

TRANSLATED VERSION
Codified up to No. 2
As of August 26, 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. KorRor. 14/2555
Re: Rules for Being Settlor and Trustee of
Real Estate Investment Trust
(Codified)

By virtue of Section 8, Section 12(3), Section 13, the second paragraph of Section 30, Section 37(4), Sub-clause (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, which 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 the 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 Units of Real Estate Investment Trust*.

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

“**associated person**” means a person 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 percent of the issued shares of, or more than 50 percent of partnership interest in, such juristic person;
- (3) private funds of the persons under Sub-clause (1) or (2) above, excluding provident funds.

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

“*major shareholder*” means a person who holds directly or indirectly more than 10 percent 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 the Sections relating to the issuance and offer for sale of securities and disclosure, as well as notifications, rules and directives issued pursuant thereof.

“*principal asset*”¹ means a principal asset in which **REIT** is allowed to invest under the rules prescribed in the *Notification of the Office of the Securities and Exchange Commission concerning the Issuance and Offer for Sale of Units regarding Real Estate Investment Trusts*.

Clause 3 This Notification shall apply to the operation relating to **REIT** as follows:

- (1) being a settlor shall be subject to the rules under Chapter 1;
- (2)² [**REPEALED**];
- (3) performing duties as a trustee shall be subject to the rules under

Chapter 3.

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

Chapter 1

Rules on Settlor

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

¹Added by the *Notification of the Securities and Exchange Commission No. KorRor. 12/2557 Re: Rules for Being Settlor and Trustee of Real Estate Investment Trust (No. 2) dated 26 August 2014*, effective as from 1 September 2014.

² Repealed by the *Notification of the Securities and Exchange Commission No. KorRor. 12/2557 Re: Rules for Being Settlor and Trustee of Real Estate Investment Trust (No. 2) dated 26 August 2014*, effective as from 1 September 2014.

Clause 6 The settlor shall not hold *units* higher than the following rate:

(1) 50 percent of all issued *units* of the *REIT*; and

(2) 50 percent of all issued *units* of each class in case of 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 2³ Approval of Trustee

Clause 7 [REPEALED]

Clause 8 [REPEALED]

Clause 9 [REPEALED]

Clause 10 [REPEALED]

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

Clause 11⁴ 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 12⁵ The following cases shall be deemed that a trustee has lacked independence and shall be prohibited from becoming the trustee of a *REIT*:

³ Repealed by the *Notification of the Securities and Exchange Commission No. KorRor. 12/2557 Re: Rules for Being Settlor and Trustee of Real Estate Investment Trust (No. 2) dated 26 August 2014*, effective as from 1 September 2014.

⁴ Amended by the *Notification of the Securities and Exchange Commission No. KorRor. 12/2557 Re: Rules for Being Settlor and Trustee of Real Estate Investment Trust (No. 2) dated 26 August 2014*, effective as from 1 September 2014.

⁵ Amended by the *Notification of the Securities and Exchange Commission No. KorRor. 12/2557 Re: Rules for Being Settlor and Trustee of Real Estate Investment Trust (No. 2) dated 26 August 2014*, effective as from 1 September 2014.

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

- (a) the trustee holds more than 5 percent of the voting shares of the **REIT manager** of the **REIT**;
- (b) the **REIT manager** holds more than 5 percent of the 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** similar to Sub-clauses (a) (b) (c) and (d) or in any other significant manner which might cause the trustee to lack independence in performing its duties.

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

In case a certain fact appears after acceptance to be the trustee of the **REIT** that such trustee has lacked independence owing to having any manner specified in 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 shall perform according to such measure unless otherwise specified by the SEC Office.

Clause 13⁶ A trustee may hold **units** of the **REIT** for which it is a trustee at an amount not exceeding the following proportions:

- (1) 50 percent of the total issued **units** of the **REIT**; and
- (2) 50 percent of the total issued **units** of each class in case there are many classes of **units**.

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

⁶ Amended by the *Notification of the Securities and Exchange Commission No. KorRor. 12/2557 Re: Rules for Being Settlor and Trustee of Real Estate Investment Trust (No. 2) dated 26 August 2014*, effective as from 1 September 2014.

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 Performance of Trust Business* as well as the rules stipulated in this Notification.

In case there is a conflict between the 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 complies with all material aspects of the *relevant laws* and shall act in accordance with the following rules:

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

(2) in case an amendment to the trust instrument fails to 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)* to protect the rights and interest of the unitholders as a whole;

(3) in case there is any subsequent change to the rules relating to the offering of *units* or *REIT* management promulgated under the *Securities and Exchange Act B.E. 2535 (1992)* and the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)*, the trustee shall amend the trust instrument in compliance with such rules according to the procedures 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 15/1⁷ 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 assets*, the trustee may manage such properties by itself as prescribed under Clause 15/2 or assign any other person as prescribed under Clause 19.

⁷ Added by the *Notification of the Securities and Exchange Commission No. KorRor. 12/2557 Re: Rules for Being Settlor and Trustee of Real Estate Investment Trust (No. 2) dated 26 August 2014*, effective as from 1 September 2014.

