upon compliance with the following regulations:

(1) in case of an offer for sale of newly issued sukuk that requires an approval under Clause 33, the offeror of sukuk shall already have received an approval for such offer for sale of newly issued sukuk;

(2) the offeror of sukuk shall already have paid the fee for filing the registration statement in accordance with the regulations and procedure as specified by the SEC Office;

(3) the offeror of sukuk shall already have added or corrected the information in the registration statement and shall have disclosed the information under the third paragraph of Clause 51 (if any);

(4) when the following periods have passed:

(a) five working days as from the date when the SEC Office receives Form 69-SK under Clause 42, as amended the latest, (excluding the information relating to the offer for sale of sukuk or other non-significant information to which the SEC Office has allowed amendment).

(b) fourteen days as from the date when the SEC Office receives Form 69-SUKUK under Clause 44 or Clause 45, which has already incorporated the latest amendment, (excluding the information on the offer for sale of sukuk or other non-significant information to which the SEC Office has allowed amendment).

(5) the offeror shall already have given the required information in the registration statement in full.

For the purpose of consideration under the first paragraph (4), the information relating to an offer for sale of sukuk shall mean the following information:

(1) the amount and price of sukuk;

(2) the offering period;

(3) the characteristics of sukuk;

(4) the details on subscription, underwriting and allocation;

(5) any other information relating to an offer for sale of sukuk or having similar characteristics or relating to the information under (1) (2) (3) and (4).

Part 3

Subscription, Underwriting and Allocation of Sukuk

Clause 55. The regulations under the Notification of the Capital Market Supervisory Board Re: Subscription, Underwriting and Allocation of Newly Issued Securities in the part concerning debt securities shall, *mutatis mutandis*, apply to the subscription, underwriting and allocation of newly issued sukuk.

In cases where the asset trustee is a juristic person separate from the originator, the term “the issuing company” under such Notification in the part concerning allocation of securities shall mean the asset trustee as well as the originator.

The asset trustee shall distribute a fact sheet containing important characteristics and risks of the debt securities together with the sukuk subscription form. Such fact sheet shall contain the substance identical to that which has been filed with the SEC Office under Clause 40(2) and considered by the SEC Office.

Part 4

Disclosure of Information Relating to Financial Condition and Operating Results of Asset Trustee and Originator

Clause 56. The regulations under the Notification of the Capital Market Supervisory Board Re: Rules, Conditions and Procedures for Reporting of Disclosure of Information on Financial Condition and Operating Results of Issuing Company in the parts concerning debt securities shall, *mutatis mutandis*, apply to the disclosure of information on financial condition and operating results of the asset trustee, but shall exclude the annual registration statement attached to such Notification, in which case Form 56-SUKUK attached hereto shall apply instead.

In cases where the asset trustee is a juristic person separate from the originator, the information that the asset trustee shall disclose in accordance with the regulations under the first paragraph shall mean the following information:

- (1) Information of the trust property;
- (2) Information of the originator;

Clause 57. The financial statements of the trust property and the consolidated financial statements of the originator to be disclosed under the second

paragraph of Clause 56 shall be audited and attached with an opinion of the auditor who has been approved by the SEC Office.

Part 5

Effective Date of Notification

Clause 58. This Notification shall come into force as from 16 January 2011.

Notified this 10th day of January 2011.

- Signature –
(Thirachai Phuvanatanarubala)
Secretary-General
Office of the Securities and Exchange Commission
Chairman
Capital Market Supervisory Board

Remark: The rationale for issuing this Notification is to promote development of financial products that comply with the Islamic principles, which will benefit the development of the Thai capital market while increasing alternatives for issuers and investors.