

TRANSLATION

As of 9 April 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 Office of the Securities and Exchange Commission

No. Sor Ror. 25/2558

Re: Entries and Contents of the Trust Instrument of Infrastructure Trusts

By virtue of Section 9 and 15 of the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)*, the SEC Office hereby issues the following regulations:

Clause 1 In this Notification:

“trust” means the infrastructure trust created under the Notification of the Capital Market Supervisory Board on the Offering of Units of Infrastructure Trusts;

“retail trust” means the retail trust having the features stipulated by the Notification of the Capital Market Supervisory Board on the Offering of Units of Infrastructure Trusts;

“major investor trust” means the major investor trust having the features stipulated by the notification of Capital Market Supervisory Board on the Offering of Units of Infrastructure Trusts;

“infrastructure asset” means the infrastructure asset permissible for the trust’s investment under the Notification of Capital Market Supervisory Board on the Offering of Units of Infrastructure Trusts;

“related person” means the related person under the Notification of the Capital Market Supervisory Board on Related Party Transactions;

“capital increase under the general mandate” means the increase of the trust’s capital by the resolution of the unit holders authorizing the trust manager to discretionally determine the purpose, the offering and the unit allotment of each fund raising including the price, the offering period, and the offering conditions;

The terms **“unit”**, **“major investor”**, **“trust manager”**, **“paid-up capital”**, **“infrastructure business”**, **“greenfield project”**, **“financial advisor”**, **“debt financing”** and **“associated person”** shall be construed as accordingly determined by the Notification of the Capital Market Supervisory Board on the Offering of Units of Infrastructure Trusts;

Clause 2 This Notification;

(1) sets out the requirements to be used together with the requirements of the Notification of the Capital Market Supervisory Board on the Offering of Units of Infrastructure Trusts;

(2) sets out the entries of the trust instruments of the following trusts;

- (a) retail trusts, which are in Chapter 1 and;
- (b) major investor trusts, which are in Chapter 2.

Chapter 1

Retail trust

Clause 3 The trust instrument of a retail trust shall compose at least the stipulations concerning the following matters;

- (1) the creation of trust, under Clause 4;
- (2) the units, under Clause 5;
- (3) the increase of capital, under Clause 6;
- (4) the decrease of capital, under Clause 7;
- (5) the legal relations of the unit holders, under Clause 8;
- (6) the register and transfer of units, under Clause 9;
- (7) the investment of the trust, under Clause 10 to Clause 15;
- (8) the income generating activities of the trust, under Clause 16;
- (9) the debt financing and creation of encumbrances, under Clause 17;
- (10) the asset appraisal, under Clause 18;
- (11) the related party transaction with the trust manager, under Clause 19;
- (12) the transactions with the trustee, under Clause 20;
- (13) the trust's disclosure of information, under Clause 21;
- (14) the distribution to the unit holders, under Clause 22;
- (15) the proposal for resolution and the general meeting of the unit holders, under Clause 23 and Clause 24;
- (16) the restriction of unit holders' right when exceeding the holding ratio or when having extraordinary interest in the matter, under Clause 25;
- (17) the trustee's responsibilities, under Clause 26;

- (18) the trust manager's responsibilities, under Clause 27;
- (19) the fees and expenses, under Clause 28;
- (20) the amendment to the trust instrument, under Clause 29;
- (21) the dissolution of the trust, under Clause 30.

Clause 4 The stipulation concerning the creation of the trust shall contain the following statements:

- (1) the statements regarding the trust's features and management;

- (a) “[name of the trust] is a trust under the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)* created by this instrument and shall become valid when the settlor transfers trustfully the money received from the offering to the trustee in order that the trustee may manage the assets for the benefit of the unit holders”, and, “once the trust becomes valid, the trustee shall appoint the settlor as the trust manager”.

- (b) “this trust is not a juristic person but a pool of assets registered under the name of the trustee and subject to the management thereof;

- (c) “the management of the trust shall be undertaken by the trustee and the trust manager appointed by the trustee under this instrument within the scope of responsibilities prescribed by the stipulations concerning the trustee and trust manager. In this regard, the trust manager is responsible for the management of the trust, including the investment in the infrastructure asset whereas the trustee shall be responsible for the safe keeping of the trust's assets and supervising the trust manager and other delegates (if any) to act in accordance with any such agreements and the laws;

If the investment will be made in any assets other than the infrastructure asset, the trust instrument shall specify the person responsible for such asset management which may be the trustee itself or another person eligible for the duty.

- (2) the name, duration, type, and objective of the trust;
 - (3) the name, address, and telephone number of the settlor;
 - (4) the name, address, and telephone number of the trustee;
 - (5) the name, address, and telephone number of the trust manager;
 - (6) the qualification of the beneficiaries and a statement indicating that the unit holders listed in the register are the trust's beneficiaries;
 - (7) the trust assets, provided that the initial trust asset shall be the money received from the initial offering of the units;
 - (8) the date of trust creation.

