

UNOFFICIAL TRANSLATION

Codified up to No. 3
As of 14 February 2017

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 Capital Market Supervisory Board
No. Tor Jor. 41/2557
Re: Selling of Newly Issued Debt Securities and
Derivative Warrants of Securities Issuer**

By virtue of Section 16/6 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 35 of the *Securities and Exchange Act B.E. 2535 (1992)*, the Capital Market Supervisory Board hereby issues the following regulations:

Clause 1 This Notification shall come into force as from 16 December 2014.

Clause 2 In this Notification:

“**issuer**” means an issuer of securities in the categories of **debt securities** and **derivative warrants**.

¹“**debt securities**” means newly issued securities in the categories of bond, debenture and bills.

“**derivative warrants**” means newly issued derivative warrants under the *Notification of the Capital Market Supervisory Board regarding Issuance and Offer for Sale of Derivative Warrants*.

²“**registration statement**” means the registration statement for bond offering, the registration statement for debenture offering, the registration statement for bills offering or the registration statement for derivative warrants offering, as the case may be.

“**prospectus**” means a prospectus containing information identical to the draft prospectus that has been filed with the SEC Office.

¹ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 71/2558 Re: Selling of Newly Issued Debt Securities and Derivative Warrants of Securities Issuer (No. 2)* dated 27 October 2015 (effective on 1 January 2016).

² Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 71/2558 Re: Selling of Newly Issued Debt Securities and Derivative Warrants of Securities Issuer (No. 2)* dated 27 October 2015 (effective on 1 January 2016).

Chapter 1 General Provisions

Clause 3 This Notification shall be applicable to an *issuer* offering securities for sale in any of the following manners:

- (1) public offering of all types of *debt securities* with the duty to file the *registration statement* and draft prospectus with the SEC Office;
- (2) offering of derivative warrants, excluding the case where the *issuer* has specified in the *registration statement* and draft prospectus that the offering will be through a direct listing on the stock exchange.

Clause 4 In offering for sale of *debt securities* or *derivative warrants*, an *issuer* shall comply with the provisions under this Chapter and the following Chapters:

- (1) underwriting of *debt securities* shall be in accordance with Chapter 2;
- (2) subscription of *debt securities* shall be in accordance with Chapter 3;
- (3) offering of *derivative warrants* shall be in accordance with Chapter 4.

Clause 5 An *issuer* shall disclose information on an offer for sale of *debt securities* or *derivative warrants* clearly in the *prospectus*.

Chapter 6 An *issuer* shall not specify a compensation for the securities company under Clause 7 in such a manner that persuades or supports such securities company to sell the *debt securities or derivative warrants* without considering the appropriateness for investment of investors.

Chapter 2 Underwriting of Debt Securities

Clause 7 An *issuer* of *debt securities* shall have the solicitation or giving of advice on trading or investing in *debt securities* proceeded by a securities company licensed to offer such services regarding *debt securities*, except for the case where the *issuer* of *debt securities* is a securities company with such license. In this regard, the *issuer* of *debt securities* shall comply with the rules on provision of such services according to the type of securities company, *mutatis mutandis*, but the rules on prohibition of securities allotment shall not apply.

Clause 8 An *issuer* of *debt securities* shall arrange an agreement for a securities company to handle the selling of *debt securities* in a manner that the issuer shall remain in compliance with this Notification.

Clause 9 An *issuer* of *debt securities* shall not sell or give a consent to have its *debt securities* sold at the same time as the securities issued by other persons unless the objective for, or the consent to, such act has been clearly specified in the *prospectus*.

Chapter 3 Subscription of Debt Securities

Clause 10 An *issuer* of debenture shall specify the method of subscription through submission of a subscription form, either in paper or electronic form, as a minimum subscription method.

Clause 11 An *issuer* of debenture shall prepare a sufficient amount of subscription forms in paper for delivery or distribution to investors upon request.

Clause 12 A subscription form for debenture shall have particulars containing at least the following information:

(1) name, address and identification card number or passport number, tax identification number (if any) of the subscriber and the subscription amount;

(2) a statement indicating that the subscriber has received the *prospectus* or a factsheet and identifying the format of the received *prospectus*, or a statement that the subscriber does not wish to receive the *prospectus*;

(3) a statement warning the subscriber that investment in debenture has risks and before making a decision to subscribe for debenture, the subscriber should also read the *prospectus* or the factsheet carefully;

(4) a statement indicating that the subscriber has given a consent to an appointment of person approved by the SEC Office to be a debenture holders' representative (if any) and identifying the name of the appointed person as well;

(5) a statement indicating that the subscriber has agreed to comply with all the rules regarding the rights and duties of the *issuer* and the debenture holders if the subscribers receive an allotment of debenture;

(6) a statement indicating that the subscribers may access the rules regarding the rights and duties of the *issuer* and the debenture holders at the Office of the Securities and Exchange Commission, the head office of the *issuer* and other places (if any).

Clause 13 In case of subscription for debenture through any method other than submitting a subscription form, the *issuer* shall take the following actions before accepting such subscription:

(1) arrange for the subscriber to provide information containing the details under Clause 12(1);

(2) provide a warning statement in the same manner as specified under Clause 12(3);

(3) provide statements specified in the same manners as under Clause 12(4) (5) and (6);

(4) have a method in place to confirm that the subscriber has already received the information under Clause 15.

Clause 14 For subscription of bills, the *issuer* shall provide subscription evidence that contains information related to the subscriber, the subscription amount, and a statement indicating that the subscriber has received, or wishes not to receive, the *prospectus*.

