

UNOFFICIAL TRANSLATION

Codified up to No. 2

As of 29 June 2012

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 Thor. 11/2553

Re: Registration of Derivatives Business Operator In the Category of Derivatives Broker and Derivatives Dealer

By virtue of Section 9, Paragraph 3 of Section 16, and Section 17(4) of the *Derivatives Act B.E. 2546 (2003)* which contain certain provisions in relation to the restriction of rights and liberties of person, which Section 29 in conjunction with Section 33, Section 34, Section 36, Section 41, Section 43 and Section 45 of the *Constitution of the Kingdom of Thailand* so permit by virtue of law, the Securities and Exchange Commission hereby issues the following regulations:

Clause 1 The following Notifications shall be repealed:

(1) *Notification of the Securities and Exchange Commission No. Kor Thor. 7/2547 Re: Registration of Derivatives Business Operator in the Category of Derivatives Broker and Derivatives Dealer* dated 23 January 2004;

(2) *Notification of the Securities and Exchange Commission No. Kor Thor. 47/2547 Re: Registration of Derivatives Business Operator in the Category of Derivatives Broker and Derivatives Dealer (No.2)* dated 8 October 2004.

Clause 2 In this Notification:

“*derivatives business operator*” means a derivatives business operator in the category of derivatives broker or derivatives dealer.

Clause 3 This Notification shall apply to persons registered as a derivatives business operator whose provision of derivatives business is limited to institutional investors.

The institutional investors in Paragraph 1 means the institutional investor under Section 3 and the *Notification of the Securities and Exchange Commission concerning Determination of Additional Types of Juristic Person Classified as Institutional Investor*.

Chapter 1 Registration

Division 1 Types of Juristic Person and Qualifications of Applicant

Clause 4 An applicant for the registration as a derivatives business operator must be a juristic person as follows:

(1) a commercial bank or a financial company under Financial Institutions Businesses Act;

(2) a securities company licensed to be a securities business operator in the category of securities broker, or securities dealer which is not limited to debt instruments or investment unit, or securities financing business under the *Securities and Exchange Act*;

(3) a juristic person established under foreign law, which is a derivatives business operator in the category of derivatives dealer under the law of such foreign country; this is limited to only apply for derivatives dealer registration;

(4)¹ financial institution established under specific law; this is limited to only apply for derivatives dealer registration.

Clause 5² An applicant for derivatives business operator registration who is a commercial bank, a financial company, a securities company, or a financial institution established under a specific law under Clause 4(1) (2) and (4) shall possess the qualifications as follows:

(1) being capable of operating the derivatives business of the category under the relevant supervisory law;

(2) being capable of maintaining capital and reserve under relevant supervisory law;

(3) not being restricted, suspended or restrained of its operation by regulator;

(4) no any fact indicating that the applicant has financial difficulty that may cause any damage or other incidents indicating that such applicant is facing financial difficulty. In addition, there is no any fact indicating any failure or inappropriateness in operational control and compliance with good business practices.

Clause 6 The applicant for a derivatives business operator registration who is a foreign juristic person under Clause 4(3) shall possess the qualifications as follows:

(1) having **shareholders' equity** not less than fifty million dollars or at equivalent;

(2) being a derivatives business operator in the category of derivatives dealer in its home country continuously for at least ten years;

(3) undertaking derivatives business in the category of derivatives dealer in its home country where its official **agency** or regulator is a member of International Organization of Securities Commissions (IOSCO), whose regulation on certain derivatives business is not inferior to those prescribed in the *Derivatives Act B.E. 2546 (2003)*;

(4) not being restricted or suspended in undertaking derivatives business as a derivatives dealer by an official **agency** or regulator of its foreign juristic person;

(5) not being accused or proceeded in the criminal case by the **authorized agency** under its law, or has a final judgment of offences in operating derivatives business without license or registration or offences related to **deceit, fraud or dishonesty**;

(6) no any fact indicating that the applicant has financial difficulty that may cause any damage or other incidents indicating that such applicant is facing financial difficulty. In addition, there is no any fact indicating any failure or inappropriateness in operational control and compliance with good business practices.