Clause 5 The stipulation concerning the units shall be furnished with the following content;

- (1) the right to distribution is divided equally into units where each unit grants equal right to its holder as the beneficiary of the trust;
- (2) the classification of units (if any);
- (3) a statement indicating whether or not the units are redeemable and if so, the rights, conditions and procedure of which shall be clearly specified;
- (4) the amount of the issued units and the paid-up capital of the trust. If the units are classified, the said information shall be presented separately for each class.

Clause 6 The stipulation concerning the increase of capital shall be furnished with the following content;

- (1) the trust manager's responsibility to carry out the process;
- (2) the purpose of the increase of capital;
- (3) the process to increase the capital in which the resolution of the unit holders authorizing the capital increase shall be required in compliance with the followings;
 - (a) the resolution to increase the capital by offering the units specifically to certain unit holders shall not be opposed by any unit holders holding more than 10 percent of the total voting rights of the unit holders present at the meeting and eligible to vote;
 - (b) the increase of the capital under a general mandate may be carried out when it is clearly stated that the units will be allotted accordingly to the ratio and rules set out in the notification of the Stock Exchange of Thailand on the Rules, Conditions and Procedures Governing Disclosure of Information in respect of Capital Increase of Listed Companies, *mutatis mutandis*, and the regulations or guidelines prescribed by the SEC Office (if any);
 - (c) the increase of capital to make additional investment in infrastructure assets has been duly processed accordingly to Clause 11, and, Clause 19 if it is also a transaction between the trust and the trust manager or its related person;
 - (d) the trust manager is granted with an approval on the offering by the SEC Office.

Clause 7 The stipulation concerning the decrease of capital shall be furnished with the following contents;

- (1) the trust manager's responsibility to carry out the process;
- (2) the reason to decrease the capital which shall be limited to;

- (a) a predetermined plan set out in the trust instrument;
 - (b) the trust has a surplus liquidity after a disposal of an infrastructure asset, amortization of the lease (if any) and distribution payment provided that the trust does not have any remaining accumulated profit;
 - (c) the trust increased the capital to acquire an infrastructure asset but was failed to do so;
 - (d) the trust has non-cash expenses that are not needed for the calculation of the trust's adjusted net profit;
 - (e) other reasons as approved by the unit holders' resolution;
- (3) the process to decrease the capital in compliance with the followings;
- (a) the resolution of the unit holders to decrease the capital shall be obtained unless an exemption is explicitly given by the trust instrument on the decrease of capital in (2) (a) (b) (c) or (d);
 - (b) the capital shall be decreased by reducing the value of the units or reducing the number of units except when the units are classified and the decrease will not be done concurrently nor equally across the board, such decrease shall be done only by reducing the number of units;
 - (c) the reimbursement shall be made proportionately to the unit holders existing in the registration as of the closing date. In this regard, the reimbursement shall not be made from the trust's profit and the value of the unit shall be calculated from the net asset value of the trust on the closing date.

Clause 8 The stipulation concerning the legal relation of the unit holders shall be furnished with the following contents;

- (1) the status of a unit holder does not create a principal-agent relationship between the unit holders and the trustee nor any partnership other than that stipulated in the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)*;
- (2) a unit holder does not have any liability toward the trustee, the trust manager or the trust's creditors in the case that the trust' assets are insufficient to make payment to such person who shall demand any such payment from the trust's asset only;
- (3) a unit holder shall be entitled to the distribution in the amount not more than the profit less the reserves and be entitled to the reimbursement of capital in the amount not more than the trust capital adjusted by the premium or deficit of the unit value, provided

that when a classification of units is in place, such right to distribution or reimbursement shall be subject to the terms and conditions of each class of units;

(4) the trust instrument shall not be, in all cases, interpreted in conflict with (1) (2) and (3).

Clause 9 The stipulation concerning the register and transfer of the units shall be furnished with the following contents;

(1) the trustee is responsible for the making of the register of the units whereby the trustee may make one itself or assigning others to do so under the Notification on Trust Settlor and Trustee whereas if the trustee wishes to be the unit registrar, the trustee shall comply with the Notification on Securities Registrar.

(2) the register is presumed to be correct and if the payment of money or assets, or, the grant of rights or restrictions of the same is made to the unit holders existing in the register and in accordance with the trust instruments and the laws, the trustee shall be deemed to have duly carried out its duties;

(3) the trustee or the registrar may deny registration of any person whose holding does not comply with the ratio stipulated by the Notification of the Capital Market Supervisory Board relating to the Offering of Units of Infrastructure Trusts;

(4) the trustee or the registrar shall prepare a document representing the rights in the units to give to the unit holders in order that the unit holders may use the document against the trustee, the trust manager, and other persons. The trust instrument shall contain an example of the said document. Moreover, the said document may be prepared in accordance with the procedures of the Thailand Securities Depository.

