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**Notification of the Capital Market Supervisory Board  
No. TorThor. 13/2555  
Re: Custody of Assets of Clients by Securities Companies  
(No. 3)**

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By virtue of Section 16/6 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 98(3) of the Securities and Exchange Act B.E. 2535 which contain certain provisions relating to the 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 Capital Market Supervisory Board hereby issues the following regulations:

**Clause 1.** Provision in (3) of Clause 7 of the Notification of the Capital Market Supervisory Board No. TorThor. 43/2552 Re: Custody of Assets of Clients by Securities Companies dated 3 August 2009 shall be repealed and replaced with the following provision:

“(3) provide written contract or agreement on custody of assets of clients, which indicates the rights, duties and responsibilities of both parties. Such contract or agreement shall not have any statement denying the securities company’s responsibility to the client for any act or omission of any act. In case of loss of or damage to assets of clients resulted from non-performance of the securities company, there shall be a statement requiring the securities company be responsible for such assets in full amount.”

**Clause 2.** Provision in Clause 18 of the Notification of the Capital Market Supervisory Board No. TorThor. 43/2552 Re: Custody of Assets of Clients by Securities Companies dated 3 August 2009 as amended by the Notification of the Capital Market Supervisory Board No. TorThor. 40/2553 Re: Custody of Assets of Clients by Securities Companies (No. 2) dated 15 September 2010 shall be repealed and replaced with the following provision:

“Clause 18 The following undertakings shall be deemed as segregating assets of clients under Clause 17:

(1) Money:

(a) segregating by:

1. depositing with a commercial bank or other banks established under specific law or investing in certificates of deposit issued by such bank with

time to maturity not exceeding one year in accordance with the following rules and conditions:

1.1 deposit taker or issuer of certificate of deposit has been assigned investment grade credit rating by credit rating agency approved by the SEC Office or have the government or the Ministry of Finance guaranteed the principal and interest in full amount.

In case where the deposit taker or issuer of certificate of deposit under the first paragraph is the bank established under specific law, the credit rating under the first paragraph shall include support rating assessed by the credit rating agency from the possibility for the bank to receive financial support from the government, if in need.

1.2 in case of deposits or time certificate of deposit, such deposits or certificate of deposit shall not have any restriction on selling or transferring before maturity.

2. investing in treasury bills, Thai Government Bonds and state enterprise bonds which are unconditionally guaranteed by the Ministry of Finance for full repayment of principal and interest. Such instruments shall not have any restriction on selling or transferring before maturity;

3. investing in debt instrument availed in full amount or unconditionally guaranteed by the Ministry of Finance for full repayment of principal and interest, provided that time to maturity of such instrument shall not exceed one year and shall not have any restriction on selling or transferring before maturity;

4. investing in repurchase transaction of the securities under 2. or 3. in accordance with the following rules and conditions:

4.1 having counterparty which is an institutional investor under Section 3 of the Derivatives Act B.E. 2546 (2003) and the Notification of the Securities and Exchange Commission concerning additional determination of type of juristic person classified as institutional investor;

4.2 using standardized agreement recognized by the SEC Office;

4.3 having repayment period of the transaction not exceeding ninety days;

4.4 value of securities received from repurchase transaction as of the commencing date of agreement is reasonably higher than purchase price of the securities provided that the difference shall be calculated from discount rate of purchased securities (initial margin) specified by taking into account risk factors associated with the counterparty and purchased securities;

4.5 calling for placement of additional money or securities from the counterparty when the value of securities received from repurchase transaction becomes less than the purchase price x (1 + initial margin);

4.6 not reselling or transferring the securities received from repurchase transaction except for reselling or transferring made under the requirements of the repurchase transaction.

In proceeding to comply with the first paragraph, the securities company shall clearly specify in such deposit account or investment that it is undertaking of securities company for the client's benefit.

(b) segregating under self safe keeping which shall be done in the manner that can clearly identify without suspicion that such amount of money belong to the client;

(2) Securities:

(a) segregating by depositing with a securities depository center or the Bank of Thailand by clearly indicate that such securities are deposited by securities company for the client's benefit;

(b) segregating under self safe keeping which shall be done in the manner that can clearly identify without suspicion that such securities belong to the client;

(3) Other assets shall be segregated in the manner that can clearly identify without suspicion that such other assets belong to the client.

In case where the assets of clients under the first paragraph are those for purchase or sale of securities in foreign country, the securities company shall segregate such assets in the manner that can clearly identify without suspicion that such assets belong to the client or clearly identify that any undertaking related to such assets is the undertaking by securities company for the client's benefit."

**Clause 3.** The following provision shall be added as Clause 18/1 of the Capital Market Supervisory Board No. TorThor. 43/2552 Re: Custody of Assets of Clients by Securities Companies dated 3 August 2009:

"Clause 18/1 Securities company shall calculate value of instrument or securities in which it uses clients' money to invest under Clause 18(1) (a) at least on every working days provided that the price used shall reflect current market value of each type of instrument or securities."

**Clause 4.** In case where securities company deposits clients' money or invests in instrument or securities under the Notification of the Capital Market Supervisory Board No. TorThor. 43/2552 Re: Custody of Assets of Clients by Securities Companies dated 3 August 2009 prior to the effective of date of this Notification, the securities company may retain such deposits and investments throughout the respective time to maturity except for current deposits or investment in perpetual instruments or securities, the securities company shall undertake to have such deposits or investments complied with the requirements as specified in this Notification within one month as from the effective date of this Notification.

**Clause 5.** This Notification shall come into force as from 16 March 2012 except provision in Clause 1 and Clause 3 which shall come into force as from 16 September 2012.

Notified this 28<sup>th</sup> day of February 2012.

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(Vorapol Socratyanurak)  
Secretary-General  
Office of the Securities and Exchange Commission  
Chairman  
Capital Market Supervisory Board