

TRANSLATED VERSION

As of March 23, 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. KorJor. 2/2558

**Re: Exemption from Submitting Registration Statement
for Offer for Sale of Shares Issued by Foreign Company
in case of Private Placement**

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 Subsection (2) and (3) of the first paragraph of Section 64 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 from 1 May 2015.

Clause 2 In this Notification:

the term “*institutional investor*” “*executive*” “*major shareholder*” “*subsidiary company*” and “*connected person*” shall have the same meaning as defined in the *Notification of the Securities and Exchange Commission concerning Determination of Definitions in [Other] Notifications relating to Issuance and Offer for Sale of Securities*.

“*foreign company*” means a foreign company established under foreign law.

“*registration statement*” means a registration statement for offer for sale of shares issued by *foreign company*.

“*mutual fund*” means any mutual fund established under the *Securities and Exchange Act B.E. 2535 (1992)*, or an investment scheme approved under the law on undertaking of finance business, securities business and credit foncier business¹, which is managed by a securities company licensed to undertake securities business in the category of mutual fund management.

“*management company*” means any securities company licensed to undertake securities business in the category of mutual fund management.

¹ The law on undertaking of finance business, securities business and credit foncier business means The *Undertaking of Finance Business, Securities and Credit Foncier Business Act B.E. 2522(1979)* which is repealed and replaced by the *Financial Institution Business Act B.E. 2551 (2008)*

Clause 3 This Notification is applicable to an offer for Sale of shares issued by a *foreign company* in the manner of private placement.

Clause 4 Any person who wishes to offer for sale of shares issued by a *foreign company* would be exempted from submitting a *registration statement* and draft prospectus if such offer for sale is in accordance with the rules as prescribed in Chapter 1.

Besides the exemption under the first paragraph, a person who wishes to offer for sale of shares issued by a *foreign company* shall submit the *registration statement* and draft prospectus under the Notification of the Capital Market Supervisory Board concerning such matter².

Chapter 1

Manner of Offer for Sale Exempted from Submitting Registration Statement and Draft Prospectus

Clause 5 In case the exemption under this Chapter is granted to the offeror, such person shall:

- (1) not advertise the offer for sale of shares to the public;
- (2) distribute offering document, if any, definitely to specific investors.

Clause 6 An offeror would be exempted from submitting a *registration statement* and draft prospectus in case of:

- (1) the shares offered to selective investors which does not exceed 50 investors during any rolling 12 month period;
- (2) the aggregate value of offered shares not exceeding 20 million baht during any rolling 12 month period. In this regard, the aggregate value of such shares shall be based on the offering price of such shares;
- (3) the shares offered to the *institutional investors*;
- (4) both buyer and seller being shareholders of the issuer and the offer for sale of shares being in a manner inaccessible to the public.

² This means [i] the Notification of the Capital Market Supervisory Board No.TorJor. 3/2558 Re: Provisions relating to Offer for Sale of Shares Issued by Foreign Company of which Shares are not Traded in Foreign Exchange, and [ii] the Notification of the Capital Market Supervisory Board No.TorJor. /2558 Re: Provisions relating to Offer for Sale of Newly Issued Shares of Foreign Company of which Shares are Traded or Going to Be Traded in Foreign Exchange, as the case may be.

Clause 7 The number of investors or the aggregate value of the offer as prescribed in Clause 6 shall conform to the following rules:

(1) the number of investors as prescribed in Clause 6(1) could be excluded the *institutional investors* as prescribed in Clause 6(3);

(2) the aggregate value of shares as prescribed in Clause 6(2) could be excluded the value of any offer made to the *institutional investors* as prescribed in Clause 6(3) and shareholders as prescribed in Clause 6(4).

The number of investors or the aggregate value of the offer under sub clause (1) or (2) of the first paragraph are not necessary to take into account whether such offer is made simultaneously or at different time.

Clause 8 For the purpose of calculating the offered value or the number of investors as prescribed in Clause 6, the following conditions shall be complied:

(1) in case of the offer for sale of shares made by many appointed underwriters or selling agents of a *foreign company* or the shareholders, each responsible portion of each underwriter or selling agent shall be totally counted as the offering made by the *foreign company* or the shareholders, as the case may be, regardless of whether such underwriters or selling agents have purchased the offered shares for its own account prior to the offer or not;

(2) in case there are several shareholders, in conjunction or at about the same time, who have offered for sale of the same type of shares issued by the same *foreign company*, all offers made by those several shareholders shall be deemed as the offer by a single shareholder. In this regard, the following events shall be considered as the offer in conjunction:

(a) each shareholder offers for sale of shares at or about the same price and time; and

(b) any of the following facts having appeared:

1. each shareholder has close relationship;

2. most of the shareholders are directors, *executives* or *major shareholders, subsidiary companies* of the *foreign company*, or *connected persons* of aforementioned persons;

3. the proceeds from each offer are eventually received by the same person;

4. each shareholder uses the same subscription form or the same subscription agent while the subscribers do not take into account whichever shareholders are the seller of those shares;

(3) in case subscribers are central securities depository, securities custodian, securities broker, securities dealer or any other person who hold securities on behalf of other persons, the number of investors or type of investors shall be considered from the ultimate purchasers of the shares.

Clause 9 An offer for sale of shares to any *mutual fund* which has been established as a tool for or has had investment in the manner of avoiding the rules of submitting a *registration statement* and draft prospectus under the Notification of the Capital Market Supervisory Board regarding provisions in case of offer for sale of shares issued by foreign company shall not be exempted from submitting the *registration statement* and draft prospectus under this Chapter.

Unless otherwise permitted by the SEC Office under the third paragraph, an offer for sale of shares to any *mutual fund* which has any of the following characteristics shall not be exempted from submitting the *registration statement* and draft prospectus under this Chapter:

(1) a *mutual fund* which does not restrict its offer for sale of investment units solely to *institutional investors*;

(2) a *mutual fund* of which investment in such shares is made pursuant to an agreement or a contract between an offeror and a *management company* without exercising discretion in making investment decision by *management company* itself which is contrary to normal management of other *mutual funds*;

(3) a *mutual fund* investing in one of the following manners:

(a) offered shares of any company with value of each investment more than 50% of its net asset value;

(b) newly issued shares of any company more than 50% of the total value of each offering of the shares thereof.

In case an offeror wishes to make an offer for sale of newly issued shares to a *mutual fund* in the manners as prescribed in the second paragraph and wishes such offer treated as an offer for sale to *institutional investors*, the offeror shall submit an application together with explanatory statements and evidentiary documentation to the SEC Office for granting consent.

Chapter 2
Report for the Result of the Sale of Shares

Clause 10 An offeror exempted from submitting a *registration statement* and draft prospectus under Chapter 1 shall report the result of the sale of shares to the SEC Office within 15 days as from the closing date of offering by stating the following details:

- (1) date for offer;
- (2) the amount of the shares offered in Thailand and the amount of the shares sold;
- (3) selling price. In case of offered shares listed on Stock Exchange of Thailand, the offeror shall specify their market price, specific date used for reference of market price, and method of calculating such market price;
- (4) name and contact of the purchasers and the amount of shares which each purchaser is allocated;
- (5) name, contact address, and telephone number of the person submitting the report.

Notified this 23th day of March 2015.

- signature -

(Achporn Charuchinda)

Chairman

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.