

TRANSLATED VERSION

As of February 16, 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 Securities and Exchange Commission

No. KorRor. 14/2555

**Re: Rules for Being Settlor and Trustee
of Real Estate Investment Trust**

By virtue of Section 8, Section 12(3), Section 13, the second paragraph of Section 30, Section 37(4), Subsection (3) of the first Paragraph of Section 55, Section 56, and Section 58 of the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)*, which contain certain provisions relating to the restriction of rights and liberties of persons as legally permitted by Section 29, in conjunction with Section 32, Section 33, Section 41, and Section 43, 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 This Notification shall come into force as from 1 December 2012.

Clause 2 In this Notification:

“REIT Manager” means a person specified in a trust instrument as the manager of **REIT** with the authority and duty to manage **REIT** in accordance with trust instrument.

“REIT” means a real estate investment trust pursuant to the *Notification of the Capital Market Supervisory Board concerning the Issuance and Offer for Sale regarding Unit of Real Estate Investment Trust*.

“unit” means a trust certificate representing the rights of the holder as a beneficiary of **REIT**.

“associated person” means persons with one or more of the following relationships:

- (1) spouse and the child who has not yet become *sui juris*;
- (2) relationship between a juristic person and a shareholder or partner of such juristic person which holds directly or indirectly more than 50% of issued shares of, or more than 50% of partnership interest in, such juristic person;
- (3) private funds of person in sub clause (1) or (2) above, but not including any provident fund.

“executive” means a manager, the first four executives below the manager, and every person with a position equivalent to the fourth such executive.

“major shareholder” means a person who holds directly or indirectly more than 10% of the total number of voting shares of any juristic person .

“relevant laws” means the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)* and the *Securities and Exchange Act B.E. 2535 (1992)*, especially sections relating to the issuance and sale of securities and disclosure, as well as notifications, rules and directives issued pursuant thereof.

“principal asset” means principal asset in which **REIT** is able to invest under rules as prescribed in *Notification of the Office of the Securities and Exchange Commission concerning the Issuance and Offer for Sale of Units regarding Real Estate Investment Trusts*.

** Please see Clause 10(2) of the *Notification of the Capital Market Supervisory Board No. TorChor. 49/2555 Re: The Issuance and Offer for Sale regarding Units of Real Estate Investment Trust (REIT) dated 21 November 2012*.

Clause 3 This Notification shall govern operations relating to real estate investment trusts as follows:

- (1) being settlor shall be subject to the provisions under Chapter 1;
- (2) [REPEALED];
- (3) the duties of the trustee shall be subject to the provisions under

Chapter 3.

Clause 4 The SEC Office may announce a detailed guideline for the benefit of compliance with the requirements under this Notification. In case of having complied with such guideline, it shall be deemed that a trustee has already complied with this Notification.

Chapter 1 Rules on A Settlor

Clause 5 The settlor shall be a private or public limited company which has been granted approval by the SEC to be a *REIT manager*, or in the process of submitting an application for such approval.

Clause 6 The settlor shall not hold *unit* more than the following rate:

- (1) 50% of all issued *units* of the *REIT*; and
- (2) 50% of all issued *units* of each class, in case there are many classes of

units.

Units which are held by *associated person* of the settlor shall be included in the calculation under the first paragraph.

Chapter 2 [REPEALED]

Clause 7 [REPEALED]

Clause 8 [REPEALED]

Clause 9 [REPEALED]

Clause 10 [REPEALED]

Chapter 3 [The Acceptance of Being Trustee and] Trustee's Duties

Clause 11 The readiness and ability to perform duties efficiently and independently as trustee of a *REIT* shall be considered scrupulously and confidently before acceptance as trustee of any *REIT*.

Clause 12 The following cases shall be deemed that a trustee has lacked independence which the acceptance to be trustee of a *REIT* shall be prohibited:

(1) the trustee has relationship with a *REIT manager* in the following manners:

(a) a trustee holds more than 5% of voting shares of the **REIT manager** of the **REIT**;

(b) the **REIT manager** holds more than 5% of voting shares of the trustee;

(c) a major shareholder of the trustee is also a major shareholder of the **REIT manager**;

(d) a director or executive of the trustee is also a director or executive of the **REIT manager**;

(e) the trustee has a direct or indirect relationship with the **REIT manager** that is similar to sub clause (a) (b) (c) and (e) or in other significant manner which might cause the trustee to lack independence in performing its duties as trustee for the **REIT**.