Clause 15 An *issuer* of *debt securities* shall arrange a channel for distributing *prospectus* appropriately, either in paper or electronic form, unless investors have expressed an intention not to receive the *prospectus* voluntarily.

In the case where an investor does not wish to receive the *prospectus*, the *issuer* shall distribute or deliver the factsheet by any method before such investor subscribes for the *debt securities*.

³**Clause 16** An *issuer* of *debt securities* shall not use the subscription money in the amount exceeding the total amount expected to be received from the total offer for sale of *debt securities* for any business, and shall return such excessive amount to the subscribers who do not receive an allotment in the same period as specified by the standard practice for such matter of securities companies as specified by the Association of Thai Securities Companies.

⁴**Clause 17** An *issuer* of *debt securities* shall specify in the *prospectus* the investors' right to cancel subscription within an appropriate period as specified upon the occurrence of a cause for the *issuer* to suspend or terminate the offer for sale of *debt securities* or fail to settle the offered *debt securities*. In this regard, the *issuer* shall return the subscription money to the investors who cancel the subscription in the same period as the standard practice for such matter of securities companies as prescribed by the Association of Thai Securities Companies.

Clause 18 An *issuer* of *debt securities* shall specify in the *prospectus* that in the case where the *issuer* fails to return the subscription money to the subscribers within the period specified under Clause 16 or Clause 17, as the case may be, the subscriber shall have the right to receive interest at a rate not lower than 7.5 percent per year as from the date following the expiration for the return of the subscription money.

⁵**Clause 19** In offering for sale of newly issued debenture, if the issuer fails to appoint a debenture holders' representative in accordance with the consent of the debenture holders or fails to arrange a collateral for the debenture issuance (if any) according to the terms and conditions, the *issuer* shall return the subscription money with interest incurred from the subscription account to the subscribers of the debenture in the same period as the standard practice for such matter of securities companies as prescribed by the Association of Thai Securities Companies.

³ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 12/2560 Re: Selling of Newly Issued Debt Securities and Derivative Warrants of Securities Issuer (No. 3)* dated 14 February 2017 (effective on 1 March 2017).

⁴ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 12/2560 Re: Selling of Newly Issued Debt Securities and Derivative Warrants of Securities Issuer (No. 3)* dated 14 February 2017 (effective on 1 March 2017).

⁵ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 12/2560 Re: Selling of Newly Issued Debt Securities and Derivative Warrants of Securities Issuer (No. 3)* dated 14 February 2017 (effective on 1 March 2017).

⁶**Clause 19/1** The provisions under Clause 10, Clause 11, Clause 12, Clause 13 and Clause 19 shall apply to the subscription of bond offered for sale by the bond *issuer, mutatis mutandis*.

Chapter 4 **Selling of Derivative Warrants**

Division 1 **Underwriting of Derivative Warrants**

Clause 20 The provisions under Chapter 2: Underwriting of Debt Securities shall be applicable to the underwriting of *derivative warrants* of the *issuer, mutatis mutandis*.

Division 2 **Subscription of Derivative Warrants**

Clause 21 The subscription form for *derivative warrants* shall have particulars containing at least the following information:

- (1) name, address and identification card number or passport number, tax identification number (if any) of the subscriber and the subscription amount;
- (2) a statement indicating that the subscriber has received the *prospectus* or the factsheet and identifying the format of the received *prospectus*, or a statement that the subscriber does not wish to receive the *prospectus*;
- (3) a statement warning the subscriber that investment in *derivative warrants* has risks and before making a decision to subscribe for *derivative warrants*, the subscriber should also read the *prospectus* or the factsheet carefully.

Clause 22 The provisions under Clause 10, Clause 11, Clause 13, Clause 15, Clause 16, Clause 17 and Clause 18 shall be applicable to the subscription of *derivative warrants* offered for sale by the *issuer, mutatis mutandis*.

⁷**Clause 23** In offering for sale of *derivative warrants* which are guaranteed in full or in part by assets, if the *issuer* of the *derivative warrants* fails to transfer the underlying securities to the trustee so that the holders of the *derivative warrants* will receive the settlement of the underlying securities in full according to the specified amount of the *derivative warrants* upon exercising of rights within the

⁶ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 71/2558 Re: Selling of Newly Issued Debt Securities and Derivative Warrants of Securities Issuer (No. 2)* dated 27 October 2015 (effective on 1 January 2016).

⁷ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 12/2560 Re: Selling of Newly Issued Debt Securities and Derivative Warrants of Securities Issuer (No. 3)* dated 14 February 2017 (effective on 1 March 2017).

period specified in the terms and conditions, the *issuer* of the *derivative warrants* shall return the subscription money for such *derivative warrants* with interest incurred from the subscription account to the subscribers in the same period as the standard practice for such matter of securities companies as prescribed by the Association of Thai Securities Companies..

Chapter 5 Other Provisions

Clause 24 Any reference made in any other notifications to the *Notification of the Capital Market Supervisory Board No. Tor Jor. 29/2551 Re: Subscription, Underwriting and Allotment of Newly Issued Securities* dated 15 December 2008 in the part related to the selling of newly issued *debt securities* and *derivative warrants* of *issuers* shall mean reference to this Notification.

Notified this 7th day of November 2014.

(Mr. Vorapol Socratyanurak)
Secretary-General
Office of the Securities and Exchange Commission
Chairman
Capital Market Supervisory Board