

UNOFFICIAL TRANSLATION

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 Thor. 31/2559 Re: Rules for Operation of Derivatives Clearing Houses

By virtue of Section 76, Paragraph 3 of Section 82 and Paragraph 2 of Section 83, in conjunction with Section 34(2) and Paragraph 1 of Section 89, in conjunction with Section 73 of the *Derivatives Act B.E. 2546 (2003)*, the Capital Market Supervisory Board hereby issues the following regulations:

Clause 1 This Notification shall come into force as from 1 July 2017.

Chapter 1 General Provisions

Part 1 Objectives of the Supervision of Derivatives Clearing Houses

Clause 2 A derivatives clearing and settlement system is a fundamental system which has connection to the derivatives trading system and other relevant systems. Meanwhile, an information technology system is necessary for *derivatives clearing houses* to achieve their goals. Hence, determination of regulations on supervision of *derivatives clearing houses*, efficient use of information technology (IT governance), and implementation of appropriate risk management and resource allocation by their *board of directors* and *executives* that is practical and meets the standards established by an international organization concerning capital market supervision is crucial and necessary. The regulations under this Notification set a standard for operation of *derivatives clearing houses* so that their services are efficient, transparent, and examinable, in a bid to promote confidence towards, and integrity and security of, the overall financial system, and to improve the competitiveness and image of the Thai capital market.

Part 2 Principles for Operation of Derivatives Clearing Houses

Clause 3 To encourage *derivatives clearing houses*, which are financial market infrastructures, to deploy effective and secure risk management systems, provide services in a transparent and fair manner, and operate appropriately and correspond with the standards established by an international organization concerning capital market supervision, each *derivatives clearing house* shall operate in accordance with the

following principles:

- (1) good governance and clear, transparent organizational structure;
- (2) effective risk management for legal, credit, liquidity, operation, and other risks, with measures to appropriately monitor, control, and manage each type of risks to ensure that these risks can be handled;
- (3) sufficient funding, appropriate systems and rules for membership and supervision of *members* to ensure efficient derivatives clearing and settlement, including in the case of default on the obligations;
- (4) business continuity management, with measures that meet international standards in a bid to promote and maintain the readiness of important systems of *derivatives clearing houses* so that they can operate continuously;
- (5) disclosure of information in a clear, transparent, and adequate manner to allow *members* and involved persons to be well informed of possible effects and risks from the operation of the business;

Part 3

Subject Matters of this Notification

Clause 4 This Notification establishes regulations on the supervision of *derivatives clearing houses* as follows:

- (1) good governance and organizational structuring, as detailed in Chapter 2;
- (2) regulations on business operation, as detailed in Chapter 3;
- (3) risk management, as detailed in Chapter 4;
- (4) management of tiered participation arrangements in *derivatives clearing houses*, as detailed in Chapter 5;
- (5) management and disclosure of information, as detailed in Chapter 6;
- (6) business continuity management and security of information technology systems, as detailed in Chapter 7;
- (7) outsourcing of services, as detailed in Chapter 8;
- (8) handling of complaints, as detailed in Chapter 9;
- (9) retention of information and documents, as detailed in Chapter 10;

Part 4

The SEC Office's Power

Clause 5 In order for this Notification to be complied with, the SEC Office may perform the following:

- (1) establish rules in clear detail to enable *derivatives clearing houses* to practice in a consistent manner;
- (2) set out detailed guidelines of practice that is proper and in compliance with this Notification, with which conformity to be deemed as compliance with the relevant regulations under this Notification;

(3) to allow the SEC Office to ensure compliance with this Notification, require *derivatives clearing houses* to submit to the SEC Office reports or any particular documents periodically or from time to time, within a time period specified by the SEC Office, provided that this requirement does not cause unreasonable burden to *derivatives clearing houses*.