Clause 15/2⁸ Management of any other properties which are not *principal assets* of a **REIT** shall comply with the following rules:

(1) in case of managing by itself, the trustee shall at least impose the minimum measures as follows:

(a) segregating the unit responsible for managing investment of such other assets from the unit whose operation may cause a conflict of interest or duty;

(b) segregating the unit and personnel responsible for managing investment in such other assets from other units and personnel which may seek benefits from misuse of inside information.

(2) in case of assigning a 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 of Functions relating to Business Operation* in the part relating to management of fund investment, *mutatis mutandis*.

Clause 16⁹ A trustee shall govern, control and monitor **REIT manager** or any other assigned person (if any) to ensure compliance with the trust instrument and the *relevant laws*.

The duties under the first paragraph shall include the following duties:

(1) ensuring that the **REIT** is managed by the **REIT manager** whose approval from the SEC Office shall last throughout the entire existence of the **REIT**;

(2) governing, monitoring and proceeding as necessary to ensure that the assigned person has maintained the qualifications and has performed duties in compliance with the trust instrument and the *relevant laws*, including dismissal of the current assigned person and appointment of 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 accurately and completely in compliance with the trust instrument and *relevant laws*;

(5) giving opinions relating to management or execution of transactions for the **REIT** by the **REIT manager** and any other assigned person (if any) in support of seeking resolutions of the unitholders' meetings, disclosure of **REIT** information to investors, or upon request of the SEC Office.

⁸ Added by the *Notification of the Securities and Exchange Commission No. KorRor. 12/2557 Re: Rules for Being Settlor and Trustee of Real Estate Investment Trust (No. 2) dated 26 August 2014*, effective as from 1 September 2014.

⁹ Amended by the *Notification of the Securities and Exchange Commission No. KorRor. 12/2557 Re: Rules for Being Settlor and Trustee of Real Estate Investment Trust (No. 2) dated 26 August 2014*, effective as from 1 September 2014.

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 the *relevant laws*, the trustee shall proceed as follows:

- (1) submit a report to the SEC Office within 5 business days as from the date when such circumstance becomes known or should have been known;
- (2) rectify, desist or mitigate such damage as deemed appropriate.

Clause 18 The trustee shall attend every unitholders' meeting and in case of seeking a resolution with respect to any proposed action, the trustee shall also proceed as follows:

- (1) respond to questions and give an opinion whether or not such action complies with the trust instrument or the *relevant laws*;
- (2) make an objection and inform the unitholders that such proposed action could not be proceeded if it is in contravention of the trust instrument or the *relevant laws*.

Clause 19 In case the *REIT manager* is unable to perform its duties, the trustee shall manage the *REIT* as necessary to prevent, desist or limit severe damage to the *REIT* or the unitholders 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*.

Whereas the trustee shall replace the management of the *REIT* under the first paragraph, it may appoint another person to manage the *REIT* in the interim, provided that such appointment is in accordance with the scope, rules and conditions as specified in the trust instrument.

Clause 20¹⁰ A trustee shall not act in conflict with the interest of a *REIT* or in a way that may cause the trustee to lack independence for performing its duties except an transaction in compliance with the following rules:

- (1) having a check and balance measure or mechanism to ensure fair treatment;
- (2) in case of transaction imposing a conflict of interest, the trustee shall disclose adequate information to the unitholders in advance and none of the unitholders makes an objection or the number of the unitholders making an objection to such transaction is less than the number specified in the *Notification of the Office of the Securities and Exchange Commission concerning Rules on [Disclosure of Information*

¹⁰ Amended by the *Notification of the Securities and Exchange Commission No. KorRor. 12/2557 Re: Rules for Being Settlor and Trustee of Real Estate Investment Trust (No. 2) dated 26 August 2014*, effective as from 1 September 2014.

before] Entering into Conflict of Interest Transactions relating to Real Estate Investment Trust [and the Objection thereto].

Clause 21 In case the trustee is also a unitholder 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 the overall unitholders 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 unitholders, otherwise shall assign to the Stock Exchange of Thailand or a licensed securities registrar pursuant to the *Securities and Exchange Act B.E. 2535 (1992)* to prepare such registration on behalf of the trustee.

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

(1) general information:

- (a) names of the **REIT manager** and the trustee;
- (b) number of **units**, par value, paid-up capital, and the date of

unit issuance;

- (c) restriction on transfer (if any);

(2) details of each unitholder:

- (a) name, nationality and address;
- (b) serial number of **units** (if any) and the number of **units** held;
- (c) dates of the registration or disposal of unitholders;
- (d) date of the cancellation of **unit** certificates and the replacement

thereof (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 evidence representing the rights in **units** and shall deliver it to the unitholders, which shall convey at least the following information:

(1) necessary and sufficient information for the unitholders to use as evidence to assert 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** and the securities registrar;

(3) information showing that the unitholders are unable to sell **units** back to the **REIT** or redeem **units** with the **REIT**, and in case of [other] restrictions on the rights of the unitholders, such restrictions shall be clearly specified.

In case of appointing 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 under Clause 23, in case a unitholder requests the trustee or the securities registrar to issue new evidence representing rights in *units* to replace the one having been lost, faded, or materially damaged, the trustee shall proceed to conform to the request within a reasonable period of time.

Notified this 20th day of November 2012.

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

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