

TRANSLATED VERSION

As of January 15, 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 Capital Market Supervisory Board

No. TorThor. 31/2556

**Re: Rules on Application for Obtaining an Approval and
Granting to Establish Branch Offices of Intermediaries**

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 92 of the *Securities and Exchange Act B.E. 2535 (1992)* and section 18 of the *Derivatives Act B.E. 2546 (2003)* 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 36, Section 41, Section 43, Section 44, Section 45 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 This Notification shall come into force as from 16 July 2013.

Clause 2 The following Notifications shall be repealed:

(1) *Notification of the Capital Market Supervisory Board No. TorThor. 8/2551 Re: Rules, Conditions and Procedures relating to Applying for and Permission of Establishing Branch Offices of Securities Company dated 2 April 2008;*

(2) *Notification of the Capital Market Supervisory Board No. TorThor. 45/2553 Re: Rules, Conditions and Procedures relating to Applying for and Permission of Establishing Branch Offices of Securities Company (No. 2) dated 7 December 2010;*

(3) *Notification of the Capital Market Supervisory Board No. TorNor. 41/2552 Re: Rules, Conditions and Procedures relating to Applying for and Permission of Establishing Branch Offices of Investment Management Company dated 3 August 2009;*

(4) *Notification of the Capital Market Supervisory Board No. TorThor. 7/2551 Re: Rules on Applying for and Permission of Establishing Branch Offices of Derivatives Broker dated 2 April 2008;*

(5) *Notification of the Capital Market Supervisory Board No. TorThor. 46/2553 Re: Rules on Applying for and Permission of Establishing Branch Offices of Derivatives Broker (No. 2) dated 7 December 2010.*

Clause 3 This Notification shall be applicable to the establishing of any *intermediary's branch office*, excluding the *branch office* of [an intermediary which is] financial institutions established under other laws.

Clause 4 In this Notification:

“intermediary” means a securities company and a derivatives intermediary.

“branch office” means a branch office of an *intermediary*, no matter which form is, for providing services, whether all or some parts, to clients as permitted by its license and being which one of the following offices:

- (1) domestic branch office;
- (2) oversea branch office; or
- (3) *oversea representative office*.

“online branch office” means a *branch office* of an *intermediary* of which services are provided solely through computers or electronic devices linked to computer or electronic system of head office or another *branch office*.

“oversea representative office” means a *branch office* of an *intermediary* established in foreign jurisdiction for providing services of information or as liaison office within the scope of this Notification.

“auditor” means an auditor approved by the SEC Office under the *Notification of the Office of the Securities and Exchange Commission concerning Approval of Auditors in Capital Market*.

“**executive**” means an executive under the *Notification of the Capital Market Supervisory Board concerning the Qualification and Other Prohibited Characteristics of Directors and Executives of Securities Company* or under the *Notification of the Capital Market Supervisory Board concerning the Qualification and Prohibited Characteristics of Directors and Executives of Derivatives Intermediary*, as the case may be.

Clause 5 An *intermediary* may establish a **branch office** by complying with the following rules:

(1) in case of domestic or oversea branch office, the *intermediary* shall comply with the provision as prescribed in Chapter 1;

(2) in case of **oversea representative office**, the *intermediary* shall comply with the provision as prescribed in Chapter 2.

The *intermediary* shall comply with the following Notifications, as the case may be, in case of operating system of the **branch office** under the first paragraph relating to computer or electronic system:

(1) the *Notification of the Office of the Securities and Exchange Commission concerning the Operational Control and Security relating to Information Technology of Securities Company*;

(2) the *Notification of the Office of the Securities and Exchange Commission concerning the Guidance of Operational Control and Security relating to Information Technology of Securities Company*;

(3) the *Notification of the Office of the Securities and Exchange Commission concerning the Operational Control and Security relating to Information Technology of Licensed Derivatives Broker*.