Part 5 Definitions

Clause 6 In this Notification:

“*derivatives clearing house*” means any derivatives clearing house according to the *Law on Derivatives*;

“*securities clearing house*” means any securities clearing house according to the *Law on Securities and Exchange*;

“*derivatives exchange*” means any licensed derivatives exchange according to the *Law on Derivatives*;

“*securities trading center*” means any securities trading center according to the *Law on Securities and Exchange*;

“*central securities depository*” means any central securities depository according to the *Law on Securities and Exchange*;

“*Stock Exchange*” means the Stock Exchange of Thailand according to the *Law on Securities and Exchange*;

“*board of directors*” means the *board of directors* of a *derivatives clearing house*;

“*executive director*” means any director who takes part in management as prescribed by the *Notification of the Capital Market Supervisory Board concerning Application for and Approval of Offer for Sale of Newly Issued Shares*;

“*executive*” means a manager, deputy manager, assistant manager, departmental director, or any person who holds a position equivalent to any of the above regardless of the title, and includes any person who has full or partial authorization under an agreement of management;

“*affiliate*” means an affiliated company as prescribed by the *Notification of the Capital Market Supervisory Board concerning Outsourcing Operational Function relating to Business Operation to a Third Party*;

“*member*” means any member of a *derivatives clearing house*;

“*controlling power*” means the power to control a business, as described in Section 89/1 of the *Securities and Exchange Act*;

“*assets received from or possessed for a member*” means:

(1) assets that a *derivatives clearing house* receives from a *member*, whether it is owned by the *member* or its client, for use as collateral for derivatives trading;

(2) assets that a *derivatives clearing house* receives from derivatives trading, whether it is owned by a *member* or its client;

(3) assets placed by a *member* with a *derivatives clearing house* for security of the derivatives trading and clearing and settlement.

Chapter 2 Good Governance and Organizational Structuring

Clause 7 *Derivatives clearing houses* shall establish clear written regulations on good governance, with approval of their *board of directors*.

Regulations under Paragraph 1 shall promote the integrity and efficiency of the *derivatives clearing houses*, and benefits of the public and clients shall be taken into consideration. Said regulations shall include at least the following matters:

- (1) policies on prevention and handling of conflicts of interest;
- (2) adequate measures to prevent directors, *executives*, sub-committee *members*, advisors, staff members, employees, or persons who work for *derivatives clearing houses* from unlawfully seeking benefits by using the information obtained during the performance of their duties, as well as adequate measures to keep information of *members* and their clients confidential.

Derivatives clearing houses shall disclose their regulations on good governance to the public and involved persons after approval of their *board of directors* has been obtained.

Clause 8 To ensure that *derivatives clearing houses* operates in an efficient and transparent manner and that their operation promotes integrity of the capital market and is in compliance with the regulations on good governance established pursuant to Clause 7, *derivatives clearing houses* shall appoint a *board of directors* comprising the chairman of the *board*, *executive directors*, and independent directors, who have knowledge of and experience in the capital market or knowledge and experience useful for the operation of the *derivatives clearing house*.

For the purposes of Paragraph 1, *derivatives clearing houses* shall take at least the following actions:

- (1) clearly determine roles and responsibilities of the *board of directors* and *executives*;
- (2) evaluate the performance of the *board of directors* and *executives*.

Clause 9 *Derivatives clearing houses* shall take at least the following actions with respect to organizational structuring:

- (1) maintain independent directors under Paragraph 1 of Clause 8 who shall account for at least one third of the total number of directors and in any case not less than two;
- (2) adopt an effective internal control system and an efficient, independent audit system;
- (3) establish a risk management committee, which sets out risk management policies and ensures compliance with such policies, comprising persons with knowledge and experience in derivatives trading, risk management, or management of a *derivatives clearing house*, provided that the chairman of the risk management committee and not less than half of all committee members shall not be *executives*, staff members, or employees of the *derivatives clearing house* or its *affiliate*;
- (4) set up a unit for managing risks according to policies concerning risks, provided that payment of consideration for such unit shall not create conflicts of interest.

Clause 10 Independent directors under Paragraph 1 of Clause 8 shall be able to perform their duties independently in an impartial and fair manner, taking into consideration the public's benefits and the security and integrity of the capital market.

An independent director of a *derivatives clearing house* shall not have any of the following prohibited characteristics:

(1) is or was an *executive director*, *executive*, staff member, employee, or advisor, or is holding or held any other equivalent position, of the *derivatives clearing house* or its *affiliate*, unless his/her term or employment has ended for at least two years as of the date of commencement as an independent director;

(2) is a director, *executive*, staff member, or employee or a person holding any other equivalent position, including a person participating in the management of a *member*;

(3) is a shareholder with the *controlling power* of the *derivatives clearing house*;

(4) is otherwise unable to provide independent opinion as to the operation of the *derivatives clearing house*.

