

(UNOFFICIAL TRANSLATION)

Codified up to No. 5
As of 15 August 2019

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 Securities and Exchange Commission

No. Kor Thor. 1/2560

**Re: Prescribing Natures of Giving Advice to Public Not Being Regarded as
Engagement in the Securities Business of Investment Advisory Service**

By virtue of Section 4 and Section 14 of the *Securities and Exchange Act B.E. 2535 (1992)* as amended by the *Securities and Exchange Act (No. 4) B.E. 2551 (2008)*, the Securities and Exchange Commission hereby issues the following regulations:

Clause 1 The following Notifications shall be repealed:

(1) *Notification of the Securities and Exchange Commission No. Kor Nor. 22/2544 Re: Prescribing Natures of Giving Advice to Public Not Being Regarded as Engagement in the Securities Business of Investment Advisory Service (No. 2) dated 14 September 2001;*

(2) *Notification of the Securities and Exchange Commission No. Kor Khor. 42/2546 Re: Prescribing Natures of Giving Advice to Public Not Being Regarded as Engagement in the Securities Business of Investment Advisory Service (No. 3) dated 3 December 2003;*

(3) *Notification of the Securities and Exchange Commission No. Kor Khor. 44/2549 Re: Prescribing Natures of Giving Advice to Public Not Being Regarded as Engagement in the Securities Business of Investment Advisory Service (No. 4) dated 27 December 2006;*

(4) *Notification of the Securities and Exchange Commission No. Kor Nor. 28/2552 Re: Prescribing Natures of Giving Advice to Public Not Being Regarded as Engagement in the Securities Business of Investment Advisory Service (No. 5) dated 25 November 2009;*

(5) *Notification of the Securities and Exchange Commission No. Kor Nor. 13/2553 Re: Prescribing Natures of Giving Advice to Public Not Being Regarded as Engagement in the Securities Business of Investment Advisory Service (No. 6) dated 26 August 2010.*

Clause 2 In this Notification:

“**giving advice**” means direct or indirect provision of advice to the public on the value of securities or appropriateness of the investment in such securities or on sale or purchase of any securities.

“institutional investor” means:

- (1) Bank of Thailand;
- (2) commercial bank;
- (3) financial institution established under a specific law;
- (4) securities company;
- (5) derivatives intermediary;
- (6) life insurance company;
- (7) non-life insurance company;
- (8) mutual fund;
- (9) private fund;
- (10) provident fund;
- (11) Government Pension Fund;
- (12) Social Security Fund;
- (13) company listed on the Stock Exchange of Thailand;
- (14) juristic person which is registered under Thai law having assets reported in the financial statements from five billion baht;
- (15) any other person permitted by the Bank of Thailand to make investment in overseas securities or properties as stipulated by the SEC Office.

“Notification on Standard Conduct of Business” means the *Notification of the Capital Market Supervisory Board Re: Standard Conduct of Business, Management Arrangement, Operating Systems and Providing Services to Clients of Securities Companies and Derivatives Intermediaries*.

“Notification on Investment in Capital Market Products Denominated in Foreign Currency” means the *Notification of the Capital Market Supervisory Board Re: Providing Services to Clients for Investment in Capital Market Products Denominated in Foreign Currency*.

“mutual fund rating” means provision of comparative advice or opinions on value or appropriateness of investments in mutual fund, which may use symbols or any other marks in conjunction with the opinions.

Clause 3¹ Giving advice in any of the following manners shall not be deemed as engagement in securities business in the category of investment advisory service:

- (1) **giving advice** in or from Thailand to no more than fifteen investors during any 12-month period without presenting oneself, in any manner, as being ready to

¹ Amended by the *Notification of the Securities and Exchange Commission No. Kor Thor. 8/2560 Re: Prescribing Natures of Giving Advice to Public Not Being Regarded as Engagement in Securities Business of Investment Advisory Service (No. 2)* dated 20 February 2017 (effective from 1 March 2017).

provide any investment advisory service;

(2) ***giving advice*** from Thailand to investors abroad by presenting oneself as providing investment advisory service in the name of any person providing the investment advisory service under the law of such country;

(3) ***giving advice*** to ***institutional investors*** only;

(4) ***giving advice*** to a conglomerate company having a relationship with the advisory company in any of the following manners:

(a) being a company associated with the advisory company through direct or indirect cross-holding of over fifty percent of the sold shares of such companies;

(b) being a company associated with the advisory company through cross-control;

(c) being a company controlled by the same person as the advisory company.