Division 2

Registration processes and fee

¹ Added by the *Notification of the Securities and Exchange Commission No. Kor Thor. 6/2555 Re: Registration of Derivatives Business Operator in the Category of Derivatives Broker and Derivatives Dealer (No.2)* dated 29 June 2012.

² Amended by the *Notification of the Securities and Exchange Commission No. Kor Thor. 6/2555 Re: Registration of Derivatives Business Operator in the Category of Derivatives Broker and Derivatives Dealer (No.2)* dated 29 June 2012.

Clause 7 An applicant for the registration as a derivatives business operator shall submit an application form to the SEC Office together with the supplementing documents and evidences prescribed by the form and method that the SEC Office provided in website.

Clause 8 The SEC Office shall consider and issue an order relating to the application for derivatives business operator registration within sixty days from the date of receiving the correct and complete application and evidential documents.

Clause 9 Fees for submitting the registration form and registration as a derivatives business operator are as follows:

- (1) registration form for a derivatives business operator: thirty thousand baht per form;
- (2) registration as a derivatives business operator: two hundred thousand baht per registration type.

Division 3

Termination of Registration

Clause 10 In case where registered derivatives business operator has ceased the status of the juristic person under Clause 4, the derivatives business registration under this Notification shall be deemed terminated.

Chapter 2

Maintaining Registration

Clause 11 A registered derivatives business operator shall maintain its qualification all the time as registered derivatives business operator as follows:

- (1)³ registered derivatives business operator who is a commercial bank, a financial company, a securities company, or a financial institution established under specific law under Clause 4(1) (2) and (4) shall maintain its qualifications specified in Clause 5;
- (2) registered derivatives business operator who is a foreign juristic person under Clause 4 (3) shall maintain the qualifications specified in Clause 6(1) (3) (4) (5) and (6).

In case where registered derivatives business operator shall not maintain its qualifications under Paragraph 1, such registered derivatives business operator shall notify its qualification that cannot maintain together with related fact to the SEC Office immediately.

Clause 12 Unless otherwise prescribed in Paragraph 2, the SEC Office shall have the power to order registered derivatives business operator who cannot maintain the qualification specified in Clause 11, make correction, undertake, or refrain from undertaking within the specified time. If any registered derivatives business operator fails to comply with the order, the SEC Office has the power to revoke the registration of derivatives business operator.

In case where the SEC Office knows that the cause of not maintain the

³ Amended by the *Notification of the Securities and Exchange Commission No. Kor Thor. 6/2555 Re: Registration of Derivatives Business Operator in the Category of Derivatives Broker and Derivatives Dealer (No.2)* dated 29 June 2012.

qualifications specified in Clause 11 by registered derivatives business operator has a serious effect that is inappropriate to continue its derivatives business, or has the fact that registered derivatives business operator cannot maintain their qualifications, the SEC Office has the power to revoke the registration of derivatives business operator.

Chapter 3

Transitional Provision

Clause 13 A derivatives business operator was registered under the Notification of the Securities and Exchange Commission which are repealed by this Notification shall be deemed to be registered as derivatives business operator under this Notification in the existing type of its registration and shall maintain the status of its juristic person and its qualifications of registered derivatives business operator under this notification.

A registered derivatives business operator as a derivatives dealer under **Paragraph 1** who is a foreign juristic person established under foreign law as specified in Clause 4 (3) shall have **shareholders' equity** not less than fifty million dollars or at equivalent since 1 August 2015.

Chapter 4

Effective Date

Clause 14 This Notification shall come into force as from 1 August 2010.

Notified this 15th day of July 2010.

-Signature-
(Mr. Vijit Supinit)
Chairman
Securities and Exchange Commission