Chapter 3

Regulations for Operation as Derivatives Clearing House

Clause 11 In providing derivatives clearing and settlement services, a *derivatives clearing house* shall implement a system that ensures that the obligation under the derivatives contract shall be performed, and shall be bound or replace itself as a counterparty to the buyer and seller immediately after the *derivatives exchange* has informed the *derivatives clearing house* of the relevant trading transaction that takes place on the *derivatives exchange*. The *derivatives clearing house* or any involved person may not cancel, amend, or change a trading transaction unless otherwise specified by any rule or regulation that has been approved by the Capital Market Supervisory Board.

Clause 12 A *derivatives clearing house* shall establish clear rules and procedures to ensure that the derivatives clearing and settlement performs efficiently. To that end, it shall perform at least the following actions:

(1) process derivatives trading transactions and inform *members* of their net settlement obligations;

(2) establish procedures and set timeframes for derivatives clearing and settlement, and clearly define the timing of settlement finality in the relevant rules;

(3) establish clear procedures and methods for events of members' default on the obligations on derivatives so that the events of default can be handled efficiently and timely, disclose such procedures and methods to the general public, and coordinate with *members* and involved persons to test and review such default procedures and process at least once a year;

(4) in cases where clearing is done through a commercial bank, determine criteria for choosing a commercial bank so that clearing is carried out appropriately and efficiently, and set out risk management measures.

Clause 13 Each *derivatives clearing house* shall establish a system for supervision and examination of the overall financial position and risks of *members*, which at least regularly evaluates and monitors their financial position, financial stability, and risk management systems, and shall implement measures to ensure that *members*' financial position and risk management systems comply with the *derivatives clearing house*'s rules and regulations.

Clause 14 In case of delivery of the underlying product, the *derivatives clearing house* shall establish a clear and written rule or agreement with at least the following provisions:

- (1) duties and liability of the *derivatives clearing house* to its member or involved persons and vice versa regarding delivery of the underlying product;
- (2) procedure for handling default or delivery of the underlying product.

Clause 15 In cases where a *derivatives clearing house* makes investment or deposits assets with a commercial bank, either in Thailand or in another country, the *derivatives clearing house* shall evaluate potential risks from the use of the commercial bank's services to make sure that the commercial bank has an effective system for storage of assets, is able to repay debts upon demand, and is under the supervision of a trustworthy organization. Said investment and deposit of assets shall not be overly concentrated at a particular commercial bank, either in Thailand or in another country.

Clause 16 Regarding custody of *assets received from or possessed for a member*, a *derivatives clearing house* shall perform the following actions:

- (1) create and maintain for each *member* an accurate and current register of *assets received from or possessed for the member* separately from the *derivatives clearing house*'s assets and from clients;
- (2) store the *assets received from or possessed for a member* in a safe and secure manner, and ensure that the items and amounts of assets are in conformity with the register in subclause (1);
- (3) store the *assets received from or processed for a member* separately from the derivatives clearing house's assets in a manner that such *assets received from or processed for the member* can be clearly identified without any doubt;
- (4) report the custody of said assets to the relevant *member* within reasonable time.

The *derivatives clearing house* shall set out rules on how to carry out the actions under Paragraph 1.

Clause 17 A *derivatives clearing house* may not use an outsourced service provider with respect to custody of *assets received from or possessed for members*.

By taking the following actions, it shall not be considered that the *derivatives clearing house* uses an outsourced service provider and it shall be considered that the assets is kept separately pursuant to Section 16(3):

- (1) in the case of cash, the *derivatives clearing house* shall take the following actions:
 - (a) deposit it with a commercial bank or any other bank established under a specific law, or invest it within the scope of investment or according to investment policy which the *derivatives clearing house* sets out by taking into

consideration the liquidity, risks, and possible effects on the integrity of the trading and clearing systems on the *Derivatives Exchange*;

(b) in the case of investment, report to the SEC Office the scope of investment or investment policy set out under subclause (a) and any amendment without delay, and also disclose them to *members*;

(c) clearly identify the objectives of the storage and demonstrate that such storage or investment by the *derivatives clearing house* is for the purpose of complying with Section 82 and Section 83.