Clause 10 The stipulation concerning the investment of the trust shall be furnished with the following contents;

(1) the stipulation relating to the investment in the infrastructure assets shall state the following contents;

(a) the investment policy, the type of infrastructure asset to be invested and the investment restriction (if any) specified in accordance with the Notification of the Capital Market Supervisory Board relating to the Offering of Units of Infrastructure Trusts;

(b) the acquisition of the infrastructure asset specified in accordance with Clause 11;

(c) the disposal of the infrastructure asset specified in accordance with Clause 12;

(2) if the trust investment policy includes an investment in other assets in addition to the infrastructure asset, such policy and type of asset shall be clearly stated and be in compliance with Clause 13;

(3) if the infrastructure asset is the shares, the trust instrument shall state a supervision measure on the issuing company to ensure that its investment complies with (1) and (2) as if any such investment is made directly by the trust.

Clause 11 The stipulation concerning the acquisition of an infrastructure asset shall be furnished with the following contents;

(1) the trust manager shall, prior to any such acquisition, proceed with the followings;

(a) conduct a due diligence on the information and contracts relating to the infrastructure asset to be invested, including, the financial, legal and technical information and the trust manager shall make investment in the infrastructure asset when it considers and determines in good faith that such infrastructure asset is:

1. fit for the investment for having the potential to generate income accordingly to the objective of the retail trust;
2. supported by documents evidencing the ownership or rights or has agreements that are complete, clear and enforceable by law and sufficient for the trust to operate upon;
3. if the infrastructure asset to be invested is in a foreign country, a due diligence on the acquisition and possession of that infrastructure asset under such foreign law shall be conducted and supported by a legal opinion of a lawyer expertized in such foreign law;

(b) arrange for an appraisal of the infrastructure asset under Clause 18;

(2) the acquisition of an infrastructure asset shall be in accordance with the following condition;

- (a) the transaction itself shall be considered by the trust manager that:
1. it is in compliance with the trust instrument and relevant laws;
 2. it is for the best interest of the trust;
 3. it is reasonable and concluded on a fair price;
 4. the expenses of which to be incurred by the trust (if any) is charged under a fair and appropriate rate;

5. when an acquisition of an infrastructure asset is made in a greenfield project, the total value of investment in the greenfield project shall not be more than 30 percent of the trust's asset value;

(b) the authorization process shall be in accordance with the following whereby the trustee shall be of the view that the transaction complies with the trust instrument and relevant law;

1. if the infrastructure asset values more than 100 million baht but less than 30 percent of the trust asset value, the acquisition shall be approved by the board of directors of the trust manager;

2. if the infrastructure asset values equal to 30 percent of the trust asset value or more, the acquisition shall be authorized by the shareholders' resolution given by at least three fourths of the total units held by the unit holders present at the meeting and eligible to vote

The trust instrument may exempt the proceedings under the first paragraph for the acquisition of an infrastructure asset under a deal or agreement concluded with the government which has been clearly disclosed in the registration statement and prospectus;

(c) the authorization in (b) shall be under the following principle:

1. the party having a vested interest in the transaction is not involved in the decision making;

2. the value of the infrastructure asset shall be calculated in accumulative of all assets in the project and other assets related to the project which would allow any such project to commercialize;

3. the trust manager shall be responsible for preparing documents that contain sufficient information for the consideration of the trustee, the board of directors of the trust manager or the unit holders, as the case may be, which shall contain the trust manager's opinion on the compliance of the transaction with (a), its reasons and supporting information.

Clause 12 The stipulation concerning the disposal of an infrastructure asset shall be furnished with the following duties of the trust manager;

(1) arrange for an appraisal of the infrastructure asset which is in compliance with Clause 18 prior to any such disposal;

(2) the disposal shall be done openly and the transaction shall be in accordance with Clause 11(2)(a) and shall be authorized by the process that is in accordance with Clause 11(2)(b) and (c), *mutatis mutandis*.

Clause 13 If the trust has the policy to invest in assets other than the infrastructure asset either directly or indirectly, the trust instrument shall be furnished with the following;

(1) the type of assets to be invested which shall be in accordance with Clause 14 and Clause 15;

(2) the stipulation directing the trust manager to take actions when the debtors is in default or unlikely to perform the obligation accordingly to the rules applicable to mutual funds issued under Section 117 of the *Securities and Exchange Act B.E. 2535 (1992)*, *mutatis mutandis*.

Clause 14 When the trust's policy is to invest in assets other than infrastructure asset, such policy and the type of such other asset shall be clearly stated and be within the following list;

(1) government bond

(2) treasury bills

(3) bonds or debentures issued by a state enterprise or a juristic person established by a specific law and unconditionally guaranteed wholly in principal and interest by the Ministry of Finance;

(4) deposits in banks or the Secondary Mortgage Corporation;

(5) certificates of deposit not embedding derivatives issued by a bank or a finance company;

(6) bills or promissory notes not embedding derivatives which a bank, finance company or credit foncier company issued, gave aval wholly upon, irrevocably accepts or unconditionally guaranteed both the principal and interest thereof;

(7) units or unit warrants of a money market funds or other mutual funds having the policy to invest in debt instruments or deposits;

(8) units of a foreign collective investment scheme having the policy to invest in debt instruments or deposits which are in accordance with the following;

(a) the investment scheme is set up for the general investor and has the policy to invest in the type of asset permissible to the trust's investment;

