

**UNOFFICIAL TRANSLATION**

Codified up to No. 2

As of 8 August 2016

*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 Jor 62/2558**

**Re: Application Form for Offering of Newly Issued Securities Accompanying Tender Offer for Existing Securities of Listed Companies for Restructuring Shareholding and Management, Evidentiary Documentation of the Application, and Detailed Information in Shareholders' Meeting Notice**

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By Virtue of Paragraph 1 of Clause 5 of the *Notification of the Capital Market Supervisory Board No. Tor Jor 34/2552 Re: Regulations on Offering of Newly Issued Securities for Restructuring Shareholding and Management* dated 3 August 2009, the SEC Office hereby issues the following regulations.

**Clause 1** The *Notification of the Office of the Securities and Exchange Commission No. Sor Jor 23/2554, Re: Application Form for Offering of Newly Issued Securities Accompanying Tender Offer of Existing Securities of Listed Companies for Restructuring Shareholding and Management, Evidentiary Documentation of the Application, and Detailed Information in Shareholders' Meeting Notice* dated 10 August 2011 shall be repealed.

**Clause 2** An applicant who intends to offer newly issued securities for sale shall submit Form 35-1-RE, as available on the SEC Office's website, with three sets of copies of the following evidentiary documentation:

- (1) a document with details of the securities issuing company, containing details in similar forms and particulars specified in the registration statement for tender offer according to Form 69/247-1 in the parts related to details of the restructuring plan and other information for decision making of the securities holders in addition to the background information of the swap ratio between the securities offered and the securities of the listed company to which the tender offer is proposed;
- (2) a document describing the following details of the directors, executives and controlling persons (in the case where the applicant is a newly established holding company):
  - (a) first and last names (including former first and last names (if any));
  - (b) identification card number;
  - (c) the holding of director or executive positions in other companies;
- (3) a copy of the Memorandum of Association, the Registration Certificate and the Articles of Association, all certified by the Ministry of Commerce, of the applicant and subsidiaries;
- (4) a document showing that the listed company to which the tender offer is proposed and the applicant deliver their shareholders' meeting notice to their respective shareholders at least fourteen days prior to the shareholders' meetings of the listed company and the applicant (in case of an applicant whose shares are listed on the Stock Exchange);

(5) a copy of the shareholders' meeting notice of the listed company to which the tender offer is proposed and that of the applicant, and a copy of the resolutions made by the respective shareholders' meetings which approve the shareholding and management restructuring plan and any other plans required to be approved by the shareholders' meetings (in case of an applicant whose shares are listed on the Stock Exchange);

(6) a copy of the letter informing the Stock Exchange's preliminary approval related to the shareholding and management restructuring plan of the listed company to which the tender offer is proposed and that of the applicant, and the applicant's plan to have its securities listed on the Stock Exchange;

(7) a copy of the approval letters for the shareholding and management restructuring of the applicant and the listed company to which the tender offer is proposed from the regulator who has the power and duty by virtue of law (in the case where such approval is required by law);

(8) a copy of the contract authorizing other persons to have the absolute power in the management of the applicant (if any);

(9) a copy of the inspection report of the regulator who has the power and duty by virtue of the latest law, including the report on the internal control system (if any);

(10) a copy of the approval letter for a capital increase from the regulator who has the power and duty by virtue of law (in the case where such approval is required by law);

(11) a certification letter from the applicant concerning the acknowledgement of the obligations and responsibilities after the securities offering (in the case where the applicant is a newly established holding company);

(12) a certification letter of the applicant's directors and executives concerning the acknowledgement of their duty and responsibility to report their securities holding in accordance with Section 59 (in the case where the applicant is a newly established holding company or a listed company whose shares are listed on the Stock Exchange, and has never obtained an approval for securities offering from the SEC Office);

(13) a certification letter for the duty performance of the financial advisor (including the certification of the performance of duty to give opinions at the shareholders' meeting);

(14) a certification letter from the independent directors and the Audit Committee, stating their understanding of their respective roles, duties and responsibilities, and their ability to express independent opinions with respect to the applicant's execution in compliance with the resolutions of the shareholders' meetings and in fair treatment to all shareholders and in accordance with the related laws, rules and regulations (in the case where the applicant is a newly established holding company);

(15) a letter expressing the opinion of the Audit Committee regarding the sufficiency and appropriateness of the internal control systems of the applicant and the subsidiaries as prescribed in the *Notification of the Office of the Securities and Exchange Commission concerning the Application Form for Offering of Newly Issued Shares and Procedures for Filing the Application, mutatis mutandis*;

(16) the Audit Committee's opinion letter concerning related party transactions;

(17) a copy of the resolution of the Board of Directors' meeting approving the authorization for the managing director or other persons to act on the Board's behalf (if any);

(18) the latest inspection report, or its copy, regarding the internal control system for important work systems and the tracking report on the inspection results of the internal control system (if any) together with the delegation of authority table (in the case where the applicant is a company whose shares are listed on the Stock Exchange);

(19) a copy of the updated comment from the auditor concerning the

vulnerability of the important internal accounting review (if any) (in the case where the applicant is a company whose shares are listed on the Stock Exchange);

(20) a copy of an expert's report or opinion (if any);

(21) a checklist form of due diligence performed by the financial advisor, or its copy;

(22) the list showing that the applicant has qualifications in accordance with the regulations related to newly established holding companies, as prescribed in the *Notification of the Capital Market Supervisory Board concerning Application and Approval for Offering of Newly Issued Shares* (in the case where the applicant is a newly established holding company);

(23) A document or any supporting working papers in preparing pro-forma financial statements of the applicant in the case where its historical financial statements do not reflect the actual results of operations ;

(24) a document showing that the directors and executives are the persons whose name are listed in the database of the applicant's directors and executives (in the case where the applicant is a newly established holding company);

(25) the applicant's financial statements for the latest financial year and the latest quarter (in the case where the applicant is a newly established holding company and the said financial statements shall include those of the listed company to which the tender offer is proposed.

**Clause 3** The shareholders' meeting notices regarding the shareholding restructuring plan of the applicant and the listed company to which the tender offer is proposed shall contain at least the particulars and details as specified on the SEC Office's website.

3/1<sup>1</sup> In the case where any applicant finds it necessary and appropriate or is subject to legal constraint under other laws causing the inability to deliver the information or the evidentiary documentation under Clause 2, the applicant may request a waiver of delivery of such information or evidentiary documentation to the SEC Office. In this regard, the SEC Office will consider a waiver by taking into account the necessity for delivery of the information and evidentiary documentation in such case or any other sufficient measures to replace the delivery of the information or evidentiary documentation specified in the request for a waiver.

**Clause 4** This Notification shall come into force from 20 July 2015.

Notified this 10<sup>th</sup> day of July 2015.

(Mr. Rapee Sucharitakul)

Secretary-General

Office of the Securities and Exchange Commission

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<sup>1</sup> Amended by the *Notification of the Office of the Securities and Exchange Commission No. Sor Jor 31/2016 Re: Application Form for Offering of Newly Issued Securities Accompanying Tender Offer for Existing Securities of Listed Companies for Restructuring Shareholding and Management, Evidentiary Documentation of the Application, and Detailed Information in Shareholders' Meeting Notice (No. 2)* dated 8 August 2016 (effective on 1 September 2016).