(2) in the case of securities, the *derivatives clearing house* shall deposit them with a *central securities depository* or the Bank of Thailand, and shall clearly identify the objectives of the deposit and demonstrate that such deposit by the *derivatives clearing house* is for the purpose of complying with Section 82 and Section 83;

(3) in the case of other asset, the *derivatives clearing house* shall store it together with the evidence that the asset belongs to a particular *member* or a client of a particular *member* without a doubt.

Clause 18 In taking the actions under Clause 16 and Clause 17, a *derivatives clearing house* shall examine and ensure that its staff strictly complies with the applicable notifications and rules set out by the *derivatives clearing house*. If it appears to the SEC Office that any *derivatives clearing house* violates or fails to comply with its notifications or rules, or takes inappropriate action with respect to its operation as a *derivatives clearing house*, the SEC Office may instruct the *derivatives clearing house* to comply with said notifications and rules or take any action as it deems fit.

Clause 19 A *derivatives clearing house* shall establish transparent and fair membership criteria, which shall take into particular consideration the suitability, financial position, and risk management systems of the applicants.

Clause 20 To ensure that *members* comply with relevant rules and regulations, *derivatives clearing houses* shall perform the following actions:

- (1) establish rules or regulations applicable to *members*;
- (2) establish measures to ensure that *members* comply with the rules or regulations;
- (3) establish measures to be implemented when a *member* violates or does not comply with rules or regulations;
- (4) evaluate *members*' compliance with rules or regulations over a reasonable time period;
- (5) produce reports on the evaluation and actions taken against *members* who violate or do not comply with rules or regulations, and submit them to the SEC Office for information.

Chapter 4

Risk Management

Clause 21 Each *derivatives clearing house* shall take at least the following actions with respect to risk management:

(1) establish a written comprehensive risk management policy framework that covers all risk areas, with approval of its *board of directors* or the working group assigned by the *board of directors*;

(2) establish risk management measures which are sufficient to effectively prevent and manage risks in different areas;

(3) regularly review said policy framework and risk management measures to ensure that they are appropriate.

Clause 22 *Derivatives clearing houses* shall have sufficient sources of funds to support their operation and potential risks from their operation. The proportion of owner's equity shall not be less than the total expenses of the business operation over a period of six months as shown in the most recent financial statements, and shall be in the form of high quality assets with adequate liquidity.

Derivatives clearing houses shall establish clear plans to obtain additional sources of funds in cases where their capital is insufficient for the operation and various risks pursuant to Paragraph 1.

Clause 23 Each *derivatives clearing house* shall establish a plan for recovery or an orderly wind-down, with approval of its *board of directors*, which contains details at least in the following matters:

(1) circumstances and periods of time in which a *derivatives clearing house* may have to implement the plan for recovery or an orderly wind-down;

(2) important tasks concerning derivatives clearing and settlement in a manner that enables the *derivatives clearing house* to continue its business;

(3) guidelines or procedures for business recovery;

(4) guidelines or procedures for administration of assets and liabilities of the *derivatives clearing house*, its *members* and clients in cases where the business recovery fails.

Chapter 5

Tiered Participation Arrangements in Derivatives Clearing Houses

Clause 24 When providing services concerning derivatives clearing and settlement to *members* who provide services to an indirect client (tiered participant) who is a juristic person, *derivatives clearing houses* shall also supervise and monitor potential risks of these *members*.

Clause 25 In cases where a *derivatives clearing house* provides tiered participation arrangements with another *derivatives clearing house*, the *derivatives clearing house* shall first establish measures for risk management which cover at least the following matters:

(1) laws or regulations that allow for provision of tiered participation arrangements and protection of transactions due to differences in *derivatives clearing houses*;

- (2) measures and procedures for managing default which are enforceable on other *derivatives clearing houses* in tiered participation arrangements;
- (3) ability to demand or enforce collateral promptly;
- (4) sufficient sources of funds to handle risks arising from tiered participation.

Chapter 6

Management and Disclosure of Information

Clause 26 *Derivatives clearing houses* shall disclose or disseminate rules, regulations, news, or information related to provision of services as a *derivatives clearing house* sufficiently to the extent that *members* or their clients, or any involved persons understand risks from use of the services, and shall review the information disclosed or disseminated regularly or every time there is a change or an update so that the information is current.

Clause 27 *Derivatives clearing houses* shall set up a system for management and storage of information concerning their business operation in an efficient, concise and complete manner, which also allows such information to be compiled, processed, and made available for viewing within reasonable time.

