

**TRANSLATED VERSION**  
codified up to No.5 as of July 10, 2015

*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 Capital Market Supervisory Board**

**No. TorJor. 34/2551**

**Re: Application for and Approval of Offer for Sale  
of Newly Issued Share Warrants  
and Underlying Shares**

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By virtue of Section 16/6 and Section 89/27 of the *Securities and Exchange Act B.E. 2535 (1992)* as amended by the *Securities and Exchange Act (No.4) B.E. 2551 (2008)* and Section 35 of the *Securities and Exchange Act B.E. 2535 (1992)*, which contain certain provisions relating 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 permit by virtue of law, the Securities and Exchange Commission acting as the Capital Market Supervisory Board under Section 60 of the *Securities and Exchange Act (No.4) B.E. 2551 (2008)* hereby issues the following regulations:

**Clause 1** This Notification shall come into force as from 15 December 2008.

**Clause 2** In this Notification:

(1) the terms “*underlying shares*” “*institutional investor*” “*registration statement*” “*listed company*” “*subsidiary company*” “*executive*” and “*electronic information*” shall have the same meaning as defined in the *Notification of the Securities and Exchange Commission concerning Determination of Definitions in [Other] Notifications relating to Issuance and Offer for Sale of Securities*;

(2) “*warrant*” means a share warrant;

(3) “*company*” means a company applying for an offer for sale of *warrants* and *underlying shares* [or issuer of *warrants*];

(4) “*terms of rights and duties*” means terms of rights and duties of an warrant issuer and holders of *warrant*;

(5) “**offering new shares at lower market price**” means an offer for sale of newly issued shares having the selling price below 90% of the market price. In this regard, the market price and the selling price shall be calculated in accordance with the *Notification of the Office of the Securities and Exchange Commission concerning the Calculation of Offered Price of Securities and the Determination of Market Price for Consideration of Offer for Sale of Newly Issued Shares Being below Market Price*;

(6) “**offering warrant at lower market price**” means an offer for sale of newly issued **warrants** of which the offered price combined with the exercise price is within the scope of an **offering new shares at lower market price**;

(7) “**offering convertible bond at lower market price**” means offer for sale of convertible bond by specifying conversion price considered as **offering new shares at lower market price**.

**Clause 3** A **company** would obtain an approval for an offer for sale of newly issued **warrants** and **underlying shares** hereunder only if the **company** is a public limited company established under Thai law. In this regard, an offer for sale of newly issued **warrants** and **underlying shares** shall be in compliance with the following rules:

(1) an offer for sale of newly issued **warrants** and **underlying shares** in manner of public offering shall be in compliance with Chapter 1;

(2) an offer for sale of newly issued **warrants** and **underlying shares** in manner of private placement shall be in compliance with Chapter 3;

<sup>1</sup>(3) an offering newly issued free **warrants**, the public limited company would obtain an approval for an offer for sale of newly issued **underlying shares** only if it complies with Chapter 1 or Chapter 3, as the case may be;

(4) an offer for sale of newly issued **warrants** to its shareholders in proportion to their existing shareholding but the exercise of **warrants** may be done by any person who is not a shareholder of [i] a **listed company**<sup>2</sup> or [ii] a public limited company which is obligated to perform the duty under Section 56 [of the *Securities and Exchange Act B.E. 2535 (1992)*]

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<sup>1</sup> According to Section 33 of *Securities and Exchange Act B.E. 2535 (1992)*, an issuer wishing to issue any securities to others without any consideration (payment) could legally proceed in the absence of obtaining approval from the SEC Office. Therefore, the issuing share warrant without premium is not under this Notification. However, as the result of exercising right pursuant to the share warrant with payment in accordance with exercise price for underlying share, the offer of such share warrant to others is considered to be offering for sale of share which is still subject to this Notification.

<sup>2</sup> According to the listing requirement of the Stock Exchange of Thailand, a listed company has to be established in form of a public company.

regardless of whether such duty is resulted from an offer for sale made by such public limited company or by its shareholder, shall be in compliance with Chapter 2;

(5) an offer for sale of newly issued **warrants** to its shareholders in the same manner as specified in sub clause (4) by the **company** not having duty under Section 56 [of the *Securities and Exchange Act B.E. 2535 (1992)*] as stipulated in sub clause (4), shall be in compliance with Chapter 1 or Chapter 3, as the case may be.

