

(UNOFFICIAL TRANSLATION)

Codified up to No. 3

As of 20 April 2018

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. 28/2554

Re: Requirements Related to Reporting of Acquisition and Disposal of Securities

By virtue of Section 16/6 and Section 246 of the *Securities and Exchange Act B.E. 2535 (1992)*, as amended by the *Securities and Exchange Act (No. 4) B.E. 2551 (2008)*, which contain certain provisions relating to restriction of rights and liberties of persons which Section 29 in conjunction with Section 33, Section 34, Section 41, Section 43, Section 44 and Section 64 of the *Constitution of the Kingdom of Thailand* so permit by virtue of law, the Capital Market Supervisory Board hereby issues the following regulations:

Clause 1 This Notification shall come into force from 16 September 2011.

Clause 2 In this Notification:

“**business**”¹ means a company having its shares listed on the *Stock Exchange* under the following conditions:

- (1) being established under Thai law;
- (2) being established under foreign law and having any of the following

characteristics:

(a) making an initial public offering [IPO] to have its shares listed on the *Stock Exchange* and not having its shares traded on a foreign exchange, and in case of multiple IPOs in many jurisdictions, demonstrating the intention to primarily abide by the regulations of the *Stock Exchange* and the SEC Office;

(b) having its shares listed on the *Stock Exchange* and not having its shares traded on a foreign exchange.

“**securities**” means shares that are issued by **business** or **convertible securities**;

“**convertible securities**” means securities that are convertible or transfer subscription rights that are issued by **business**, whether such **convertible securities** are issued by **business** or other persons, for example, warrants, transferable subscription rights, convertible debentures;

“**concert party**” means any persons have a mutual intention to exercise their voting rights in the same direction or any person allows any other person to exercise his voting for the purpose of achieving a common control of voting rights or of a **business** and such person has a relationship or act together in a manner as specified in the Notification of the Capital Market Supervisory Board concerning acting in concert as a result of the nature of a relationship or behavior and requirements under Section 246 and 247;

“**short selling**” means selling of borrowed securities for the purpose of making a delivery;

¹ Amended by the *Notification of the Capital Market Supervisory Board No. Tor Kor. 52/2559 Re: Requirements Related to Reporting of Acquisition and Disposal of Securities (No. 2)* dated 16 December 2016 (effective from 16 January 2017).

“*Stock exchange*” means the Stock Exchange of Thailand.

Clause 3 Reporting of acquisition or disposal of shares of *business* under Section 246 shall be as follows:

(1) duty to report acquisition or disposal of business’ securities shall comply with Chapter 1;

(2) a waiver for the acquisition or disposal of business’ securities has been granted in accordance with Chapter 2;

(3) requirements for reporting of the acquisition or disposal of business’ securities shall comply with Chapter 3;

Chapter 1

Obligation to Report the Acquisition or Disposal of Business’ Securities

Clause 4 Obligation to report the acquisition or disposal of business’ securities under Section 246 shall arise when any person performs either one of the followings which will result in the holding of shares of the group under Clause 5 to the extent that triggers the point requiring reporting under Clause 6:

(1) acquisition or disposal by such person oneself;

(2) any actions which cause the acquisition of juristic person under Section 258 or cause person under Section 258 of such juristic person to be ended;

(3) any actions which cause the acquisition or ends an individual as a *concert party*.

Clause 5 In considering the total amount of shareholding of a group of person, the amount of shares held by a person who acquires or disposes shares and the amount of shares held by the following persons:

(1) related party under Section 258 of a person who acquires or disposes shares;

(2) *concert party* and person who acquires or disposes shares;

(3) related party under Section 258 of a person under (2).

Clause 6 The trigger point that requires reporting shall comply with the following requirements:

(1) holding of shares in the amount of every 5 percent of total voting rights of the *business* in the case of acquiring or disposing shares;

(2) holding *convertible securities* that has the underlying securities in the amount of any five percent of the total voting rights of the business, in case of acquiring or disposing convertible securities.

Chapter 2

Exemptions Granted for Reporting of Acquisition or Disposal of Business’ Securities

Clause 7 Any acquisition or disposal of business' securities in the following manners, reaching or passing the trigger point that has the obligation to report under Clause 6, shall be granted an exemption from the reporting requirement on the acquisition or disposal of securities of **business** under Chapter 1:

(1) using any procedures to dispose or reduce the holding of convertible securities;

(2) acquisition as a result of the **business** distributing stock dividends or exercise of rights to purchase capital gained securities or **convertible securities** according to the proportion of a rights offering;

(3) acquisition or disposal of shares according to securities lending or borrowing transactions which is conducted with person who is licensed to undertake securities business in the category of securities borrowing and lending business or securities depository and those that fall into either one of the followings:

(a) in case of a person who lends out securities, there shall be a requirements for the borrowing and lending agreement that offers rights to redeem lent securities throughout the period of an agreement;

(b) in case of a person who lends out securities, a delivery of shares as a result of securities lending shall be made within five business days from the date of such securities lending, in this regard, whether it is a delivery for **short selling** or lending to others in a position of securities business operator in the category of securities borrowing and lending;

(c) in case of a person who lends out securities, there shall be a delivery of shares within five business days from the date of receiving shares in order to return the shares.

