

(UNOFFICIAL TRANSLATION)

Codified up to No. 2

As of 13 June 2011

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 Office of the Securities and Exchange Commission
No. SorThor. 3/2553
Re: Preparation and Maintenance of Information
Relating to Derivatives Trading**

By virtue of Clause 12, Clause 15 and Clause 26 of the *Notification of the Capital Market Supervisory Board No. TorThor. 80/2552 Re: Rules on Undertaking of Derivatives Business for Licensed Derivatives Brokers* dated 3 August 2009, the SEC Office hereby issues the following regulations:

Clause 1 In this Notification:

- (1) “*derivatives broker*” means any person licensed to undertake derivatives business in the category of derivatives broker;
- (2) “*derivatives exchange*” means any *derivatives exchange* licensed by the Securities and Exchange Commission;
- (3) “*initial margin*” means the minimum amount of asset to be deposited by a customer to secure the performance of derivatives contract when a derivative position is initiated;
- (4) “*maintenance margin*” means the minimum amount of assets to be maintained by a customer as long as the derivatives position is held in order to secure the performance of derivatives contract;
- (5)¹ “*market closing time*” means the closing time of the afternoon trading session of derivatives exchange.

Clause 2 A *derivatives broker* shall provide evidence relating to derivatives trading as follows:

- (1) evidence relating to the taking and execution of customer’s derivatives trading order containing at least the details of transactions executed on behalf of the customer from the time when the order is taken until the transaction is completed;
- (2) evidence confirming derivatives trading transaction conducted by the customer (confirmation statement);
- (3) evidence of margin call in cases where the *derivatives broker* calls for a customer to deposit additional margin;
- (4) account of derivatives trading of each customer.

A *derivatives broker* shall send the confirmation statement and additional evidence of margin call prescribed under Paragraph 1 to customers through the method agreed upon by the customers within the next business day from the transaction date or the margin call date, as the case may be.

¹ Amended by the *Notification of the Office of the Securities and Exchange Commission No. SorThor. 17/2554 Re: Preparation and Maintenance of Information Relating to Derivatives Trading (No.2)* dated 13 June 2011.

²For the purpose of submitting evidence confirming derivatives trading transaction under Paragraph 2, the derivatives trading initiating after the **market closing time** shall be deemed as it is initiating in the next business day.

Clause 3 A **derivatives broker** shall at least include the following information in the confirmation statement of a customer:

- (1) name or the derivatives account number of the customer;
- (2) transaction date;
- (3) contract specifications including contract type, type of underlying asset or variable, settlement month, etc., or derivatives symbol assigned by a **derivatives exchange**;
- (4) amount and price of derivatives contract;
- (5) transaction type such as an opening or close-out of derivatives position;
- (6) fees charged on the derivatives transaction.

Clause 4 A **derivatives broker** shall at the minimum include the information as set out under Clause 3(1) and (3) as well as the following information on the evidence of margin call:

- (1) the required amount of the **initial margin** and the **maintenance margin**. If the **derivatives broker** calls for a different amount of **initial margin** or **maintenance margin** in respect of any derivatives position, the amount of the **initial margin** or the **maintenance margin** for such position by contract shall be indicated;
- (2)³ the market price of derivatives contract at the **market closing time**
- (3) the loss in derivatives position and the balance amount of the margin of customer, marked to market, with respect to the derivatives contract;
- (4) the amount and type of asset to be deposited following a margin call by the **derivatives broker** to a customer.

Clause 5 A **derivatives broker** shall include in the account of derivatives trading of each customer at least the information as set out under Clause 3 and Clause 4 as well as the following information:

- (1) customer type, by indicating whether the customer is an institutional or retail investor, and also indicating the case where a customer is placing orders for several persons or through series of accounts in an undisclosed manner (omnibus account);
- (2) derivatives position limit of customer at any time;
- (3) derivatives position of customer that remains outstanding (open interest);
- (4) the amount and type of asset deposited as margin or for settlement of derivatives contract on maturity;
- (1) the profit gained from derivatives position and the remaining balance of the margin of customer, marked to market, with respect to the derivatives contract;
- (2) the amount and type of asset exceeding the amount of the maintenance margin.

² Amended by the *Notification of the Office of the Securities and Exchange Commission No. SorThor. 17/2554 Re: Preparation and Maintenance of Information Relating to Derivatives Trading (No.2)* dated 13 June 2011.

³ Amended by the *Notification of the Office of the Securities and Exchange Commission No. SorThor. 17/2554 Re: Preparation and Maintenance of Information Relating to Derivatives Trading (No.2)* dated 13 June 2011.

Clause 6 A *derivatives broker* shall prepare the confirmation statement, the evidence of margin call and the account of derivatives trading of each customer in writing, whether in Thai or English, and either in the form of documented or electronic information.

Clause 7 A *derivatives broker* shall keep the evidence relating to derivatives trading under the following criteria:

(1) records of advice given to customers and derivatives trading orders placed by customers shall be kept for at least three months from the date on which the advice is given or the order is placed, as the case may be. However, should there be any customer's complaint relating to the giving of advice or placing of orders whose proceeding has not been completed within such period, the record of such advice or order shall be kept until the handling of such complaint is completed;

In cases where the giving of advice or placing of orders under Paragraph 1 has been made via telephone or by electronic mean, a record of audio tape or electronic recording medium thereof shall be kept by the *derivatives broker*.

(2) records of the details of transactions executed for its customers, confirmation statement, evidence of margin call, account of derivatives trading of each customer and analysis report or article on the value or suitability for trading in derivatives, underlying assets or variables as specified in a derivatives contract, as well as other evidence relating to customers' derivatives trading, shall be kept for a minimum period of five years from either the transaction date, the margin call date, or the release date of such analysis report or article to customers, as the case may be, providing that the information shall be readily available for inspection by the SEC Office during the first two years of the five-year period.

In cases where the giving of advice by a foreign derivatives business operator is provided, the *derivatives broker* shall keep the documents relating to the giving of advice including analysis reports and any other documents supporting the giving of advice for at least two years from the date on which such advice is given in Thailand.

Clause 8 All notifications, orders and circulars issued under or prescribing guidelines for compliance with the Notification of the Securities and Exchange Commission No. SorThor. 2/2549 Re: Preparation and Maintenance of Information Relating to Derivatives Trading dated 8 February 2006 which have been in effect prior to the effective date of this Notification shall remain in full force to the extent that they are not inconsistent with nor in contrary to the provisions of this Notification until notifications, orders and circulars issued under or prescribing guidelines for compliance with this Notification come into force.

Clause 9 Any reference made in any other notification to the *Notification of the Securities and Exchange Commission No. SorThor. 2/2549 Re: Preparation and Maintenance of Information Relating to Derivatives Trading* dated 8 February 2006 shall mean reference to this Notification.

Clause 10 This Notification shall come into force as from 1 February 2010. Notified this 1st day of February 2010.

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(Mr. Thirachai Phuvanatanarubala)
Secretary-General
Office of the Securities and Exchange Commission

Remark: The reason for issuing this Notification is to: (1) issue a notification to replace the *Notification of the Office of the Securities and Exchange Commission No. SorThor. 2/2549 Re: Preparation and Maintenance of Information Relating to Derivatives Trading* dated 8 February 2006 in light of amendments to the *Notifications of the Securities and Exchange Commission pursuant to the Securities and Exchange Act (No. 4) B.E. 2551 (2008)*; and (2) prescribe the rules regarding the maintenance of documents relating to the giving of advice by foreign derivatives business operators.