(2) the trustee is a person or has relationship with a person, who will dispose of, transfer, lease or transfer right in real estate to the **REIT**, and that causes the trustee to be unable to independently perform its duties relevant to real estate or taking advantage from real estate.

In case there is a certain fact appeared after acceptance to be trustee of the **REIT** that such trustee has lacked independence owing to having manner in accordance with the first paragraph, the trustee shall [i] inform such case to the SEC Office within 15 days as from the date when such fact has appeared with a reasonable and reliable measure demonstrating that the trustee would be able to perform duties independently [ii] and perform according to such measure unless otherwise specified by the SEC Office.

Clause 13 A trustee may hold **units** of a **REIT** for which it is a trustee, not exceeding the following proportion:

- (1) 50% of all issued **units** of the **REIT**; and
- (2) 50% of all issued **units** of each class, in case there are many classes

of **units**.

Units which are held by **associated person** of the trustee shall be included in the calculation under the first paragraph.

Clause 14 A trustee shall perform its duties to meet the minimum requirements as specified in the *Notification of the Securities and Exchange Commission concerning Operating System, Communication with Investors and General Performing Trust Business* as well as the rules stipulated in this Notification.

In case there is a conflict between rules as prescribed under the first paragraph and the rules stipulated in this Notification, the trustee shall comply with the rules as specified in this Notification principally.

Clause 15 A trustee shall ensure that the trust instrument will be complied with all material aspects of **relevant laws**. In addition, the trustee shall act in accordance with the following rules:

- (1) ensure that an amendment to the trust instrument complies with procedures and conditions as specified in the trust instrument and rules as stipulated in **relevant laws**;

(2) in case the amendment to the trust instrument does not meet the requirements as prescribed under sub clause (1), the trustee shall proceed in accordance with its power and duties as specified in the trust instrument and the *Trust for Transactions in the Capital Market Act B.E. 2550 (2007)*, in order to protect the rights and interests of unit holders as a whole;

(3) in case there is any subsequent change in the rules relating to the Offering of *units* or REIT Management promulgated under the *Securities and Exchange Act B.E. 2535 (1995)* and the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)*, the trustee shall amend the trust instrument to be consonance with such rules, by the procedures as specified in the trust instrument or in accordance with the SEC Office's order by virtue of Section 21 of the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)*.

Clause 15/1 A trustee shall assign **REIT**'s management to a **REIT manager** who has obtained an approval from the SEC Office, unless in case of other properties which are not **principal asset**, the trustee may manage those properties by itself as prescribed in Clause 15/2 or assign any other person as prescribed in Clause 19.

Clause 15/2 A management of any other properties which are not **principal asset** of a **REIT**, shall be conformed to the following rules:

(1) in case a trustee manages by itself, the trustee shall:

(a) separate operating unit of investment from other operating unit which may have conflicts of interest or duty;

(b) provide a preventive measure for using inside information by separation of operating unit of investment and its personnel from other operating unit and its personnel which may use benefit from such information;

(2) in case the trustee has assigned any other person who is not the **REIT manager**, the trustee shall comply with the rules as prescribed in the *Notification of the Capital Market Supervisory Board concerning Outsourcing Operational Function relating to Business Operation to Third Party* in part of delegation other person for managing investment for a fund, *mutatis mutandis*.

Clause 16 A trustee shall govern, control and monitor a **REIT manager** or any other assigned person (if any) to comply with the trust instrument and **relevant laws**.

Specifically, the duties under the first paragraph shall be at least the followings:

(1) ensuring that the management of the **REIT** is performed by the **REIT manager** which still has obtained an approval from the SEC Office for the entire period of existence of the **REIT**;

(2) governing, monitoring and proceeding as necessary to ensure that the assigned person still has qualified and performed its duties in conforming to the trust instrument and **relevant laws**, including dismissing the current assigned person and appointing a new one;

(3) governing that the investment of the **REIT** complies with the trust instrument and **relevant laws**;

(4) governing that the **REIT**'s information is disclosed properly and completely in compliance with the trust instrument and **relevant laws**;

(5) giving opinions relating to management or entering into transactions for the **REIT** by the **REIT manager** or any other assigned person (if any) [i] in order to support in a request for a resolution at a meeting of unitholders or disclose information about the **REIT** to investors, or [ii] when being requested by the SEC Office.

