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**Notification of the Securities and Exchange Commission**

**No. KorChor. 10/2555**

**Re: Units of Foreign Investment Scheme Not Subject to Provisions on Public Offering of Securities that are Offered for Sale to Institutional and High Net Worth Investors**

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By virtue of Section 14 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 63(5) of the Securities and Exchange Act B.E. 2535 (1992) 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 Securities and Exchange Commission hereby issues the following regulations:

**Clause 1.** In this Notification:

“institutional investor” means institutional investor under the Notification of the Securities and Exchange Commission concerning determination of definitions of institutional and high net worth investor;

“high net worth investor” means high net worth investor under the Notification of the Securities and Exchange Commission concerning determination of definitions of institutional and high net worth investor;

“foreign collective investment scheme” means collective investment scheme established in Asean country which has been approved, registered or undertaken in any other means comparable to approval or registration by home regulator to establish such scheme;

“Asean country” means Asean country which is a member of International Organization of Securities Commissions (IOSCO) whose membership is in the category of signatory A in Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (MMOU);

“unit” means securities in the category of shares of company (investment company) or securities in the category of certificates of trust (unit trust) having objective to invest in securities or financial instruments;

“home regulator” means supervisory agency in Asean member country having the authority to supervise foreign collective investment scheme or any

person responsible for undertaking of foreign collective investment scheme (CIS operator);

“brokerage firm” means securities company licensed to undertake securities business in the category of securities broker;

**Clause 2.** Units of foreign collective investment scheme with the following condition shall be deemed securities not subject to provisions of Chapter 3 Public Offering of Securities:

(1) being units of foreign collective investment scheme having characteristics under Clause 3;

(2) all units of such foreign collective investment scheme have been offered for sale to institutional or high net worth investors;

(3) having brokerage firm responsible for trading units of such foreign collective investment scheme, in the capacity of authorized representative, in the Kingdom of Thailand;

(4) having local representative for the purpose of coordinating and facilitating the following matters in the Kingdom of Thailand:

(a) disclosing and sending information of foreign collective investment scheme as required by law or regulations of home regulator to investors or any other information related to foreign collective investment scheme which person responsible for undertaking of foreign collective investment scheme intends to disclose to investors;

(b) receiving notice, order, warrant or any other document on behalf of person responsible for undertaking of foreign collective investment scheme or foreign collective investment scheme.

**Clause 3.** Foreign collective investment scheme which issues units exempted under Clause 2 shall have the following characteristics:

(1) having person responsible for undertaking of foreign collective investment scheme with the following characteristics:

(a) being subject to supervision of home regulator which has the authority to impose sanctions or order responsible person for undertaking of foreign collective investment scheme to act or refrain from acting in case of any action that is likely to cause damage to the interest of investors;

(b) not being subject to home regulator’s suspension or revocation order imposed on its business operation;

(c) not having record of violation of law or regulations prescribed by home regulator in the matters relating to disclosure of material information to investors or home regulator or not being in the process of submitting such document to investors or home regulator;

(2) having policy to invest in the similar assets and investment ratios to mutual fund under the notification related to establishment of mutual fund issued by virtue of Section 117;

(3) having offered for sale units of foreign collective investment scheme in the jurisdiction in which home regulator is established and not being subject to prohibition order imposed by home regulator on trading units of such foreign collective investment scheme.

**Clause 4.** This Notification shall come into force as from 1 September 2012.

Notified this 10<sup>th</sup> day of August 2012.

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(Chaikasem Nitisiri)

Chairman

Securities and Exchange Commission