(b) be in compliance with one of the following;

1. the investment scheme is regulated by a securities and exchange regulator that is an ordinary member of the International Organization of Securities Commissions (IOSCO);

2. the units are traded on an exchange that is a member of the World Federation of Exchanges (WFE);

(9) units of infrastructure funds or infrastructure trusts established under Thai laws;

(10) units of foreign infrastructure funds that satisfy the following criteria;

(a) the main investment of the fund is made in assets of infrastructure nature or the shares of infrastructure operating companies;

(b) be in compliance with one of the following;

1. the fund is regulated by a securities and exchange regulator that is an ordinary member of the International Organization of Securities Commissions (IOSCO);

2. the units are traded on an exchange that is a member of the World Federation of Exchanges (WFE);

(11) shares that are not the infrastructure asset of the trust issued by a company that satisfies the following criteria;

(a) invests in infrastructure assets that are not shares or debt instruments collectively not less than 75% of the company's total asset value

(b) has an income deriving from the operation of the said assets not less than 75 percent of the company's total income in each fiscal year;

(12) forward contracts made specifically for hedging of the trust.

Clause 15 The trust instrument may permit the trust to invest in the shares of the juristic person who is the lessee, the contractor or authorized to operate the infrastructure assets to generate income under the following conditions;

(1) the agreement between the trust and such juristic person determines the trust's consideration variable to the income generated by that infrastructure asset;

(2) the share to be invested grants special management power to its holder (golden share) accordingly to the articles of association, and shall not be more than 1 share.

Clause 16 The stipulation concerning the income generating activities of the trust shall be furnished with the following;

(1) the manner of the activities which shall be in accordance with the Notification of the Capital Market Supervisory Board relating to the Offering of Units of Infrastructure Trusts;

(2) the requirements effecting the conclusion, amendment or termination of any contract relating to the income generating activities permissible when the transaction is in accordance with Clause 11(2)(a) and authorized with the process in Clause 11(2)(b) and (c), *mutatis mutandis*.

The trust instrument may exempt the process under (2) of the first paragraph for any such transaction clearly specified in the registration statement and prospectus.

Clause 17 The stipulation on debt financing and creation of encumbrances shall be furnished with the following;

(1) a statement of whether or not the trust may engage in debt financing and the manner of which, such as, requesting bank loans or issuing instruments, or, entering into any agreement which results in money borrowing;

(2) if the trust may engage in debt financing, the debt-to-equity ratio shall be specified in accordance with that prescribed by the Notification of the Capital Market Supervisory Board relating to the Offering of Units of Infrastructure Trusts;

(3) the requirements on creation of encumbrances shall be in accordance with the same prescribed by the Notification of the Capital Market Supervisory Board relating to the Offering of Units of Infrastructure Trusts;

(4) when the infrastructure asset is the shares, a supervision on the issuing company's debt financing or creation of encumbrances shall be put in place to ensure that any such action is taken in compliance with (1), (2) and (3) as if the trust has taken such action itself.

Clause 18 The stipulation on asset appraisal shall be furnished with the requirements on the infrastructure asset appraisal as follows;

(1) the appraiser shall be

(a) an independent financial advisor if the infrastructure asset is the shares or debt instruments;

(b) an expert in the appraisal of that specific infrastructure asset in all other cases;

(2) the appraisal shall not be conducted by the same appraiser more than 2 consecutive times;

(3) in the following cases, the appraisal shall be conducted in full where the instruments of rights have been verified and such conducted for public purposes;

(a) an acquisition or disposal of infrastructure asset worth 50 million baht and above where the appraisal shall be in compliance with the following;

1. conducted not more than 1 year prior to the acquisition or the disposal of the said asset;

2. when the acquisition or disposal of asset is a transaction with the trust manager's related person, the appraisal shall be conducted by at least 2 appraisers;

(b) every 3 years from the latest full appraisal;

(c) upon an event or change which may effect in a significant depreciation of the infrastructure asset invested by the trust;

(d) upon a request from the trustee or the trust's auditor.

Clause 19 The stipulation on the transaction between the trust and the trust manager shall be furnished with the requirements that any transaction between the trust and the trust manager or its related person may be concluded when the following requirement are satisfied;

(1) the transaction is in compliance with Clause 11(2)(a);

(2) the transaction is authorized accordingly with the following;

(a) approved by the trustee that the transaction is;

1. in compliance with the trust instrument and relevant laws;

2. is an arm's length transaction;

(b) if the transaction worth 1 million or 0.03 percent of the trust net asset value or more, whichever is higher, but lower than (c), it shall be approved by the board of directors of the trust manager;

(c) if the transaction worth more than 20 million or more than 3 percent of the trust's net asset value, whichever is higher, it shall be authorized by the resolution of the unit holders given by at least three fourth of the total units held by the unit holders present at the meeting and eligible to vote.

The trust instrument may exempt the process under the first paragraph for any such transaction clearly specified in the registration statement and prospectus.