Derivatives clearing houses shall set up an alternative system for use when the system under Paragraph 1 cannot function properly so that the management and storage of information concerning their business operation can proceed normally.

Clause 28 *Derivatives clearing houses* shall establish rules or regulations which allow for exchange of information on derivatives clearing and settlement, including any other information obtained during the normal course of operation as a *derivatives clearing house* with the *Stock Exchange, securities trading centers, derivatives exchange, securities clearing houses, central securities depositories*, the SEC Office, and the Bank of Thailand, for the purposes of supervising and examining the financial position and risks of *members*.

Clause 29 To preserve the public interest and to protect investors, a *derivatives clearing house* shall disclose information about derivatives clearing and settlement, its *members*, breaches committed by its *members*, and punishment imposed on its *members*, as well as any other information obtained during the course of business operation as a *derivatives clearing house* that is material when making a transaction with its *members*.

Information disclosed under Paragraph 1 shall be timely, and sufficient information shall be disclosed to the public in a fair manner. The type of information, as well as methods and conditions for information disclosure shall be determined by the *derivatives clearing house*, with approval of the Capital Market Supervisory Board.

Chapter 7

Business Continuity Management and Security of Information Technology Systems

Clause 30 In this Chapter:

“*computer system relating to clearing and settlement*” means an important computer system or network system relating to derivatives clearing and settlement, a lack of continuity of which would significantly affect the relevant *derivatives clearing house* and any person related to the *derivatives clearing house*.

Clause 31 This Chapter contains regulations on business continuity management and security of information technology systems in the following matters:

- (1) business continuity management, as detailed in Part 1;
- (2) review, monitoring, and examination of *computer systems relating to clearing and settlement services with respect to derivatives*, as detailed in Part 2;
- (3) reporting on material changes in a *computer system relating to services and settlement with respect to derivatives*, as detailed in Part 3;
- (4) incident management, as detailed in Part 4;
- (5) establishment of policies and monitoring and analysis of information technology systems, as detailed in Part 5.

Part 1

Business Continuity Management

Clause 32 *Derivatives clearing houses* shall ensure their readiness in providing services. To that end, at least the following matters shall be produced in writing:

- (1) a business continuity policy, with approval of the *board of directors* or the working group assigned by the *board of directors*, in order to ensure that during a disruptive event, derivatives clearing and settlement will continue without interruption or can be resumed and continued within reasonable time;
- (2) a business continuity plan that corresponds with the policy set out under subclause (1), with approval of a manager or any person holding an equivalent position regardless of the title.

Clause 33 A business continuity plan under Clause 32(2) shall include at least the following details:

- (1) measures to be implemented in the case of emergency which may affect the provision of services as a *derivatives clearing house* with a defined scope that covers possible emergency events, including a detailed procedure and the responsible person for adhering to each step of the procedure;
- (2) a list of *computer systems relating to derivatives clearing and settlement* ;

(3) evaluation of risks, and their probability, of discontinuity of a *computer system relating to derivatives clearing and settlement*, and Business Impact Analysis (BIA);

(4) the recovery time objective;

(5) the recovery point objective;

(6) details of backup systems and alternative site which comply with the business continuity policy and business continuity plan.

Clause 34 *Derivatives clearing houses* shall establish measures for supervising and communicating with *members* so that the business continuity policy and business continuity plan can be carried out effectively.

Clause 35 To ensure that business continuity management is effective, each *derivatives clearing house* shall take the following actions at least once a year:

(1) conduct testing on the business continuity plan with *members* and involved persons;

(2) have the results of the testing under subclause (1) evaluated by a person with required knowledge and skills who is independent from the persons who formulate or administer the plan;

(3) report the evaluation results under subclause (2) to the *board of directors* and the SEC Office within ninety days from the day the testing is completed.

Clause 36 In cases where there is a change to a *computer system relating to derivatives clearing and settlement* to the extent that it affects the business operation of the relevant *derivatives clearing house*, the *derivatives clearing house* shall review and revise its business continuity plan without delay.