**Clause 4** In case there is any certain fact appeared to the SEC Office leading to any of the following reasonable suspicions, the SEC Office may reject the application:

(1) a **company** or an offer for sale of **warrants** and **underlying shares** has the characteristic or meets the rules or conditions to obtain an approval according to this Notification, but there is a certain fact indicating that the purpose or the substance of such offering is to avoid any provisions of law on Securities and Exchange<sup>3</sup> or this Notification;

(2) the offer for sale of **warrants** and **underlying shares** may be in contrast to the public interest or national policy;

(3) the offer for sale of **warrants** and **underlying shares** may cause an adverse effect to the credibility of the Thai capital market as a whole;

(4) the offer for sale of **warrants** and **underlying shares** may cause [i] any damages or [ii] an unfairness treatment to the investors as a whole or [iii] the investors not to obtain correct and sufficient information for supporting the decision to invest.

**Clause 4/1** In case of any of the following characteristics, the SEC Office would render a waiver on certain rules under this Notification in deliberating an application or may not apply certain conditions under this Notification with an offer for sale of **warrants** and **underlying shares**, by taking into account [i] the appropriateness and sufficiency of the information for making investment decisions and [ii] measures for investor protection. In this regard, the SEC Office may specify additional requirement for the **company** to act or omit from any act:

(1) there is a ground to deliberate that such rules or conditions to be waived are immaterial to the deliberation of the approval, and costs outweigh benefits derived from compliance with the rules or conditions;

(2) the **company** is subject to restrictions under other laws, which restrict it from compliance with the rules or conditions to be waived;

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<sup>3</sup> Law on Securities and Exchange means The *Securities and Exchange Act B.E. 2535 (1992)*.

(3) the *company* has provided other sufficient measures in lieu of its compliance with the rules or conditions to be waived.

**Clause 4/2** In order to distribute newly issued *warrants* to the general public regarding to Chapter 1, an approved company shall comply with the *Notification of the Capital Market Supervisory Board concerning Underwriting of Newly Issued Securities in the Category of Shares and Share Warrants*.

## **Chapter 1**

### **Offer for Sale of Newly Issued Warrants and Underlying Shares in the Manner of Public Offering**

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#### **Division 1**

#### **Application and approval**

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**Clause 5** A *company* wishing to offer for sale of newly issued *warrants* and *underlying shares* to the general public shall submit to the SEC Office an application, jointly prepared by a financial advisor whose name appears on the SEC Office's approved list, together with evidentiary documentation. In this regard, the *company* shall pay application fees at the amount as prescribed in the *Notification of the Securities and Exchange Commission Re: Determination of Fees for Application regarding Offer for Sale of Newly Issued Securities and Application for Securitization Project* to the SEC Office on the date when the complete and accurate application together with the evidentiary documentation have been submitted in accordance with the Licensing Manual for the Public.

In case the *company* wishing to apply for a waiver of regulations under this Notification, it shall submit an application for such waiver together with evidentiary documentation to the SEC Office in accordance with the procedure and method as prescribed in the Licensing Manual for the Public before the SEC Office begins to consider the application under the first paragraph. In this regard, the SEC Office shall consider the application for the waiver within the same period as the consideration of the application under the first paragraph.

**Clause 6** In case it is necessary for the SEC Office to visit the place of business or any other establishment of the *company* or its *subsidiary company* located outside of Bangkok or its periphery, the *company* shall be responsible for all of the accommodation and travelling expenses incurred from such visit in accordance with the rules as specified by the SEC Office.

**Clause 7** After the SEC Office has already received the complete and accurate application and the evidentiary documentation as prescribed in the Licensing Manual for the Public, the SEC Office shall ascertain the facts [declared in the application] in accordance with the procedure and method as prescribed in the Licensing Manual for the Public, and notify in a written form with regard to skeptical issues resulted from the ascertaining process for a *company* to clarify the issues within a specified period. In this regard, the whole aforementioned process shall be within 120 days as from the date when the SEC Office has received the complete and accurate application and the evidentiary documentation as prescribed in the Licensing Manual for the public.

The SEC Office shall notify the result of deliberating the application within 45 days as from the date of receiving the written clarification on the skeptical issues from the *company*.