(4) in placing or receiving collateral by transferring ownership of shares used as a collateral for the recipient of the collateral, in this regard, only for the securities borrowing or lending transactions that comply with the specified requirements in (3);

(5) acquisition or disposal of securities of business by an issuer of certificate representing interest in Thai underlying securities, which the **Stock Exchange** establishes and holds its shares of no less than seventy five percent of the total paid-up capital, only in the case where the issuer of such certificate has specified in the obligation that it does not wish to exercise its voting right at the shareholders' meeting or will do at the shareholders' meeting according to the advice, consent or approval of the holders of such certificate.

An exemption granted to the reporting requirement on the acquisition or disposal of securities of **business** under (3) and (4) in Paragraph 1 shall exclude the acquisition or disposal of shares as a result of breaching a securities borrowing and lending agreement. In this regard, the consideration regarding the reporting of the acquisition or disposal of shares in case of breaching such agreement shall comply with Clause 10.

(6)² acquisition or disposal of securities of **business** as a result of restructuring the shareholding of **business** in accordance with the conditions under Clause 9(5) of the *Notification of the Capital Market Supervisory Board No. Tor Jor. 12/2554 Re: Rules, Conditions and Procedures for Acquisition of Securities for Business Takeovers* dated 13 May 2011, *mutatis mutandis*.

² Added by the *Notification of the Capital Market Supervisory Board No. Tor Kor. 39/2561 Re: Requirements Related to Reporting of Acquisition and Disposal of Securities (No. 3)* dated 20 April 2018 (effective from 1 May 2018).

Chapter 3

Requirements for Reporting of the Acquisition or Disposal of Business' Securities

Clause 8 Person who has obligation to report the acquisition or disposal of business' securities under Clause 4 shall file a report in accordance with the form that the SEC office specified within three business days from the date of such acquisition or disposal of shares except the case of the acquisition by way of inheritance, the filing of a report shall be made within three business days from the date of the registration of shares transfer.

A report under Paragraph 1 may be prepared in Thai or English language.

In case where there is a report of the result of shares purchase as a result of tender offer of shares pursuant to Notifications issued by virtue of Section 247, it shall be deemed that the report for such shares purchase is a report of an acquisition under Section 246.

Clause 9 In reporting the acquisition of business' securities under Clause 8, the date of an acquisition of newly issued shares shall be made on the following dates:

(1) date that *business* completely registered its changes of paid-up capital with the registrar under the law concerning public company limited, in the case of receiving shares;

(2) date that securities issuer has issued *convertible securities* in the case of receiving convertible securities.

Clause 10 When breaching securities borrowing and lending agreement, borrower and lender shall report the acquisition or disposal of business' securities under Clause 8 according to the following requirements:

(1) in case of securities lender, there shall be a report on disposal of lent out shares or the acquisition of shares used as a collateral provided that it shall be deemed that the date of breaching an agreement is the date of disposal or acquisition of such shares;

(2) in case of securities borrower, there shall be a report on disposal of shares used as a collateral provided that it shall consider the date of breaching an agreement as the date of disposal of shares that were used as a collateral.

Clause 11 In considering the obligation to report the acquisition or disposal of business' securities under Chapter 1, it shall consider the exercise of voting rights of the shares which is registered as the current paid-up as a basis for the calculation.

In case where the *business* repurchases shares and did not dispose or eliminate such repurchased securities from the amount of paid-up securities, it shall deduct the voting rights of the repurchased and the outstanding shares as of the end of the prior month that the acquisition or disposal took place from the base calculation of the total voting rights of the business, in this regard, the information of the amount of the total voting rights of business' securities, in this regard, the information on repurchase and outstanding of the voting rights of shares as of the end of such month shall appear on the website of the SEC Office may be used for the calculation.

Clause 12 Reporting of acquisition or disposal of derivative warrants in the interest that arises from an underlying securities which is issued and offered for sale under the Notification concerning offering for sale derivative warrants in the interest that arises from underlying securities shall comply with the specified requirements in the *Notification of*

the Securities and Exchange Commission No. Kor Jor. 31/2546 Re: Requirements under Provisions Concerning Acquisition of Securities for Business Takeovers for Derivative Warrant Holder in the interest that Arises from Underlying Thai Securities dated 27 October 2003 until further changes take place.

Clause 13 In case where other Notifications use the *Notification of the Securities and Exchange Commission No. Kor Jor. 58/2545 Re: Rules and Procedures for Reporting or Disposal of Business' Securities* dated 27 December 2002, such reference shall mean the reference to this Notification.

Notified this 12th day of September 2011.

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(Mr. Chalee Chantanayingyong)
Deputy Secretary-General
Acting Secretary-General
Office of the Securities and Exchange Commission
Chairman
Capital Market Supervisory Board