Part 2

Review, Monitoring, and Examination of Computer Systems relating to Clearing and Settlement Services with respect to Derivatives

Clause 37 To ensure that steps or procedures concerning *computer systems relating to derivatives clearing and settlement services* are effective, each *derivatives clearing house* shall take the following actions:

(1) have the steps or procedures concerning *computer systems relating to derivatives clearing and settlement services* reviewed, monitored, and examined according to an examination plan specifically designed to suit the level of risks for the particular organization, by an independent person with required knowledge and skills, such as an internal or external auditor, and submit to the SEC Office once a year a report on said review, monitoring, and examination, together with an examination plan specifically designed to suit the level of risks for the particular organization, within sixty days from submission of said report to the *board of directors* or the working group assigned by the *board of directors*;

(2) complete penetration testing on all *computer systems relating to derivatives clearing and settlement services* every three years, the order of systems tested being in accordance with their priority according to the results of risk evaluation,

and submit to the SEC Office a report on said testing within the first quarter of the year following the year the testing is conducted.

Part 3

Reporting on Material Changes in Computer Systems relating to Clearing and Settlement Services with respect to Derivatives

Clause 38 To ensure that the overall business operation of *derivatives clearing houses* is supervised in an orderly, effective, and timely manner, *derivatives clearing houses* shall report to the SEC Office on any material changes in *computer systems relating to clearing and settlement services with respect to derivatives* within January of the following year.

Part 4

Incident Management

Clause 39 In this Part:

“incident” means:

- (1) an event which causes disruption or degradation of a *computer system relating to clearing and settlement services with respect to derivatives*;
- (2) an event which causes a *computer system relating to clearing and settlement services with respect to derivatives* to become non-compliant to any law, rules, regulations, or requirements set out by the Securities and Exchange Commission, the Capital Market Supervisory Board, the SEC Office, or the relevant *derivatives clearing house*;
- (3) an event which causes a *computer system relating to clearing and settlement services with respect to derivatives* to be intruded.

Clause 40 When an *incident* occurs, the *derivatives clearing house* shall collect relevant information to identify the cause of the problems, suggest solutions to the problems, report the *incident* to *executives*, and retain relevant evidence and documents available for viewing or inspection by the SEC Office upon request.

Clause 41 In order to accurately and effectively address an *incident*, the relevant *derivatives clearing house* shall take at least the following actions:

- (1) create a written plan to be implemented when an *incident* occurs and adhere to that plan;
- (2) designate a unit or personnel as point of contact and report to *executives* or persons related to the *derivatives clearing house* for escalation procedures.

Clause 42 In the case of a *serious incident*, in addition to the actions under Clause 40 and Clause 41, the relevant *derivatives clearing house* shall also report

that *serious incident* to the SEC Office in accordance with the following rules:

- (1) produce a report verbally or via an email immediately after that *serious incident* is known;
- (2) produce a written investigation report after said *serious incident* has been resolved within thirty days from the day the *board of directors* or the working group assigned by the *board of directors* is reported of that *serious incident*, but no later than ninety days from the day that *serious incident* takes place.

An investigation report under subclause (2) shall contain a detailed explanation of the *serious incident*, its effects on the *derivatives clearing house* and its *members*, the root cause, steps taken to resolve the problems, and measures to prevent events of the same nature.

For the purposes of Paragraph 1, “*serious incident*” means:

- (1) an incident that causes disruption to a *computer system relating to derivatives clearing and settlement*;
- (2) an incident which affects a *computer system relating to clearing and settlement services with respect to derivatives* to the extent that it may seriously affect the credibility of the *derivatives clearing house*.

Part 5

Establishment of Policies and Monitoring and Analysis of Information Technology Systems

Clause 43 To ensure that information technology systems of *derivatives clearing houses* are effective and secured so that they can maintain confidentiality, accuracy, and credibility of information, remain active for use, and properly monitor potential risks to *computer systems relating to clearing and settlement services with respect to derivatives*, *derivatives clearing houses* shall take at least the following actions:

- (1) establish policies and measures to ensure security of information technology systems so that they meet standards acceptable to the SEC Office, or other standards accepted by the industry which also enable such objectives to be achieved, with approval of a manager or any person holding an equivalent position regardless of the title, and review and revise such policies and measures so that they are fit and suitable for current information technology risks;
- (2) monitor and analyze potential risks to *computer systems relating to clearing and settlement services with respect to derivatives* by recording and maintaining usage information and log files.

