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Notification of the Capital Market Supervisory Board

No. TorThor. 41/2555

Re: Rules, Conditions and Procedures for Trading of Units of Foreign Collective Investment Scheme to Institutional or High Net Worth Investor

By virtue of Section 16/6 and Section 113 of the Securities and Exchange Act B.E. 2535 (1992) as amended by the Securities and Exchange Act (No. 4) B.E. 2551 (2008) which contains 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. In this Notification:

The terms “institutional investor” and “high net worth investor” shall have the same meaning with such terms as specified in the Notification of the Securities and Exchange Commission concerning determination of definitions of institutional and high net worth investors;

“foreign collective investment scheme” means collective investment scheme established under foreign law;

“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 capital market supervisory agency of country where foreign collective investment scheme has been approved to establish or registered or person responsible for undertaking of foreign collective investment scheme (CIS operator) is under the supervision of such agency.

Clause 2. This Notification shall be applicable to securities company licensed to undertake securities business in the category of securities brokerage providing investor with trading service for units of foreign collective investment scheme.

Clause 3. The SEC Office may specify detailed guideline for the purpose of complying with this Notification and when having complied with the guideline, it shall be deemed to have been complied with requirements in this Notification.

Clause 4. Securities company shall not be allowed to provide trading service for units of foreign collective investment scheme except where the following conditions have been satisfied:

(1) being units listed and disclosed publicly on the SEC Office's website which were examined by the SEC Office under the Notification of the Office of the Securities and Exchange Commission concerning examination and disclosure of units of foreign collective investment scheme;

(2) being units offered for sale only to institutional and high net worth investors.

Clause 5. In providing trading service for units of foreign collective investment scheme, securities company shall comply with the following requirements:

(1) accepting trading order during business hours and on business days as specified in units offering circular of foreign collective investment scheme distributed in country where home regulator is located except the said specified [business] hours and days are not those of securities company, securities company may not accept trading order of units of foreign collective investment scheme on the said hours and days, providing further that it shall give prior notice to inform investor of the hours and days on which trading order will not be accepted;

(2) complying with requirements as specified in the Notification of the Capital Market Supervisory Board concerning rules for giving of investment advice and providing service related to trading of investment units, *mutatis mutandis*, except the case where specific requirements have been specified in this Notification.

Clause 6. Prior to agreeing to provide selling agent service for units of foreign collective investment scheme, securities company shall arrange to have agreement in writing with person responsible for undertaking of foreign collective investment scheme at least in the following matters:

(1) person responsible for undertaking of foreign collective investment scheme shall submit to securities company information similar to that submitted to investor or home regulator by such person as required by law or regulations, providing that [person responsible for undertaking of foreign collective investment scheme] shall certify in writing that such information is similar to that submitted to investor or home regulator, as the case may be;

(2) person responsible for undertaking of foreign collective investment scheme shall submit information under (1) to securities company within the same period as that person responsible for undertaking of foreign collective investment scheme having duty to submit to investor or home regulator, as the case may be.

Clause 7. Prior to selling units of foreign collective investment scheme, securities company shall at least undertake the following steps:

(1) examining qualification of investors to ensure they are institutional or high net worth investors allowed to purchase units of foreign collective investment scheme under the specified requirement in Clause 8;

(2) sending or distributing to investor the following documents containing material facts no different from the draft filed with the SEC Office under the Notification of the Office of the Securities and Exchange Commission concerning examination and disclosure of units of foreign collective investment scheme:

(a) summarized substance relating to units of foreign collective investment scheme (fact sheet);

(b) comparison of regulations on management of foreign collective investment scheme under law or regulations of the country where home regulator is located and regulations on management of mutual fund prescribed by virtue of Section 117;

(3) preparing supplementary information for offer for sale of units of foreign collective investment scheme which was prepared and distributed in the country where home regulator is located, providing that such information shall be kept at office or on the website of securities company and sent to investor upon request.

Clause 8. Prior to selling units of foreign collective investment scheme, securities company shall proceed to examine investor's qualifications at least as follows:

(1) arranging investor to self-declare identity;

(2) requesting information and documents supporting declaration of identity and additional documents in case of reasonable suspicion concerning investor's qualifications.

Securities company shall revise investor's information under the first paragraph at least once every two years except the case where securities company does not continuously provide service during the period of two years, investor's information shall be revised prior to providing trading service.

Clause 9. In case where person responsible for undertaking of foreign collective investment scheme fails to comply with agreement made with securities company under Clause 6, securities company shall no longer be allowed to provide trading service for units of foreign collective investment where such person is appointed as person responsible [for undertaking of foreign collective investment scheme].

Clause 10. Securities company shall submit to the SEC Office information and certification obtained from person responsible for undertaking of foreign collective investment scheme under agreement in Clause 6 within five business days as from the date of receiving such information and certification.

Clause 11. Securities company shall supervise its personnel to comply with this Notification and guideline specified by securities company.

Clause 12. In case where the SEC Office finds that any securities company violates or fails to comply with this Notification or guideline specified by securities company for the purpose of complying with this Notification or has inappropriate conduct in performing duty of giving investment advice and providing service relating to trading of units of foreign collective investment

scheme under this Notification, the SEC Office may order securities company to rectify, act or refrain from any action for the purpose of complying with this Notification.

Clause 13. This Notification shall come into force as from 1 September 2012.

Notified this 17th day of August 2012.

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