(3) the authorization process in (2) shall be under the following requirement;

(a) the party having a vested interest in the transaction is not involved in the decision making;

(b) when the transaction is an acquisition or disposal of an infrastructure asset, the value of the transaction shall be calculated based on the total acquisition or disposal value which enables the project to generate income which shall include the project's related assets;

(c) the trust manager shall be responsible for preparing documents that contain sufficient information for the consideration of the trustee, the board of directors of the trust manager or the unit holders, as the case may be, which shall contain the trust manager's opinion on the compliance of the transaction with (1), its reasons and supporting information. In this regard, if the resolution of the unit holders is needed on the transaction, an opinion of an independent financial advisor shall be given to the unit holders together with the proposal;

(4) when the infrastructure asset is the shares, the transactions between the issuing company and the trust manager or trust manager's related person shall be conditional upon the trust's action in (1), (2) and (3).

Clause 20 The stipulation on the transactions with the trustee which shall not be conflict to Section 31 of the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)* and the notifications issued thereunder.

Clause 21 The stipulation on the disclosure of information of the trust shall be furnished with the trust manager's duty and responsibility to prepare and disclose such information to the Office, the Stock Exchange of Thailand and the unit holders. Such duty shall include the delivery of the trust's annual report to the unit holders along with the notice of the annual general meeting.

Clause 22 The stipulation on the distribution payment shall be furnished with the following;

(1) the trust manager shall make distribution payment to the unit holders at least 90% of the adjusted net profit of the accounting year within 90 days from the last day of respective accounting year or the accounting period of which the distribution is paid, as the case may be;

(2) the adjusted net profit in (1) is the net profit adjusted by the following deductions;

(a) the unrealized gain from the appraisal of the infrastructure asset and other items specified by the Office's guideline to match the cash position of the trust;

(b) the reserve set up for the following purpose;

1. the repair, maintenance or improvement of the infrastructure asset according to the plan specified in the registration statement and the prospectus or as the trust manager has notified unit holders in advance;

2. loan or other encumbrance repayment according to the debt financing policy specified in the trust instrument or as the trust manager has notified the unit holders in advance;

3. the payment of distribution to the unit holders of the class in the first order to receive the distribution or reimbursement (if any).

If the trust has any non-cash items such as amortized expenses or unrealized loss, the management company may set up the reserve under paragraph one not exceeding the sum of the money incumbent under 1. and 2. in each accounting period less the non-cash expenses.

(3) the trust manager shall not pay any distribution if the trust has any accumulated losses.

Clause 23 The stipulation on the proposal for unit holders' resolution and the meeting of the unit holders shall be furnished with the following content;

(1) the procedure for convening the unit holders' meeting and the proposals for unit holders' resolution which shall not be done with a letter of proposal;

(2) the ground of proposals shall be at least those prescribed by this Notification and the trust manager shall be required to convene a unit holders' meeting at least in the following case;

(a) the annual general meeting, which shall be convened within 4 months from trust's accounting period;

(b) the extraordinary general meeting, which shall be convened in the following cases;

1. when the trust manager deems necessary for the benefit of the trust management;

2. upon being requested in writing specifying the reason for which the meeting is being called by the unit holders with accumulative holding of 10 percent or more of the outstanding units of the trust

The trust manager shall convene the meeting under 2. within one month upon receiving such request.

(3) the unit holders' meeting shall be summoned as follows;

(a) the notice of the meeting shall be prepared with sufficient information to inform the unit holders of the meeting and vote casting procedures, the agendas, and the proposals with necessary details. The agendas shall be specified as informational, or, requesting approval or consideration, as the case may be, and shall include the trust manager's opinions on the proposed matters and the possible impacts on the unit holders if the resolution is given.

(b) deliver the said notice to the unit holders at least seven days before the meeting date and announce the meeting in a local daily newspaper at least three days before such meeting date;

(4) the quorum for the meeting shall be prescribed as follows;

(a) comprised of at least 25 unit holders or half of the total number of unit holders, and with accumulative holding at least one-third of the outstanding units of the trust;

(b) if within an hour from the time appointed for the meeting the quorum prescribed by (a) is not present, the meeting, if summoned upon the request of the unit holders under (2)(b)2., shall be dissolved. If the meeting had not been summoned by such request under (2)(b)2., another meeting shall be summoned by sending notice of the meeting to the unit holders at least 7 days before the date of the meeting and at such meeting no quorum shall be necessary;

(5) each unit holder has one vote per one unit held, and a unit holders eligible to cast a vote shall not be those having vested interest in the proposal;

(6) the resolutions of the unit holders shall be in accordance with the following;

(a) the majority of the units held by the unit holders present at the meeting and eligible to vote;

(b) for the following matters, the resolution shall be passed by three fourths of the total units held by the unit holders present at the meeting and eligible to vote:

1. an acquisition or disposal of the infrastructure asset worth 30 percent of the trust's asset value or more;

2. an increase or decrease in the trust's capital not disclosed in advance in the trust instrument;

3. a transaction with the trust manager or trust manager's related person having the size of which accordingly to those prescribed by Clause 19(2)(c);

4. a change in distribution payment or capital reimbursement from those prescribed earlier;

5. a change of trustee

6. the dissolution of the trust

7. any amendment of the trust instrument that will significantly effect contractual rights of the unit holders;

(7) the resolution of the unit holders that allows the trust or the management of which to be in conflict with the regulations relating to the trust manager's responsibilities or other rules issued under the *Securities and Exchange Act B.E. 2535 (1992)* or the *Trust for Transaction in Capital Market B.E. 2550 (2007)* shall be null and void.