Chapter 8

Outsourcing of Services

Clause 44 For actions which the applicable laws or regulations do not specifically require a *derivatives clearing house* to perform by itself, and which are

necessary to enhance its business operation efficiency, the *derivatives clearing house* may outsource that service to an outsourced service provider, provided that its outsourced service provider is capable of providing that service in compliance with the applicable laws and regulations, and that by such outsourcing, it cannot be considered that the *derivatives clearing house* does not operate its business.

To outsource a service, a *derivatives clearing house* shall establish at least the following:

- (1) a written policy, scope, or definition of work to be outsourced, with approval, whether on a general or case-by-case basis, of the *board of directors* or the working group assigned by the *board of directors*;
- (2) measures for appropriate and effective management of risks from outsourcing;
- (3) measures for examination of services provided by outsourced service providers so that the outsourced services comply with the objectives of the *derivatives clearing house*.

The provisions in Paragraph 2 shall not apply to cases where the *Stock Exchange* holds more than fifty percent of the total paid-up capital of the *derivatives clearing house* and the outsourced service provider is the *Stock Exchange* or is a company of which more than fifty percent of the total paid-up capital is held by the *Stock Exchange*.

Chapter 9

Handling of Complaints

Clause 45 Each *derivatives clearing house* shall create a system for effective handling of complaints and disputes arising from *clearing and settlement services with respect to derivatives*, or from use of its services, by taking at least the following actions:

- (1) set out written rules on handling of complaints and disputes, which also consider protection of complainants;
- (2) designate a unit or personnel to be responsible for handling of complaints and disputes;
- (3) monitor and examine handling of complaints and disputes, and inform complainants or disputants of the results of consideration of the complaints or disputes;
- (4) submit to the SEC Office a summary report on complaints and disputes every six months, which includes a summary of the relevant subject matters and the results of consideration or actions taken by the relevant *derivatives clearing house*.

Chapter 10

Retention of Information and Documents

Clause 46 Each *derivatives clearing house* shall retain information and documents for the time periods prescribed below:

(1) for information about business operation under Clause 27, for a period of not less than ten years from the day the information is obtained or relevant action taken;

(2) for a business continuity plan under Clause 32(2), for a period of not less than three years from the day that plan is created;

(3) for an amended business continuity plan under Clause 36, for a period of not less than three days from the amendment;

(4) for evidence of usage information and log files from use of an information technology system under Clause 43(2), for a period of not less than that prescribed by the law on computer crime;

(5) for evidence for examination of services provided by outsourced service providers under subclause (3) of Paragraph 2 of Clause 44 and other documents relating to outsourcing of services, for a period of not less than three years from the examination of outsourced services;

(6) for evidence relating to a complaint or dispute and results of consideration under Clause 45(4), for a period of not less than three years from the day of settlement of said complaint or dispute.

Regarding retention of information under Paragraph 1, the Capital Market Supervisory Board may also instruct *derivatives clearing houses* to perform such other actions as deemed appropriate.

Retention of information, documents, and evidence under Paragraph 1 shall be in a manner that allows them to be available for viewing or inspection by the SEC Office upon request.

Chapter 13

Transitional Provisions

Clause 47 All notifications of the Office of the Securities and Exchange Commission, orders, and circulars issued by virtue of or prescribing guidelines in accordance with the provisions under the *Notification of the Capital Market Supervisory Board No. Tor Dor. 96/2552 Re: Rules for Operating Derivatives Exchange and Derivatives Clearing Houses* dated 28 October 2009 in the part related to the operation of *Derivatives Clearing Houses* and the *Notification of the Capital Market Supervisory Board No. Tor Dor. 98/2552 Re: Custody of Assets Received or Possessed by Derivatives Clearing Houses for Members* dated 28 October 2009, which have been in effect prior to the effective date of this Notification, shall remain in full force to the extent that they are not contrary to nor inconsistent with this Notification until relevant notifications, orders, and circulars issued or prescribing guidelines in accordance with this Notification come into force.

Clause 48 Any reference made in any other notifications to the *Notification of the Capital Market Supervisory Board No. Tor Dor. 96/2552 Re: Rules for Operating Derivatives Exchange and Derivatives Clearing Houses* dated 28 October 2009 in the part related to the operation of *Derivatives Clearing Houses* and the *Notification of the Capital Market Supervisory Board No. Tor Dor. 98/2552 Re: Custody*

of Assets Received or Possessed by Derivatives Clearing Houses for Members dated 28 October 2009 shall mean reference to this Notification.

Notified this 3rd day of August 2016.

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