The term, “control” under Paragraph 1(c) shall have the same meaning as the term, “control” defined in Section 89/1.

(5) giving general advice to investors by any juristic person under foreign law which is approved by the SEC Office under the *Notification of the Securities and Exchange Commission Re: Granting Approval to Juristic Persons under Foreign Laws for Providing General Advice to Investors*.

The term, “general advice” under Paragraph 1 shall mean advice which does not specifically consider the appropriateness and objective of investment, financial status or requirement of any specific person.

(6) ***giving advice*** to investors by a foreign securities company or overseas issuer or offeror with the following natures:

(a) the advice is given by an overseas issuer or offeror or a foreign securities company obtaining the securities business license issued by any of the following overseas securities regulatory bodies:

1. the regulatory bodies being a member of the International Organization of Securities Commissions (“IOSCO”) and a Signatory A to the Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information (“MMOU”) (“IOSCO MMOU”);

2. the regulatory bodies of the member countries of the Organization for Economic Co-operation and Development (“OECD”);

3. the regulatory bodies of the member countries of the ASEAN Economic Community (“AEC”).

(b) the advice is given through a securities company which has notified the SEC Office of the names of the foreign personnel to provide such advice under the *Notification on Standard Conduct of Business* or the *Notification on Investment in Capital Market Products Denominated in Foreign Currency*, as the case may be.

(7) **giving advice** on radio, television, newspapers or any other printed material with all of the following characteristics:

(a) the provided advice does not focus on the purpose of investment, financial status and requirement of any specific person;

(b) the advice is widely and generally distributed and easily accessible by an interested person without obligatory subscription for membership;

(c) the main purpose is not **giving advice** on value of the securities or appropriateness of investment on such securities or sale or purchase of any specific securities, the consideration of which shall be based on the quantity of content of the advice under the criteria and procedures stipulated by the SEC Office.

(8) **giving advice** through media or seminars arranged by the owner of the media, program, column or web address, or by the seminar organizer, which is not a securities company, having the following characteristics:

(a) in case of **giving advice** to **institutional investors**, the advice shall be provided to the **institutional investors** only;

(b) in case of **giving advice** other than (a) above, the personnel in capital market business approved by the SEC Office under the *Notification of the Capital Market Supervisory Board Re: Rules on Personnel in Capital Market Business* or the overseas personnel whose names are notified under (6), as the case may be, shall be procured to provide advice under supervision of the securities company;

(9) **giving advice** in a manner of mutual fund rating by a person approved by the SEC Office under the *Notification of the Securities and Exchange Commission Re: Rules, Conditions and Procedures for Undertaking Mutual Fund Rating Business*;

(10)² **giving advice** in a manner of showing the risk level of an issuer of debt crowdfunding as arranged by a crowdfunding portal in accordance with the *Notification of the Capital Market Supervisory Board concerning Rules on Securities Offering through Crowdfunding System*;

(11)⁴ **giving advice** in a manner of cross-border publication of research report concerning capital market products that are shares listed on an exchange in ASEAN, sukuk that are issued for sale in ASEAN or units of collective investment schemes or bonds, which do not bear high risks or complex features and are issued for sale in ASEAN, provided that the following conditions are fully met:

² Amended by the *Notification of the Securities and Exchange Commission No. Kor Thor. 6/2562 Re: Prescribing Natures of Giving Advice to Public Not Being Regarded as Engagement in Securities Business of Investment Advisory Service (No. 3)* dated 11 April 2019 (effective from 16 May 2019).

⁴ Amended by the *Notification of the Securities and Exchange Commission No. Kor Thor. 20/2562 Re: Prescribing Natures of Giving Advice to Public Not Being Regarded as Engagement in Securities Business of Investment Advisory Service (No. 5)* dated 15 August 2019 (effective from 1 September 2019).

(a) the research report is produced in compliance with the law of the home country which is a signatory to the Memorandum of Understanding on the Cross-border Publication of Research Report under the ASEAN Capital Market Professional Mobility Framework;

(b) the producer of the research report is authorized or registered by the regulator of the home country;

(c) the research report is made available to the comparable class of investors in the home country;

(d) the producer of the research report gives a consent to lawful publication of the research report in Thailand;

(e) the research report is made available in its entirety without being edited, modified or added content to in such a way that causes any difference from the original report, and includes a disclaimer notifying that the research report has been produced by a person authorized or registered under (b).

Clause 4 This Notification shall come into force from 16 February 2017.

Notified this 12th day of January 2017.

(Mr. Voravidh Champheeratana)
Chairman
Securities and Exchange Commission