Clause 6 The SEC Office may announce a detailed guideline for the benefit of compliance with the requirement under this Notification. In case of having complied with such guideline, it shall be deemed that an *intermediary* has already complied with this Notification.

Chapter 1
Rules on Establishing Domestic or Oversea
Branch Office

Division 1
An approval

Clause 7 An *intermediary* who wishes to establish a domestic or oversea branch office shall have the following qualifications:

(1) having net capital or shareholders' equity as follows:

(a) in case the *intermediary* is under the regulations concerning net capital¹, such *intermediary* shall maintain net capital in conforming to the rules as stipulated in the Notification of Securities and Exchange Commission on the issue thereof, as the case may be;

(b) in case of a securities company in category of mutual fund management company or private fund management company, such securities company shall have shareholders' equity presented in latest financial statement, audited by *auditor*, not less than the ratios as specified in the *Notification of Securities and Exchange Commission concerning the Maintaining Capital Adequacy of Mutual Fund Management Company* and the *Notification of Capital Market Supervisory Board concerning Indemnity Insurance of Mutual Fund Management Company and Requirement for Mutual Fund Management Company to Maintain Capital Adequacy*;

(c) in case of the *intermediary* other than those specified in sub clause (a) and (b), such *intermediary* shall have shareholders' equity presented in latest financial statement, audited by *auditor*, in positive position. In this regard, in case the *intermediary* has raised its capital after the date of the latest financial statement, the amount of raised capital could be summed up to shareholders' equity.

¹ The regulations concerning net capital rules hereby refer to:

(1) The *Notification of Securities and Exchange Commission concerning Maintaining Financial Status of the Derivatives Broker*; and

(2) The *Notification of Securities and Exchange Commission concerning Maintaining Net Capital*.

(2) having a system for handling client's complaints and dispute resolution efficiently, for instance the compliance according to the *Notification of Capital Market Supervisory Board concerning Rules on Imposing the Duty of Intermediary to Handle Clients' Complaints and Participating in the SEC Office's Project to Resolve Disputes by Arbitration*;

(3) having business plan and operating system prepared for establishing the **branch office**. In this regard, such system shall compose of efficient system relating to operational management, compliance and information management, including the readiness of personnel;

(4) having the result of the evaluation by the SEC Office regarding the management of the operational risk and the customer relationship risk which is not more than medium level or which is in the acceptable level, unless having obtained exemption from the SEC Office;

(5) having not been accused of or subjected to criminal proceeding, whether under Thai or foreign laws, concerning [i] unfair practice of trading securities or derivatives, or [ii] fraudulent, deceptive or unlawfully exploitable management, including not having such offense record during the period as specified by the SEC Office which is backward not more than 3 years before the expected date of establishing the **branch office** or before the date of submitting requisition for establishing the **branch office**, as the case may be, or otherwise having discharged **executive** or personnel who has to be responsible for the cause that made the **intermediary** has been determined to have prohibited characteristics thereof;

(6) having not appeared that the **intermediary** deliberately concealed its financial status or operating result during backward 12 months before the expected date of establishing the **branch office** or before the date of submitting requisition for establishing the **branch office**, as the case may be, or otherwise having discharged **executive** or personnel who has to be responsible for the cause that made the **intermediary** has been determined to have prohibited characteristics thereof;

(7) having not been prohibited, suspended or restricted to undertake business by the Capital Market Supervisory Board or the SEC Office or having not been correcting its financial status or operating result according to the order of such authorities;

(8) having not been ordered by the SEC Office to adjust the defect of internal control, compliance or information management system or having not been adjusting the systems thereof, unless having obtained exemption from the SEC Office.

