

**TRANSLATED VERSION**

As of September 23, 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 Office of the Securities and Exchange Commission**

**No. SorThor. 31/2557**

**Re: Provisions for Securities Company in case of  
Having Failed to Maintain Net Capital**

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By virtue of sub section (2) of the first paragraph of Section 141 under the *Securities and Exchange Act B.E. 2535 (1992)* by having obtained the permission from the Capital Market Supervisory Board, the SEC Office hereby issues the following regulations:

**Clause 1** In this Notification:

“*securities company*” means a securities company having duty to maintain net capital in accordance with the *Notification concerning Maintenance of Net Capital*.

“*Notification concerning Maintenance of Net Capital*” means the *Notification of the Securities and Exchange Commission concerning Maintenance of Net Capital*.

**Clause 2** A *securities company* who has failed to maintain net capital in accordance with the *Notification concerning Maintenance of Net Capital* shall:

(1) prepare and submit a correction plan to maintain net capital to the SEC Office within 30 days as from the first day since the *securities company* has failed to maintain net capital unless the *securities company* would be able to maintain net capital in accordance with the *Notification concerning Maintenance of Net Capital* for at least 7 business days consecutively before the submission period would expire;

(2) proceed according to the correction plan which has been submitted with the SEC Office under sub clause (1) in order to regain the ability to maintain net capital in accordance with the *Notification concerning Maintenance of Net Capital* within the specified period in such plan, but not more than 90 days as from the first day since

the *securities company* has failed to maintain net capital.

In case there is any necessary and appropriate cause, the SEC Office may render a waiver of the period under the first paragraph. In this regard, *the securities company* who wishes for such waiver shall submit a requisition for the waiver, in advance at least 10 days prior to the expiring date under the first paragraph, to the SEC Office and shall demonstrate the reason for the waiver.

**Clause 3** During the period since a *securities company* has been unable to maintain net capital in accordance with the *Notification concerning Maintenance of Net Capital* or during the process of complying with Clause 2, the *securities company* shall not proceed following actions until the *securities company* would be able to maintain net capital and having obtained an approval from the SEC Office to continue its business:

(1) increasing the amount of trading securities to cash account of clients, unless the clients have already left the money as a deposit with the *securities company*, or such increase as a result of selling a client's securities which have already been in the possession of the *securities company*;

(2) increasing the outstanding debt of client's margin account or securities borrowing account much more than the outstanding debt as of the first day of the failure to maintain net capital in accordance with the *Notification concerning Maintenance of Net Capital*, unless the increase of outstanding debt arising from any of the following factors:

(a) accrued interest receivables;

(b) an increase in the value of the borrowed securities;

(c) a purchase of securities for return of the securities borrowed for short sale;

(3) providing service or opening trading account for a new client;

(4) increasing investment portfolio unless such investment is:

(a) the investment in bank deposit or units of domestic money market fund;

(b) hedging of the investment or encumbrance risks of the company which have already been existence on the first day since the *securities company* has failed to maintain net capital in accordance with the *Notification concerning Maintenance of Net Capital*;

(c) the investment resulted from commitment as a market maker in trading securities which the *securities company* has already protected risks which may occur from the investment with fully amount;

(d) the investment resulted from an error in making trading orders for clients (error port);

(5) making an additional amount of firm commitment of securities underwriting under the agreement which came into force before the *securities company* has failed to maintain net capital in accordance with the *Notification concerning Maintenance of Net Capital*;

(6) increasing investment amount under management for private fund of any client, or engaging in a new agreement of private fund management;

(7) endorsement, granting an aval, or acceptance of bills, or being a guarantor in any transaction relating to the business of the *securities company* for the client, unless the client has deposited cash as collateral in full amount with the *securities company*;

(8) engaging in any other action, as specified by the SEC Office, which is the cause of increasing risk to its financial status, operation, or the performance under the agreements with clients.

**Clause 4** A *securities company* having failed to maintain net capital in accordance with the *Notification concerning Maintenance of Net Capital*, shall comply with Clause 5, in case it falls into any of the following situation:

(1) miscarriage of submitting correction plan to the SEC Office within specified time under Clause 2 (1) or the second paragraph of Clause 2, as the case may be;

(2) unsuccessfulness to figure out the failure of maintenance of net capital in accordance with the arrangement and within the time, as specified in the correction plan submitted [to the SEC Office] as stipulated in Clause 2(2) or the second paragraph of Clause 2, as the case may be;

(3) having net capital lower than zero for more than 5 consecutive business days;

(4) defaulting on disbursement or delivery of securities to the clearing house or clients.

**Clause 5** A *securities company* falling into the situation under Clause 4 shall:

(1) suspend all of the business until the *securities company* would be able to maintain net capital in accordance with the *Notification concerning Maintenance of Net Capital* and would obtain an approval from the SEC Office to continue its business. In this regard, such suspension does not include [i] the entering into any transaction relating to hedging overall investment risks of the *securities company* or [ii] the performance of remaining obligation;

(2) close out its derivatives positions unless:

(a) entering into such derivatives contract for the purpose of hedging investment risks or obligation of the *securities company*;

(b) such derivatives position does not increase any additional charge or obligation afterward;

(3) transfer assets in client's cash account to other *securities company* within 15 business days as from the date when there was any situation under Clause 4 in order to keep clients' assets in custody of any other *securities company* as transferee unless the SEC Office has rendered a waiver if it is necessary and appropriate. In this regard, the *securities company* as transferor shall be responsible for any expenses incurred from the aforesaid proceeding;

(4) in case of the *securities company* licensed to undertake securities brokerage, securities dealing or securities underwriting limited to investment units, the *securities company* shall:

(a) arrange each client to be registered as the unitholder by oneself;

(b) transfer the trading account of clients, to any of the following *securities company*, according to their notified desires, to provide services instead;

1. the mutual fund management company which establishes and manages the mutual fund invested by those clients;

2. the *securities company* in the category of brokerage, dealing or underwriting which is licensed to provide services of investment units trading;

(c) comply with sub clause (a) and (b) within 5 business days as from the date when there was any situation under Clause 4 unless the SEC Office has rendered a waiver if it is necessary and appropriate. In this regard, the *securities company* under consideration shall be responsible for any expenses incurred from the aforesaid proceeding;

(5) notify in writing immediately to clients for the undertaking under sub clause (1), (3) or (4), as the case may be;

(6) perform or omit to perform any other act as specified by the SEC Office in order that the *securities business* would be able to regain maintenance of net capital in accordance with the *Notification concerning Maintenance of Net Capital*.

Notified this 23<sup>rd</sup> day of September 2014.

-signature-

(Vorapol Socratyanurak)

Secretary-General

Office of the Securities and Exchange Commission

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