Clause 24 If the units are classified, the trust instrument shall be furnished with the stipulations effecting the following rules relating to the proposals for the unit holders' resolution and vote casting;

(1) a proposal that would impact every class of unit holders' right and each class is unevenly impacted shall be passed by the majority vote of every class present at the meeting and eligible to vote;

(2) a proposal that would impact the interest of the unit holders in any cases shall be passed by the majority vote of every class present at the meeting and eligible to vote;

(3) a proposal that would impact a certain class of unit holders shall be passed the majority vote of that class present at the meeting and eligible to vote.

Clause 25 The stipulations concerning the restriction on the right of unit holders who exceed holding limit or have vested interest shall be furnished with the following; to receive distribution, the management of dividend and the exercise of voting rights by the unit holders:

(1) the restriction on the right to receive distribution of the unit holders who exceed the holding limit prescribed in accordance with the notification of the Capital Market Supervisory Board relating to the offering of infrastructure trust units which will be proportionately paid to other unit holders.

(2) restrict the voting right of the following unit holders:

(a) not counting the votes of the unit holders for the units held in excess of the holding limit prescribed in accordance with the Notification of the Capital Market Supervisory Board relating to the Offering of Units of Infrastructure Trusts;

(b) not counting the votes of the unit holders having a vested interest directly or indirectly in the proposal.

Clause 26 The stipulation concerning the trustee's authority shall be furnished with the following contents;

(1) the rights, duties and responsibilities of the trustee shall be in compliance with the followings;

(a) the trustee shall perform its duties with integrity and prudence for the best interest of the unit holders as a whole and in accordance with the trust instrument, related laws and the commitment additionally given in the documents disclosed to the investors (if any) and there shall be no limitation of liability for failure to perform so;

(b) the trustee shall supervise the trust manager or other assignee under (f) (if any) to make sure that any such party complies with the trust instrument and other relevant agreements;

(c) the trustee shall attend the unit holders' meeting and shall give opinions on the proposals made to the unit holders;

(d) the trustee shall make a demand of performance or ensure such action is taken to comply with the agreements between the trust and the [contracting] parties;

(e) the trustee shall assume the management of the trust in the absence of the trust manager or when the trust manager is unable to do so under the rules prescribed by the Notification of the Securities and Exchange Commission on Rules for Becoming Trust Settlor and Trustee of Infrastructure Trusts;

(f) the trustee's wish to personally assume the trust management relating to investment in other assets, or, to assign such function to other assignee save for the trust manager shall be stated clearly and be in compliance with the Notification of the Securities and Exchange Commission on Rules for Becoming Trust Settlor and Trustee of Infrastructure Trusts;

(g) other rights, duties and responsibilities of the trustee shall be in accordance with this Notification and the Notification of the Securities and Exchange Commission on Rules for Becoming Trust Settlor and Trustee of Infrastructure Trusts;

(2) the appointment, the conditions and procedure to change the trustee, and the remuneration thereof.

Clause 27 The stipulation concerning the trust manager's authority shall be furnished with the following contents;

(1) the appointment and remuneration thereof;

(2) the scope of responsibilities of the trust manager as delegated by the trustee as follows;

(a) the business operation of the trust which include the investment, the debt financing and creation of encumbrances of the trust's assets, the conclusion of contracts and all other arrangements for the trust which shall be made under and in compliance with the scope, the rules and the conditions prescribed by the trust instrument;

(b) the preparation and disclosure of the trust's information which include the information required by Section 56 and Section 57 of the *Securities and Exchange Act B.E. 2535 (1992)* and the trust instrument;

(c) if the trust manager wishes to delegate any tasks under its responsibilities to any person, such delegation shall be stated clearly together with the trust manager's duty to diligently select the delegate, supervise and monitor such delegate. In this regard, the stipulations on the delegation shall not be in conflict with the Notification of the Securities and Exchange Commission regarding Rules, Conditions and Procedures for Granting of Approval for Trust Manager of Infrastructure Trust and Work Standards;

(3) the trust manager shall perform its duties with integrity and prudence for the best interest of the unit holders as a whole and in accordance with the trust instrument, related laws and the commitment additionally given in the documents disclosed to the investors (if any) and there shall be no limitation of liability for failure to perform so which include its liability in the fine or damages under (8);

(4) the change of the trust manager which shall specify at least the followings;

(a) the ground of change shall be at least as follows;

1. the resignation of the trust manager;
2. the removal of the trust manager upon failing to manage the trust as required by the trust instrument or the notifications prescribing its responsibilities;
3. the revocation of approval or the suspension of business operation more than 90 days imposed on the trust manager by the SEC Office under the Notification of the Securities and Exchange Commission regarding Rules, Conditions and Procedures for Granting of Approval for Trust Manager of Infrastructure Trust and Work Standards;
4. the dissolution of the trust manager;

