

(UNOFFICIAL TRANSLATION)

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 Yor. 4/2547
Re: Prescribing Contracts that Are Not Subject to
The Derivatives Act B.E. 2546 (2003)**

By virtue of Section 4(3) and Section 9 of the *Derivatives Act B.E. 2546 (2003)*, the Securities and Exchange Commission hereby issues the following regulations:

Clause 1 In this Notification:

“**securities**” means the securities by definition given under the *Law on Securities and Exchange*.

“**goods**” means **securities**, gold, crude oil and other goods as prescribed under the *Notification of the Securities and Exchange Commission Re: Determining Additionally Referred Underlying of a Derivatives in Type of Goods and Variables*.

“**clearing house**” means a clearing house by definition given under the *Law on Securities and Exchange*.

Clause 2 The following contracts are not subject to the *Derivatives Act B.E. 2546 (2003)*:

- (1) contracts that are considered **securities**;
- (2) contracts of purchase or sale of **securities** for which the settlement is made via a **clearing house** in accordance with the criteria prescribed by the **clearing house**;
- (3) contracts having the following characteristics:

(a) containing provisions that require one party to deliver **goods** to the other party who is obliged to make payment for such **goods** at a given time in the future according to the amount and price as specified in the contract which is entered into outside the derivatives exchange;

(b) containing no provisions that permit one party having the obligation to deliver **goods** to settle by cash or set-off with the other party in lieu of the delivery of **goods**; and

(c) the customary practice of such contract does not allow the party obliged to deliver **goods** to be released from the contractual obligations by closing out a derivative position.

A contract having the provisions that require the seller to compensate the purchaser in the case where the delivered **goods** do not meet the standards stipulated under the contract shall not be treated as permitting the party having the obligation to deliver **goods** to settle by cash or set-off with the other party in lieu of the delivery of **goods** pursuant to (b).

(4) deposit agreements, contracts for the procurement of funds, credit facility contracts or loan agreements entered by commercial banks or finance companies pursuant to the *Law on Commercial Banks or the Laws on Finance Business, Securities Business and Credit Foncier Business*.

(5) derivatives having agricultural products as underlying assets or variables which are entered into outside the derivatives exchange and are in accordance with the following criteria:

- (a) being entered into before 16 December 2015 with a remaining valid term;
- (b) derivatives under (a) are not renewed after 16 December 2015.

Clause 3 This Notification shall come into force from 6 January 2004.

Notified this 23rd day of January 2004.

- Signature -
(Captain Suchat Jaovisidha)
Minister of Finance
Chairman
Securities and Exchange Commission