**Clause 8** A *company* would obtain an approval for an offer for sale of newly issued *warrants* and *underlying shares* under this Chapter only if the *company* complies with the following rules:

- (1) being a public limited company established under Thai law;
- (2) having all qualifications as prescribed in the *Notification of the Capital Market Supervisory Board concerning the Application for Obtaining an Approval and Granting to Offer for Sale of Newly Issued Shares* in the part of an offer for sale of newly issued shares to the general public;
- (3) *warrants* being under the following requirements:
  - (a) features of *warrants* shall not be inconsistent with the characteristics as prescribed in Clause 9;
  - (b) the amount of *underlying shares* shall not exceed the ratio as prescribed in Clause 10, except for the necessity and appropriateness for the benefit of the *company* and shareholders as a whole due to the *company's* need of financial support or for the purpose of debt restructuring or any other case which is rendered a waiver from the SEC Office;

(c) *terms of rights and duties* as to the *warrants* are in compliance with Clause 11;

(4) providing sufficient measures to protect the rights of shareholders from being affected by dilution effect because of issuing *warrants* and *underlying shares*, and being in compliance with Clause 12.

**Clause 9** *Warrants* shall have the following characteristics:

(1) specifying maturity date precisely which shall not be more than 10 years as from the issuing date;

(2) *underlying shares* being the shares issued by the *company*;

(3) specifying exercise price and ratio precisely;

(4) the period for declaration of intention for the final exercise of *warrants* not being less than 15 days prior to the exercise date;

**Clause 10** The number of newly issued *underlying shares* combining with those provided by a *company* as *underlying shares* of convertible bonds or *warrants* issued at any other time, shall not be more than 50% of the totally existing shares.

The calculation of the number of shares under the first paragraph shall be in accordance with the following rules:

(1) the *company's* total number of existing shares shall include shares other than *underlying shares* which will be offered for sale together with newly issued *warrants* (if any);

(2) the number of shares provided as *underlying shares* of convertible bonds or *warrants* shall not include shares provided for an offer for sale under the *Notification of the Capital Market Supervisory Board concerning Offer for Sale of Newly Issued Securities under the Securities Ownership Plan for Directors or Employees*.

**Clause 11** *Terms of rights and duties* as to the *warrants* shall contain at least the following particulars:

(1) details of *warrants*, at least specifying maturity date, price, ratio and procedures for the exercise of *warrants*;

(2) causes, conditions, and procedures for the amendment of *terms of rights and duties*;

(3) the amount of damages which a warrant holder will receive in case a *company* is unable to provide *underlying shares* upon the exercise of *warrants*. In this regard,

such amount of damages shall not be less than the difference between the market price on the exercise date and the exercise price of the *company's* shares, being the same class as the *underlying shares*;

(4) measures to protect warrant holders which at least impose obligations as follows:

(a) in case of the issuance of *warrants* specified that the *company* would be able to call for the exercise of *warrants* prior to the specified exercise period, such obligations shall:

1. be certified by the *company* that such calling is fair and manifest, and the triggered events for calling exercise of *warrants* are not under any person's control;

2. require the *company* to call for the exercise of *warrants* upon the occurrence of the specified events;

3. be certified by the *company* that there are sufficient measures to make subsequent holders of *warrants* aware of such obligations;

(b) events and conditions causing to adjust the rights of warrant holders and the calculation of the adjustment shall be identified in order to maintain the rights of warrant holders not to be adversely affected by such events. In this regard, the causes of the right adjustment are the following events:

1. changing in the par value of the *company's* shares as a result of combination or split of shares;

2. *offering new shares at lower market price* by the *company*;

3. *offering convertible bonds at lower market price* or *offering [other] warrants at lower market price* by the *company*;

4. paying stock dividend, either wholly or partially, to shareholders;

5. paying cash dividend in the amount exceeding the number specified in *terms of rights and duties*;

6. any other event similar to those stated in sub clause 1. to 5. causing an adverse effect on the rights if warrant holders will exercise *warrants*.

The provision in sub clause (4)(b) of the first paragraph shall not be applicable to any specific events falling within sub clause 1. to 6. which is rendered a waiver from the SEC Office. In this regard, the SEC Office would render the waiver only when the *company* has demonstrated that it will provide sufficient measure in order to ensure that investors are fully informed, prior to making decisions for investment [in *warrants*], the fact that the *company* will not adjust the exercise ratio or the exercise price upon the occurrence of such events.