Clause 8 The granting approval to an *intermediary* for establishing domestic or oversea branch office shall comply with the following rules:

(1) in case of domestic branch office, it shall be deemed that an approval has been granted to the *intermediary* when [i] the qualifications as specified in Clause 7 has been met by the *intermediary* as of the opening date of such *branch office* and [ii] the *intermediary* has already notified the SEC Office of the details regarding the establishing domestic branch office, by using the form as provided on the SEC Office's website, at least 5 business days before the opening date; or

(2) in case of oversea branch office, the *intermediary* shall submit an application for obtaining an approval, by using the form as provided on the SEC Office's website, together with evidentiary documentation to the SEC Office.

Clause 9 For the deliberation of the application for obtaining an approval of establishing oversea branch office as prescribed in Clause 8(2), the SEC Office shall deliberate and notify thereupon to an *intermediary* within 30 days as from the date when the SEC Office received the application together with the correct and complete set of evidentiary documentation, unless where it is necessary to consider additional facts, the period of deliberation can be extended but not more than 90 days from the date when the application together with the correct and complete set of evidentiary documentation were received. In case deliberative period has been extended, the SEC Office shall inform the *intermediary* the necessity thereof before the end of such 30 days.

Clause 10 In case an *intermediary* wishes to expand the scope of *online branch office*'s existing services, the *intermediary* shall notify the details of the expansion to the SEC Office at least 5 business days before the date of providing new services.

Division 2
**Rules on operation of domestic or
oversea branch office**

Clause 11 An *intermediary* shall operate its domestic or oversea branch office in accordance with the following rules:

(1) display the name that it is a *branch office* attached to the name of the *intermediary*. In case of *online branch office*, the *intermediary* shall identify clearly that such branch will provide services through online only;

(2) prepare readiness of sufficient personnel and other resources for operation of a *branch office*, including efficiency of management and compliance system;

(3) arrange for retaining information, documents and relevant evidences relating to its business completely and currently and in the manner of prompt for being examined by the SEC Office.

(4) report to the SEC Office immediately in case an oversea branch office was sanctioned or given an order to act or omit to act, by foreign capital market regulator or foreign authority of the country where such *branch office* is located, which materially impacts to the operation of such branch.

Clause 12 An *intermediary* shall appoint a personnel, approved by the SEC Office under in *Notification of the Capital Market Supervisory Board concerning Rules on Personnel in Capital Market Business*, to perform duty as a branch manager or responsible person for operating a *branch office* by complying with the following rules:

(1) in case of domestic branch office, the *intermediary* shall appoint a branch manager or a responsible person for operating such branch;

(2) in case of oversea branch office, the *intermediary* shall appoint a branch manager to operate only such branch, unless the SEC Office has rendered a waiver;

(3) in case of *online branch office*, the *intermediary* shall appoint a responsible person for operating such branch.

Clause 13 In case there are certain facts that a branch manager or a responsible person for operating a *branch office* has [i] failed to comply with Clause 12, [ii] been discharged the position or [iii] been incapable of performing his duty, it shall:

(1) be the general manger to temporarily perform the duty in lieu of those persons thereof, in case of domestic branch office or domestic *online branch office*;

(2) be either one of the following personnel to temporarily perform the duty in lieu of those persons thereof, in case of oversea branch office or oversea *online branch office*;

(a) the general manager;

(b) a person approved by the SEC Office to perform the duty in the level of controlling, supervising and managing the business unit under the *Notification of the Capital Market Supervisory Board concerning Rules on Personnel in Capital Market Business*;

(3) appoint a new branch manager or a new responsible person, as the case may be, within 1 month as from the date when the *intermediary* has acknowledged such fact or when those persons thereof have been discharged the position unless having obtained a waiver of period from the SEC Office.

Clause 14 In case of *online branch office*, an *intermediary* shall provide computer or other electronic devices for services which are limited to the following operations:

(1) receiving the request for opening account of securities or derivatives trading in order to deliver such request to head office or other [full] *branch offices* for considering;

(2) rendering information prepared in prospectus or other information, which the *intermediary* has duty to disclose to investors;

(3) providing any channels for clients to request an advice about investment in securities or derivatives from personnel who have duty to provide consultation in head office or other [full] *branch offices*;

(4) providing any channels for clients which they can make securities or derivatives trading order by themselves;

(5) receiving or delivering money;

(6) any other necessary or relevant matters as stipulated by

the Notification of the SEC Office.

