

TRANSLATED VERSION

As of May 30, 2014

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. KorJor. 3/2557

Re: Rules on Units of Foreign Collective Investment Scheme Exempted from the Provisions of Public Offering for Sale of Securities

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)*, the Securities and Exchange Commission hereby issues the following regulations:

Clause 1 This Notification shall come into force as from 1 July 2014.

Clause 2 The *Notification of the Securities and Exchange Commission concerning Rules on Exempting the Offer for Sale of Units of Foreign Collective Investment Scheme to Institutional or High Net Worth Investors from the Provisions of Public Offering for Sale of Securities dated 12 August 2012* shall be repealed.

Chapter 1

General Provisions

Division 1

Scope of the provisions

Clause 3 This Notification shall be applicable to the following cases:

(1) offering for sale regarding *units of foreign collective investment scheme* to *institutional* or *high net worth investor* as prescribed in Chapter 2;

(2) offering for sale regarding *units of foreign collective investment scheme* to *general investor* as prescribed in Chapter 3.

Division 2
Definitions

Clause 4 In this Notification:

“**general investor**” means any investor other than *institutional* or *high net worth investor*.

“**institutional investor**” means an institutional investor under the *Notification of the Securities and Exchange Commission concerning Determination regarding Definition of Institutional Investor and High Net Worth Investor*.

“**high net worth investor**” means a high net worth investor under the *Notification of the Securities and Exchange Commission concerning Determination regarding Definition of Institutional Investor and High Net Worth Investor*.

“**foreign collective investment scheme**” means any collective investment scheme which is established in an *ASEAN country*. In this regard, such scheme shall be [i] granted an approval from, [ii] registered with or [iii] permitted for any undertaking in a similar manner of such approval or register from *home regulator*.

“**ASEAN country**” means any ASEAN country which is both a member of the International Organization of Securities Commissions (IOSCO) and a signatory A to the *Multilateral Memorandum of Understanding concerning Consultation and Cooperation and the Exchange of Information*.

“**unit**” means securities in the category of shares of investment company or trust certificates of unit trust. In this regard, either investment company or unit trust shall have objective to invest in securities or financial instruments.

“**CIS operator**” means any person responsible for management of *foreign collective investment scheme*.

“**home regulator**” means a supervisory agency of an *ASEAN country* which has the authority to supervise a *foreign collective investment schemes* or *CIS operator*.

“**brokerage firm**” means a securities company having obtained securities brokerage license [under the *Securities and Exchange Act B.E. 2535 (1992)*].

Chapter 2
Offering for Sale Regarding Units of Foreign Collective
Investment Scheme to Institutional or
High Net Worth Investor

Clause 5 *Units of a foreign collective investment scheme* offered for sale to the *institutional* and *high net worth investor* shall be deemed the securities not subject to provisions of Chapter 3 [of the *Securities and Exchange Act B.E. 2535 (1992)*] concerning *Public Offering for Sale of Securities* as long as the scheme is in keeping with the following conditions:

- (1) having characteristics as prescribed in Clause 6;
- (2) demonstrating that *units*, as a whole, will be offered to the *institutional* and *high net worth investor* [in Thailand];
- (3) assigning a *brokerage firm* acting as an local representative responsible for selling, repurchasing and redeeming *units* in Thailand;
- (4) having a local representative, being [i] a [Thai] securities company or [ii] a representative office in Thailand according to Section 93 [of the *Securities and Exchange Commission Act 2535 (1992)*], in order to coordinate and facilitate the following matters in Thailand:
 - (a) disclosing and sending [i] information of the scheme as required by law or regulations under the responsibility of *home regulator* to investors or [ii] any other information relating to the scheme which the *CIS operator* wishes to disclose to investors;
 - (b) receiving notice, order, summon or any other document on behalf of the scheme or the *CIS operator*.

Clause 6 For the purpose of Clause 5(1), the *foreign collective investment scheme* shall:

- (1) be managed by a *CIS operator* who:
 - (a) is under supervision of *home regulator* which has the authority to impose sanctions or to order the *CIS operator* to act or refrain from acting in case there is an action which may cause damages to the interest of the investors;
 - (b) is not subject to the order of business suspension or revocation issued by *home regulator*;

(c) has not had record of violating the laws or regulations under the responsibility of the **home regulator** in the matters relating to disclosure of material information to investors or the **home regulator**, or has not failed to submit such information to investors or the **home regulator**.

(2) have investment policy to invest in eligible asset type with investment limit in similar to mutual funds according to the Notification concerning establishment and management of mutual fund issued by virtue of section 117 [of the *Securities and Exchange Act B.E. 2535 (1992)*]. In this regard, in case the scheme has a policy to invest in feeder fund, such fund shall be established in **ASEAN country**;

(3) offer for sale of its **units** in the jurisdiction of the **home regulator** as well and not be under the banning order of sale.

Chapter 3

Offering for Sale Regarding Units of Foreign Collective Investment Scheme to General Investor

Clause 7 *Units of a foreign collective investment scheme* offered for sale to the **general investor** shall be deemed the securities not subject to provisions of Chapter 3 [of the *Securities and Exchange Act B.E. 2535 (1992)*] concerning *Public Offering for Sale of Securities* as long as the scheme is in keeping with the following conditions:

(1) being subject to supervision of **home regulator** which has jointly signed with the SEC Office in the *Memorandum of Understanding on Streamlined Authorisation Framework for Cross-border Public Offers of ASEAN Collective Investment Scheme*;

(2) details of the scheme are in consonance with *Part I : Qualifications of the CIS operator, Trustee/Fund Supervisor, and requirements relating to Approval, Valuation, and Operational Matters* and *Part II : The Product Restrictions of Qualifying CIS* as prescribed in *Appendix C : Standards of Qualifying CIS of the Memorandum of Understanding on Streamlined Authorisation Framework for Cross-border Public Offers of ASEAN Collective Investment Schemes*;

(3) being in conforming to Clause 6(3), *mutatis mutandis*;

(4) assigning a **brokerage firm** acting as an local representative responsible for selling, repurchasing and redeeming **units** in Thailand;

(5) having a local representative being [i] a [Thai] securities company or [ii] a representative office in Thailand according to Section 93 [of the *Securities and Exchange Commission Act 2535 (1992)*], in order to coordinate and facilitate the following matters in Thailand:

- (a) proceeding the same action as prescribed in Clause 5(4);
- (b) verifying the details of constitutive document [for ensuring that the scheme has been conformed to this Notification];
- (c) contacting with the scheme registrar on behalf of unitholders in Thailand;
- (6) properly providing any channel to settle the dispute by any other measure other than court, unless the scheme specifies to comply with the *Dispute Resolution and Enforcement Mechanism (“DREM”)*;
- (7) specifying to disclose material information at least being the same as the information disclosed to unitholders by mutual funds according to the Notification concerning the establishment and management of mutual funds issued by virtue of section 117 [of the *Securities and Exchange Act B.E. 2535 (1992)*].

Notified this 30th day of May 2014.

-signature-
(Achporn Charuchinda)
Chairman
Securities and Exchange Commission

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