**Clause 12** A *company* shall take at least the following actions to protect rights of shareholders who will be affected by an offer for sale of *warrants* and *underlying shares* (dilution effect):

(1) preparing a notice calling a shareholders' meeting to obtain an approval for the issuance of *warrants* and *underlying shares*, which presents at least the following matters:

(a) general information of *warrants*, for instance, [i] expected exercise price or ratio, [ii] exercise period, [iii] the last day of the exercise period, and [iv] events causing to issue new shares for adjustment of the exercise right under such *warrants*, etc;

(b) dilution effect to shareholders, in case *warrants* are fully exercised, at least indicating the effect to market price of shares (price dilution), profit dilution, and voting rights of existing shareholders (control dilution);

(c) methods for allocating *warrants*;

(d) any other information as stipulated by the Notification of the SEC Office with concern to [a measure for] protecting interest of shareholders;

(2) having obtained the explicit resolution of the shareholders to sufficiently issue the *underlying shares* for the *warrants*. In connection with this, such resolution shall be passed no more than 1 year until the date of submitting the application under Clause 5.

(3) in case the applicant is a *listed company* wishing to make *offering warrant at lower market price* to the specific investors, the applicant shall comply with the following rules:

(a) in calling shareholders' meeting to obtain a resolution for such offering, a notice calling the meeting shall be delivered to applicant's shareholders at least 14 days prior to meeting date;

(b) the calling notice under sub clause (a) shall contain the material information for the decision-making by shareholders and shall have at least the following particulars:

1. objective for *offering warrant at lower market price*;
2. amount of offered warrant, warrant price and exercise price. In this regard, the exercise price thereof shall be a fixed price, or otherwise can be indicated a certainly maximum discount rate;
3. market price of *underlying share* used in comparison with warrant price and the exercise price of *warrants*, including the calculating method;



4. in case of having determined the exact warrant price, a group of persons expected to be the target of offer for sale shall be specified;

5. the effect to shareholders from *offering warrant at lower market price* that seeks approval at this time. In this regard, the specified effect shall be at least price dilution, earning dilution, and control dilution;

6. rights of shareholders to object the *offering warrant at lower market price* under sub clause (d);

7. opinion of board of directors demonstrating the necessity for *offering warrant at lower market price* by explaining [i] the worthy benefit deserved from warrant price plus exercise price discounted from market price of the underlying shares [ii] appropriateness and reasonableness of the determined market price and such exercise price;

8. any other information as stipulated by the Notification of the SEC Office;

(c) delivering proxy statement together with the notice calling the shareholder's meeting by demonstrating at least a name of independent director in order that any shareholder, being unable to attend the meeting and exercise his voting rights by himself, would be able to give a proxy to such director for exercising the votes on behalf of him. In case the independent director is a person who may be allotted the *warrants* that are sought the approval, such special interests of the independent director shall also be demonstrated;

(d) obtaining shareholder resolution for *offering warrant at lower market price* with the votes not less than three-fourths of the total votes of shareholders who attend the meeting and have voting rights. In this regard, there shall be objection to such offering no more than 10% of total votes of attending shareholders.

The provision under the first paragraph shall not be applicable to the following cases:

(1) an offer for sale of *warrants* and *underlying shares* of the *company* required to raise its capital under the rehabilitation plan approved by the court under the law on bankruptcy.<sup>4</sup> In this regard, the *company* shall provide sufficient *underlying shares* for the exercise of newly issued *warrants*;

(2) necessary and appropriate situation rendered a waiver by the SEC Office.

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<sup>4</sup> Law on Bankruptcy means The *Bankruptcy Act B.E. 2483 (1840)*.

**Clause 13** It shall be deemed that a *company* has obtained an approval to make an offer for sale of *underlying shares* [from the SEC Office] only when it has obtained an approval for an offer for sale of newly issued *warrants* under this Chapter.

**Clause 14** In case the amendment of *terms of rights and duties* is the adjustment of rights under Clause 11(4)(b), the *company* may adjust either the exercise price and the exercise ratio or the exercise price together with issue new *warrants* instead of adjusting the exercise ratio.

In the proceeding under the first paragraph, if the *company* is required to issue additional *underlying shares*, it shall be deemed that such *company* has obtained an approval [from the SEC Office] for an offer for sale of the *underlying shares*, when it has submitted the shareholders' resolution approving the sufficient issuance of additional *underlying shares* to the SEC Office.