(b) the appointment of the new trust manager shall be subject to the resolution of the unit holders given on the proposal made by the trustee within sixty days from the occurrence of any event in (a) and such appointment shall be made within thirty days after the resolution is given, provided that if the appointment cannot be made accordingly, the trustee shall make such appointment itself taking into account the best interest of the unit holders as a whole in reasonable time;

(c) the former trust manager shall be obliged to process as necessary to enable the trustee or the new trust manager, as the case may be, to assume the management of the trust which include signing of a document certifying the correctness and completeness of the transfer made to possession of any such person;

(5) if the trust manager is unable to perform the management, the trustee shall undertake as necessary to protect, prevent or limit potential gross damage to the benefit of the trust or the unit holders as a whole, provided that the trustee may assign the management of the trust to another person during such period;

(6) if the trust instrument allows the trust manager to disburse the trust asset, such disbursement shall be permissible only for petty cash which shall be within the limit approved by the trustee and the trust manager shall prepare a record of any such disbursement and submit to the trustee for inspection within reasonable time;

(7) any other stipulations underlying the trust manager's responsibilities according to this Notification and the Notification of the Securities and Exchange Commission regarding Rules, Conditions and Procedures for Granting of Approval for Trust Manager of Infrastructure Trust and Work Standards;

(8) the trust manager shall be liable for the fine or damages imposed upon or incurred by the trust due to its breach of duties in all cases.

Clause 28 The stipulation concerning the fees and expenses shall clearly state the fees, considerations or expenses charged to the trust or the unit holders and the expenses to be charged to the trust shall be those necessary and due, and related directly to the trust management.

Clause 29 The stipulation concerning the amendment of the trust instrument shall be furnished with the following;

(1) the amendment of the trust instrument shall not be conflict to the intention of trust creation, the *Securities and Exchange Act B.E. 2535 (1992)*, the *Trust for Transaction*

in *Capital Market Act B.E. 2550 (2007)* and the notifications rules or orders issued thereunder;

(2) the amendment of the trust instrument where the rights of the unit holders are effected shall be authorized by the resolution thereof given under Clause 23(6) save when the amendment is made accordingly to the orders of the SEC Office issued under Section 21 of the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)*.

Clause 30 The stipulation concerning the dissolution of the trust shall state that upon occurrence of any of the following event, the trustee shall dissolve the trust;

- (1) when the number of unit holders is less than thirty-five persons;
- (2) after a disposal of the infrastructure asset and the trust manager is unable to maintain the collective investment in the infrastructure asset at least 75 percent of the total asset value of the trust which shall not be less than 75 billion baht within one year from the date of the said disposal;
- (3) when receive the resolution of the unit holders to dissolve the trust.

Chapter 2

Major investor trust

Clause 31 The trust instrument of a major investor trust shall compose the entries required by the Notification of the Office of the Securities and Exchange Commission relating to the Entries of a Trust Instrument and at least following additional entries:

- (1) the creation of trust, under Clause 32;
- (2) the units and register of units, under Clause 33;
- (3) the investment of the trust, under Clause 34;
- (4) the distribution to the unit holders, under Clause 35;
- (5) the restriction of unit holders' right when exceeding the holding ratio or when having extraordinary interests in the matter, under Clause 36;
- (6) the trust manager's responsibilities, under Clause 37;
- (7) the amendment to the trust instrument, under Clause 38;
- (8) the dissolution of the trust, under Clause 39.

Clause 32 The stipulation concerning the creation of the trust shall be furnished with the following statements:

(1) regarding the trust's features and the management;

(a) “[name of the trust] is a **trust** under the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)* created by this instrument and shall become valid when the settlor transfers trustfully the money received from the offering to the trustee in order that the trustee may manage the assets for the benefit of the unit holders”, and, “once the trust becomes valid, the trustee shall appoint the settlor as the trust manager”.

(b) “this trust is not a juristic person but a pool of assets registered in the name of the trustee and subject to the management thereof;

(c) “the management of the trust shall be carried out by the trustee and the trust manager appointed by the trustee under this instrument, in compliance with the responsibilities prescribed by the entry relating to the trustee and trust manager. In this regard, the trust manager is responsible for the management of the trust, including the investment in the infrastructure asset, and the trustee shall be responsible for the safe keeping of the trust's assets and supervising the trust manager and other appointees (if any) to act in accordance with the agreements and the laws;

If the investment will be made in any assets in addition to the infrastructure asset, the trust instrument shall specify the person responsible for such asset management which may be the trustee itself or other person eligible for the duty.

(2) the name, duration, type and objective of the trust which shall state that “The trust's main objective is to invest the major investors' money in the infrastructure assets prescribed by the trust instrument for the benefits thereof”;

(3) the names, addresses and telephone numbers of the settlor, the trustee and the trust manager;

(4) the qualification of the beneficiaries and a statement indicating that the unit holders listed in the register are the trust's beneficiaries provided that the said unit holders shall be major investors prescribed by the trust instrument save when the units are acquired through inheritance;

(5) the trust properties whereas the initial trust property shall be the money received from the initial offering of the **units**;

(6) the date of trust creation.