Clause 17 In case the *REIT manager* has acted or failed to act causing damage to the *REIT* or the *REIT manager* has failed to perform its duties in accordance with the trust instrument or *relevant laws*, the trustee shall proceed as follows:

- (1) report to the SEC Office within 5 business days from the day that the trustee knows or should have known of any such case;
- (2) correct, prevent, or mitigate such damage as considered appropriately.

Clause 18 The trustee shall attend every unit holders' meeting. If there is a request for a resolution at a meeting with respect to any proposed action, the trustee shall act as follows:

- (1) respond to questions and provide opinions on such action whether or not it complies with the trust instrument or *relevant laws*;
- (2) make an objection and inform unit holders that such action is unable to be proceeded in case that the proposed action will be in contravention of the trust instrument or *relevant laws*.

Clause 19 In case the *REIT manager* is unable to perform its duties, the trustee shall replace the management of the *REIT* as needed to protect against, prevent, or limit serious damage to the *REIT* or unit holders as a whole, and shall proceed in accordance with the powers and duties as specified in the trust instrument and the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)* in appointing a new *REIT manager*.

Where the trustee has to replace the management of the *REIT* under the first paragraph, it may appoint another person to substitute in managing the *REIT* in the interim, as long as such appointment in accordance with the scope, terms, and conditions as specified in the trust instrument.

Clause 20 A trustee shall not act in conflict with the interest of a *REIT* or in the way that the trustee may lack of independence for perform its duties unless being the following actions:

- (1) making a transaction which has measures or check and balance mechanisms for ensuring the fair treatment;
- (2) in case of entering into transaction being conflict of interest between the trustee and the *REIT*, the trustee shall disclose adequate information to unitholders in advance. In this regard, the unitholders shall not object or they object in the number below the amount as specified in the *Notification of the Office of the Securities and Exchange Commission concerning Rules on [Disclosure of Information before] Entering into Conflict of Interest Transactions relating to Real Estate Investment Trust [and the Objection of Such Transaction]*.

Clause 21 In case the trustee is also a unit holder of the *REIT* [as permitted under clause 13], the trustee shall cast any vote or take any action by taking into account the best interest of unit holders as a whole by adhering to the principles of good faith and care, including avoidance of any conflict with or effect on the performance of its duties as trustee of the *REIT*.

Clause 22 A trustee shall prepare the registration of unit holders, otherwise shall assign to the Stock Exchange of Thailand or a licensed securities registrar pursuant to the *Securities and Exchange Act B.E. 2535 (1995)* to prepare thereof on behalf of the trustee.

The registration of unit holders under the first paragraph shall contain at least the following particulars:

- (1) general detail:
 - (a) names of **REIT manager** and trustee;
 - (b) number of **units**, par value, paid-in capital, and the date of **unit** issuance;
 - (c) restriction on transfer (if any);
- (2) detail of unit holder:
 - (a) name, nationality, and address of unit holders;
 - (b) serial number of **unit** (if any) and the number of **units** held;
 - (c) date of the registration or disposal of unit holders;
 - (d) date of the cancellation of **unit** certificates and the replacement (if any);
 - (e) serial number of a requisition for amendment or record of particulars in the registration (if any).

Clause 23 A trustee shall provide an evidence representing rights in **unit** and deliver to unit holders, which shall convey at least the following information:

- (1) necessary and sufficient information for unit holders to use as evidence to assert of their rights, especially with the trustee, the **REIT manager**, and third parties;
- (2) information for contacting persons involved in the management of the **REIT**, such as the trustee, the **REIT manager**, the securities registrar;
- (3) information showing that unit holders are unable to sell units back to the **REIT** or redeem **units** with the **REIT**, and in case of [other] restrictions on rights of unit holders, such restrictions must be clearly specified.

In case the trustee appoints another person to be a securities registrar, the trustee shall govern such person to act in accordance with the rules as specified under the first paragraph and the trust instrument, except where the evidence is provided by the system of a securities depository center.

Clause 24 Subject to the rules in Clause 23, in case a unit holder requests the trustee or securities registrar for issuing new evidence representing rights in **units** in order to replace the one having been lost, faded, or materially damaged, the trustee shall conform or proceed to conform to the request within a period of reasonable time.

Notified this 20th day of November 2012

-signature-
(Chaikasem Nitisiri)
Chairman
Securities Exchange and Commission

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