**Clause 14/1** In case it appears to the SEC Office after granting an approval to offer for sale of *warrants* and *underlying shares* that any fact or circumstance, having ever been taken into consideration of the SEC Office, are changed which the SEC Office would not have granted the approval if such changed fact or circumstance had been happened before granting the approval, the SEC Office is empowered to:

(1) order the approved company, any director or any *executive* to elucidate or disclose additional information within a specified period, and suspend the approval for issuance of *warrants* and *underlying shares* until clarification and correction has been made. In case the approved company, director or *executive* is unable to elucidate or disclose the additional information thereof within the specified period, the SEC Office is empowered to revoke the approval under sub clause (2);

(2) revoke the offer for sale of *warrants* and *underlying shares* in the portion which has not been offered for sale or subscribed yet;

In giving an order under the first paragraph, the SEC Office shall take into account the following factors:

- (1) severity of facts or circumstances that have been changed;
- (2) effect to investors who have already subscribed such *warrants* and *underlying shares*.

**Division 2****Conditions [complied] after obtaining approval**

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**Clause 15** A *company* having obtained an approval under this Chapter shall comply with conditions as prescribed in this Part:

(1) complete its offer for sale of the following securities within the following periods:

(a) an offer for sale of newly issued *warrants* shall be completed within 6 months as from the date on which the SEC Office has notified granting an approval. In case the approved *company* fails to complete within such period and wishes to continue an offer for sale, such approved *company* shall request for an extension of the offering period in writing to the SEC Office at least 30 days prior to the expired period of 6 months. In connection with this, the rationale for such request together with the information relating to material changes to the characteristics in accordance with Clause 8(2) (if any) shall be provided. In this regard, the SEC Office is empowered to granting an extension of the offering period but not exceeding 12 months as from the date on which the SEC Office has notified granting the first approval;

(b) [the *underlying shares* shall be sold when] the rights of warrant holders have been exercised within the expiry date of the exercise period;

Upon the expiration of the period as prescribed under the first paragraph, the approval of the SEC Office shall be deemed terminated.

(2) during the period which an approved company is obliged to comply with the rules as stipulated in the Notification of Capital Market Supervisory Board issued by virtue of Section 56 [of the *Securities and Exchange Act B.E. 2535 (1992)*], the approved company, as well as its major shareholders, *executives*, and controlling persons, shall comply with the commitments given in the application or the *registration statement* and draft prospectus, unless otherwise resolved by a shareholders' meeting.

**Clause 16** After an offer for sale of *warrants*, the approved company shall neither extend the maturity date of the warrants nor adjust the exercise price or the exercise ratio, except for the case as prescribed in Clause 11(4)(b).

**Clause 17** The amendment of *terms of rights and duties* after an offer for sale shall be in compliance with the relevant provisions provided in *terms of rights and duties*, and shall not be inconsistent with or contrary to the requirements in this Notification. In this regard,

the *company* shall notify the SEC Office of such amendment in writing within 15 days as from the date of amendment.

**Clause 18** In case there is any certain fact appeared to the SEC Office that there is any change later which causes the *company* to have different characteristics from those as prescribed in the approval criteria and the *company* is unable to rectify such difference within the period as specified by the SEC Office, the SEC Office is empowered to order the *company* to suspend the offer for sale of newly issued *warrants* and *underlying shares* and it shall be deemed that the approval for an offer for sale of newly issued *warrants* in the portion which have not been offered or subscribed yet and *underlying shares* are terminated.

## Chapter 2

### Offer for Sale of Newly Issued Warrants to Existing Shareholders and Underlying Shares

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**Clause 19** In case of an offer for sale of newly issued *warrants* to its shareholders in proportion to their existing shareholding, but the exercise of *warrants* may be done by any person who is not a shareholder of the *company*, if the *company* is [i] a *listed company*<sup>5</sup> or [ii] a public limited company established under Thai law which is obligated to perform the duty under Section 56 [of the *Securities and Exchange Commission Act B.E. 2535 (1992)*], regardless of whether such duty is resulted from an offer for sale made by such public limited company or by its shareholder, it shall be deemed that such *company* has obtained an approval from the SEC Office to offer for sale of newly issued *warrants* and *underlying shares*. Consequently, the *company* shall comply with the requirements after obtaining the approval as follows:

- (1) *warrants* to be issued and offered for sale shall have the characteristics as prescribed in Clause 8(3);
- (2) sufficient measures for protection of shareholders' rights shall be provided in accordance with Clause 12(1) and (2), *mutatis mutandis*;
- (3) an offer for sale of *warrants* and *underlying shares* shall be completed within 1 year as from the date of obtaining a shareholders' resolution approving the issuance of *warrants* and *underlying shares*, and the right of *warrants* shall be exercised within

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<sup>5</sup> Ibid. FN 2

the expiry date of the exercise period;

(4) the amendment of *terms of rights and duties* shall conform to Clause 14 and Clause 17;

(5) the maturity date of *warrants* shall not be extended and the exercise price or the exercise ratio shall not be changed, except for the case as prescribed in Clause 11(4)(b);

In case of an offer for sale of newly issued *warrants* under this Part owing to the *company*'s obligation to raise its capital under the rehabilitation plan approved by the court under the law on bankruptcy<sup>6</sup>, the *company* is exempted from the conditions in part of calling a shareholders' meeting, a notice calling a shareholders' meeting, and a shareholders' resolution. In this regard, the *company* shall complete its offer for sale of *warrants* and *underlying shares* within the period specified in the rehabilitation plan.

The *company* obtained an approval under this Part may be rendered a waiver from duty to comply with certain conditions after obtaining the approval upon demonstrating that there is necessity and appropriateness according to Clause 4(2). In this regard, the SEC Office may also require the *company* to act or omit from any act.

### Chapter 3

#### Offer for Sale of Newly Issued Warrants and Underlying Shares in the Manner of Private Placement

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#### Division 1

#### Approval

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**Clause 20** An offer for sale of newly issued *warrants* and *underlying shares* in the manner of private placement means an offer for sale which falls within any of the following characteristics:

(1) an offer for sale made to selective investors in the total number, after combining with holders of all types or series of *warrants* issued by the *company*, not exceeding 50 investors at any time;

(2) an offer for sale having aggregate value not exceeding 20 million baht during any rolling 12 month period. In this regard, the aggregate value of *warrants* shall

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<sup>6</sup> Ibid. FN 4

combine the offering price with the exercise price;

(3) an offer for sale made to *institutional investors*.

The number of investors referred in sub clause (1) and the aggregate value of the offering referred in sub clause (2) of the first paragraph would exclude the offer made to persons referred in sub clause (3), regardless of such offering made simultaneously or at different time.

**Clause 21** A public limited company established under Thai law shall be deemed to obtain an approval from the SEC Office to offer for sale of newly issued *warrants* and *underlying shares* in the manner of private placement only if it has registered with the SEC Office the transfer restriction of *warrants*, stating a statement that the *company* shall not accept any transfer registration if it would result in the non-compliance with the criteria of an offer for sale in the manner of private placement, except for the case of transfer by succession. In this regard, the transfer restriction shall be deemed registered with the SEC Office on the date when the SEC Office is informed of the intention to register such transfer restriction.

The *company* obtaining an approval under the first paragraph shall comply with conditions after obtaining approval under Division 2. Additionally, the provisions in the second and the third paragraph of Clause 19 shall be applicable to the compliance with conditions as prescribed in Division 2, *mutatis mutandis*.

## **Division 2**

### **Conditions [complied] after obtaining approval**

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**Clause 22** A *company* obtaining an approval shall:

(1) ensure that *warrants* to be issued and offered for sale have the following characteristics:

(a) identifying the warrant holder's name and stating a statement of transfer restriction;

(b) having characteristics as prescribed in Clause 8(3)(b), Clause 9(1)(2) and (3), and Clause 11(1) and (2). In addition, in case *terms of rights and duties* of *warrants* contain a clause relating to the causes and conditions for the adjustment of rights, such causes and conditions shall also conform to Clause 11(4)(b), *mutatis mutandis*;

(1/1) provide *terms of rights and duties* with agreement relating to damages or other remedial measures that any holder of *warrants* is entitled to receive in case an approved company is unable to deliver *underlying shares* when the warrant holder exercise his rights;

(2) provide sufficient measures for protection of shareholders' rights which is in compliance with Clause 12, *mutatis mutandis*;

(3) complete an offer for sale of newly issued *warrants* and *underlying shares* within 1 year as from the date on which the *company* has obtained a shareholders' resolution approving the issuance of *warrants* and *underlying shares*. Subsequently, the exercise of *warrants* shall be completed within the expiry date of *warrants*;