For the operation of *online branch office* under the first paragraph, the *intermediary* may provide personnel for cooperating or facilitating its clients to make aforementioned transactions.

Division 3
Controlling and closing domestic or
oversea branch office

Clause 15 The SEC Office may order an *intermediary* to amend [any act], act or omit to act in order to comply with this Notification or revoke the approval for establishing domestic or oversea branch office, where evidences are appeared to the SEC Office that such branch office has had inappropriate manner as follows:

- (1) doing business in a manner which may cause damage to its clients;
- (2) undertaking operation in a manner which may cause disgrace to the reputation of Thailand or may impact on international relationship, in case of oversea branch office;
- (3) inability to maintain the qualifications as specified in Clause 7;
- (4) not having system of operational management, compliance or information management efficiently;
- (5) inability to comply with the rules as specified in Division 2 of this Chapter.

Clause 16 An *intermediary* shall notify the SEC Office of closing domestic or oversea branch office at least 30 days before the closure.

Clause 17 An *intermediary* who has obtained an approval to close domestic or oversea branch office shall make an announcement to clients in compliance with the following rules:

- (1) the announcement of such closure shall be explicitly posted at the placement of branch office in order to be publicly known at least 30 days before closing date unless the SEC Office exempts for such period of announcement;
- (2) the announcement under sub clause (1) shall provide details regarding channels to contact head office or other branch offices.

Chapter 2

Rules on Establishing Oversea Representative Office

Clause 18 An *oversea representative office* shall perform its business only in accordance with the following scopes:

- (1) studying, researching and assembling information relating to economic and financial situation of foreign countries;
- (2) being liaison between its clients or foreign institutions and head office, without any services to clients in the same manner as *branch office* under Chapter 1;
- (3) proceeding relating to any information or being cooperator, as prescribed in the Notification of the SEC Office.

Clause 19 An *intermediary* who wishes to open an *oversea representative office* shall have readiness of the following arrangements:

- (1) work plan for establishment and operation of the office;
- (2) efficient management system which are at least operating, compliance and information management system, including sufficient personnel.

It shall be deemed to obtain an approval from the SEC Office for establishing an *oversea representative office* if an *intermediary* possesses requirement as specified under the first paragraph as of the opening day of such branch office and notifies the details of the establishing to the SEC Office, by using a form provided on the SEC Office's website at least 5 business days before the opening date.

Clause 20 In case an *intermediary* was sanctioned or given an order to act or omit to act by foreign capital market regulator or foreign authority of the country where an *oversea representative office* is located, which materially impacts to the operation of such branch office, the *intermediary* shall report such occurrence to the SEC Office without delay.

Clause 21 Where evidence are appeared to the SEC Office that an *oversea representative office* of the *intermediary* has performed activities outside the scopes as specified in Clause 18 or has taken any actions which may cause disgrace to the reputation of Thailand or may impact to international relationship between Thailand and the country being location of such office, the SEC Office is empowered to revoke the approval for establishing of such branch office.

Clause 22 In case an *intermediary* wishes to close an *oversea representative office*, whether temporarily or permanently, the *intermediary* shall notify the closing date to the SEC Office at least 30 days before the closure.

Chapter 3 **Transitional Provision**

Clause 23 Any *branch offices* and *oversea representative office* of the *intermediary*, which have been established lawfully before this Notification comes into force, they are deemed to be *branch offices* granted an approval by the SEC Office to be established under this Notification.

Notified this 26th day of June 2013.

- Signature -

(Vorapol Socratyanurak)

Secretary-General

Office of the Securities and Exchange Commission

Chairman

Capital Market Supervisory Board

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