Clause 33 The stipulation concerning the units and register of units shall be furnished with the following contents;

(1) the features of the units as follows;

(a) the units of this trust does not grant any rights to the holder thereof who does not qualify as a major investor;

(b) the units of this trust are under the restriction of transfer that prohibits all transfer which may misplace the units with a non-major investor.

The trust instrument may allow exemptions on (a) or (b) for the acquisition of units through inheritance.

(2) the statement that the registrar may not register the unit holders' name in the register if;

(a) the unit holder is not a major investor save when the unit are acquired through inheritance;

(b) the holding ratio will not be in compliance with the Notification of the Capital Market Supervisory Board relating to the Offering of Units of Infrastructure Trusts.

Clause 34 The stipulation concerning the investment of the trust shall state the investment policy and the type of infrastructure asset to be invested, including the investment restriction (if any) which shall be in compliance with the Notification of the Capital Market Supervisory Board relating to the Offering of Units of Infrastructure Trusts.

Clause 35 The stipulation concerning the distribution payment shall be in accordance with Clause 22.

Clause 36 The stipulation concerning restriction of unit holders' right when exceeding the holding ratio or when having extraordinary interest in the matter shall be furnished with the followings;

(1) the restriction on the right to receive distribution of the following unit holders which will be proportionately paid to other unit holders.

(a) the person or associated persons who exceeds the holding limit prescribed in accordance with the Notification of the Capital Market Supervisory Board relating to the Offering of Units of Infrastructure Trusts;

(b) the unit holder who is not a major investor save when the unit are acquired through inheritance;

(2) restrict the voting right of the following unit holders for the units held in excess of the holding limit;

(a) the person or associated persons who exceed the holding limit prescribed in accordance with the Notification of the Capital Market Supervisory Board relating to the Offering of Units Of Infrastructure Trusts;

(b) the unit holder who is not a major investor save when the unit are acquired through inheritance;

(c) the persons having a vested interest in the proposed matter.

Clause 37 The stipulation concerning the trust manager's authority shall be furnished with the following contents;

(1) the scope of responsibilities of the trust manager as delegated by the trustee as follows;

(a) the business operation of the trust which include the investment, the debt financing and creation of encumbrances of the trust's assets, the conclusion of contracts and all other arrangements for the trust which shall be made under and in compliance with the scope, the rules and the conditions prescribed by the trust instrument;

(b) the preparation and disclosure of the trust's information which include the information required by Section 56 and Section 57 of the *Securities and Exchange Act B.E. 2535 (1992)* and the trust instrument;

(c) if the trust manager wishes to delegate any tasks under its responsibilities to any person, such delegation shall not be in conflict with the Notification of the Securities and Exchange Commission regarding Rules, Conditions and Procedures for Granting of Approval for Trust Manager of Infrastructure Trust and Work Standards;

(2) the trust manager shall perform its duties with integrity and prudence for the best interest of the unit holders as a whole and in accordance with the trust instrument, related laws and the commitment additionally given in the documents disclosed to the investors (if any) and there shall be no limitation of liability for failure to perform so;

(3) the change of the trust manager which shall specify the grounds of change shall include at least the following grounds:

(a) the SEC Office revokes its approval on the trust manager or suspends its business operation for more than ninety days under the under the Notification of the Securities and Exchange Commission regarding Rules, Conditions and Procedures for Granting of Approval for Trust Manager of Infrastructure Trust and Work Standards;

(b) the dissolution of the trust manager;

(4) any other stipulations underlying the trust manager's responsibilities according to this Notification and the Notification of the Securities and Exchange Commission regarding Rules, Conditions and Procedures for Granting of Approval for Trust Manager of Infrastructure Trust and Work Standards;

(5) the trust manager shall be liable for the fine or damages imposed upon or incurred by the trust due to its breach of duties in all cases.

Clause 38 The stipulation concerning the amendment of the trust instrument shall state that the amendment of the trust instrument shall not contradict the intention of trust creation, the *Securities and Exchange Act B.E. 2535 (1992)*, the *Trust for Transactions in Capital Market Act B.E. 2550 (2007)* and the notifications, rules or orders issued thereunder.

Clause 39 The stipulation concerning the dissolution of the trust shall state that upon occurrence of any of the following events, the trustee shall dissolve the trust;

(1) after a disposal of the infrastructure asset and the trust manager is unable to maintain the collective investment in the infrastructure asset for at least 75 percent of the total asset value of the trust which shall not be less than 75 billion baht within one year from the date of the said disposal;

(2) when receive the resolution of the unit holders to dissolve the trust.

Clause 40 This Notification shall become effective on 16 May 2015.

Notified this 9th day of April 2015.

-signature-

(Vorapol Socratyanurak)

Secretary-General

Office of the Securities and Exchange Commission