(4) not make any advertisement of an offer for sale of newly issued *warrants* and *underlying shares*. Moreover, in case a distribution of offering supplementary documents is made, the *company* shall distribute such documents to selective persons with specified characteristics or within the amount as specified in Clause 20(1), (2) or (3) only;

The offering supplementary documents under the first paragraph shall contain a statement indicating the transfer restriction of *warrants* with the same details as registered with the SEC Office and shall also contain a statement being similar to provision in sub clause (7);

(5) the amendment of *terms of rights and duties* shall conform to Clause 14 and Clause 17;

(6) the maturity date of *warrants* shall not be extended and the exercise price or the exercise ratio shall not be changed, except for the case as prescribed in Clause 11(4)(b);

(7) within 2 years as from the date on which the change in the paid-up capital has been registered, in which none of shares or *underlying shares* of the *company* deemed to have obtained an approval from the SEC Office still outstanding on the date of changing thereof, the approved company shall not co-sign to certify the accuracy of information in the *registration statement* and draft prospectus which its shareholders submit to the SEC Office for an offer for sale of such shares to the general public, or proceed to register such shares as listed securities on the Stock Exchange of Thailand, unless the *company* has submitted an application and obtained an approval to offer for sale of newly issued shares in accordance with the *Notification of the Capital Market Supervisory Board concerning the Application for Obtaining an Approval and Granting to Offer for Sale of Newly Issued Shares* or the approved company is a *listed company*.

**Clause 23** In case any person makes a request to the *company* for registering transfer of *warrants*, the *company* shall examine the validity of such transfer. If the transfer contravenes the transfer restriction registered with the SEC Office, such *company* shall not accept such transfer registration, except for the case of transfer by succession.

In case the *company* appoints a warrant registrar, it shall ensure that the warrant registrar would comply with conditions as prescribed in the first paragraph.

## Chapter 4

### Submission of Documents and Report for the Result of the Sale

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**Clause 24** An approved company under Chapter 2 and Chapter 3 shall submit the report for the result of the sale [of *warrants*] together with the evidentiary documentation to the SEC Office by complying with the guideline on the electronic system as provided by the SEC Office.

## Chapter 5

### Transitional Provisions

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**Clause 25** In case the SEC Office has already received an application for an offer for sale of newly issued *warrants* and *underlying shares* prior to the effective date of this Notification, such application and granting an approval shall be in accordance with the *Notification of the Securities and Exchange Commission No. KorJor. 13/2547* *Re: Application for and Approval of Offer for Sale of Newly Issued Share Warrants and Underlying Shares dated 9 February 2004* and relevant Notifications, unless the *company* notifies the SEC Office in writing of its intention to comply with this Notification within 30 days as from the effective date of this Notification.

**Clause 26** A public limited company which has obtained a shareholders' resolution approving an offer for sale of newly issued *warrants* and *underlying shares* which falls within any of the following criteria prior to the effective date of this Notification, but has not yet submitted the application for an offer for sale of newly issued *warrants* and *underlying shares*, or has already submitted the application but notifies its intention to comply with this Notification according to Clause 25, shall complete its offer for sale of newly issued *warrants* and *underlying shares* within 30 June 2009 or within 1 year as from the date of obtaining



the shareholders' resolution, whichever ends last:

(1) a **listed company**<sup>7</sup> or a public limited company which is obliged to comply with Section 56 [of the *Securities and Exchange Commission Act B.E. 2535 (1992)*], regardless of whether such duty is resulted from an offer for sale made by the public limited company or by its shareholder, wishing to make an offer for sale of newly issued **warrants** and **underlying shares** to shareholders in proportion of their existing shareholding, in which the exercise of **warrants** may be done by a person who is not a shareholder of the **company** thereof;

(2) a public limited company wishing to make an offer for sale of newly issued **warrants** and **underlying shares** in the manner of private placement.

**Clause 27** A **company** having obtained approval in accordance with the *Notification of the Securities and Exchange Commission No. KorChor. 13/2547 Re: Application for and Approval of Offer for Sale of Newly Issued Share Warrants and Underlying Shares dated 9 February 2004* shall be subject to the aforementioned Notifications and relevant Notifications.

Notified this 15<sup>th</sup> day of December 2008.

-Signature-  
(Vijit Supinit)  
Chairman

The Securities and Exchange Commission

Note: please note that the contents added in brackets [...] have only been provided in the English version for clearer understanding.

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<sup>7</sup> Ibid. FN 2