

UNOFFICIAL TRANSLATION

Codified up to No. 3
As of 22 December 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 Shor. 30/2558

Re: Approval of Foreign Auditors

Whereas Section 61, Section 89 and Section 199 of the *Securities and Exchange Act B.E. 2535 (1992)* and the *Notifications of the Capital Market Supervisory Board regarding Offering for Sale of Shares of Foreign Companies and Disclosure of Financial Position and Operating Results of Foreign Companies* stipulate that the auditors who affix their signature in giving opinions on the auditing of financial statements of foreign companies as prescribed by such provisions or regulations therein shall be the auditors who have been approved by the SEC Office; therefore, in support of such purpose, the SEC Office hereby issues the regulations on approval of foreign auditors, as follows:

Clause 1¹ This Notification shall apply to the approval of foreign auditors whereby an auditor approved by the SEC Office under this Notification shall be allowed to perform an audit work and affix signature in giving opinions on the auditing of the following financial statements:

(1) financial statements of a foreign company applying for a public offering of shares in Thailand, or having been granted an approval to issue and offer shares in such manner;

(2) financial statements of a foreign business applying for issuance and offering of debt instruments in compliance with the following Notifications:

(a) *Notification of the Capital Market Supervisory Board concerning Rules for Approval of Foreign Business for Offering for Sale of Newly Issued Debt Instruments Denominated in Thai Baht;*

(b) *Notification of the Capital Market Supervisory Board concerning Offering for Sale of Debentures Denominated in Foreign Currency in the Kingdom of Thailand;*

¹ Repealed and amended by the *Notification of the Office of the Securities and Exchange Commission No. Sor Shor. 57/2559 Re: Approval of Foreign Auditors (No.3)* dated 22 December 2016.

(c) Notification of the Capital Market Supervisory Board concerning Offering for Sale of Bonds Denominated in Foreign Currency in the Kingdom of Thailand by Business Incorporated under Foreign Law;

(3) financial statements of a trust property and a fund mobilizer. In this regard, the trustee who issues a sukuk is a foreign business as stipulated by the *Notification of the Capital Market Supervisory Board concerning Rules for Approval of an Offer for Sale of Newly Issued Sukuk by a Trustee Who Is a Foreign Business and Disclosure of Information;*

(4) financial statements which a foreign business has the duty to prepare and submit to the SEC Office under Section 56.

Clause 1/1² A foreign auditor having the characteristics and complying with the following rules shall be approved by the SEC Office to perform audit work and affix signature in giving opinions on the auditing of the financial statements without the requirement to comply with other rules stipulated under this Notification:

(1) being a foreign governmental agency who has the duty to perform financial audit work for the foreign government in the same manner as that of the Office of the Auditor General of Thailand. In this regard, such auditor may perform audit work and affix signature in giving opinions on the auditing of the financial statements as prescribed under Clause 1 (2) (3) and (4);

(2) being a foreign auditor who is allowed to undertake an audit business in compliance with the law of the country where foreign business is incorporated and to perform audit work and affix signature in giving opinions on the auditing of the financial statements of foreign business, a trust property or a fund mobilizer as prescribed under Clause 1 (2) (3) and (4), as the case may be, only in the case where a foreign business issues a private placement of debt instrument or sukuk.

Clause 2³ A foreign auditor who wishes to be an auditor approved by the SEC Office shall file an application for approval to the SEC Office per Form 61-1F together with documents and evidence as specified on the website of the SEC Office.

² Added by the *Notification of the Office of the Securities and Exchange Commission No. Sor Shor. 57/2559 Re: Approval of Foreign Auditors (No.3)* dated 22 December 2016.

³ Repealed and amended by the *Notification of the Office of the Securities and Exchange Commission No. Sor Shor. 57/2558 Re: Approval of Foreign Auditors (No.2)* dated 10 July 2015.

Clause 3⁴ A foreign auditor who applies for approval under Clause 2 shall pay the application fee as per the rates prescribed by the *Notification of the Office of the Securities and Exchange Commission governing Determination of Fees for Filing, Registration, and Other Applications* when the application and the evidentiary documentation are accurate and complete in compliance with the Licensing Manual for the Public.

In the case where it is necessary for the SEC Office to visit and inspect the audit firm with which the applicant is affiliated or any other establishment necessary for the consideration of the application for approval, the applicant shall be appropriately responsible for the accommodations and travelling expenses truly incurred from such visit, and the SEC Office may set a clear criterion for this matter.

Clause 4 The information or documentation submitted to the SEC Office under this Notification shall be in Thai or English unless the SEC Office renders a waiver for use of any language other than English.

In cases where the information or documentation submitted to the SEC Office has been translated from any language other than Thai or English, the applicant shall also:

- (1) have the translator certify that it is a true and accurate translation of the original information or documentation;
- (2) certify that the content and descriptions in the translated version occurred or existed and that material facts have not been concealed.

Clause 5⁵ Repealed.

Clause 6 A foreign auditor eligible to be approved under this Notification shall have either one of the following characteristics:

- (1) being an auditor for Publicly Interest Entities (PIEs) who is under the supervision of an internationally recognized audit regulator, in compliance with the rules under Clause 7;
- (2) being in cases other than (1) subject to the provisions under Clause 8.

Clause 7 A foreign auditor eligible to be approved under Clause 6(1) shall comply with the following rules:

⁴ Repealed and amended by the *Notification of the Office of the Securities and Exchange Commission No. Sor Shor. 57/2558 Re: Approval of Foreign Auditors (No.2)* dated 10 July 2015.

⁵ Repealed by the *Notification of the Office of the Securities and Exchange Commission No. Sor Chor. 57/2558 Re: Granting of Approval to Foreign Auditors (No.2)* dated 10 July 2015.

(1) being a qualified auditor, by foreign laws or regulations, to audit the financial statements of a company whose securities are traded on the main board of a foreign securities exchange and having auditing experiences on the financial statements of such company;

(2) being under supervision of a regulatory agency which has either one of the following characteristics;

(a) a regulatory agency which has standards on governing auditor on par with international standards and recognized by the International Forum of Independent Audit Regulators (IFIAR) or the European Commission (EC);

(b) an independent agency which has a duty to regulate auditors in the countries where the assessment result of its regulatory standards under the Financial Sector Assessment Program (FSAP) in the area concerning auditors is not lower than the Broadly Implemented level.

Clause 8 A foreign auditor eligible to be approved under Clause 6(2) shall comply with the following rules:

(1) being a certified public accountant, by foreign laws or regulations, to perform accounting audit work;

(2) performing audit work for only one audit firm which shall have the following characteristics:

(a) having a quality control system sufficient and reliable to continuously supervise its auditors to comply with professional standards, provided that such quality control system shall be in accordance with the International Standard on Quality Control (ISQCI), established by the International Federation of Accountants (IFAC);

(b) having a certified public accountant, by foreign laws or regulations, and assistant auditors with an academic qualification of not lower than a bachelor's degree, at a total number of not less than five persons. Such auditors and assistant auditors shall work full time for the audit firm, and at least two of them shall be qualified auditors to perform audit work under foreign laws or regulations.

(3) having qualifications and not having prohibited characteristics prescribed under Clause 12(2) (a).

An approved auditor under Paragraph 1 shall notify the change of audit firm that he/she works with via Form 61-3F provided on the website of the SEC Office within thirty days as from the last day of serving the previous audit firm.

Clause 9⁶ In considering the application for approval, the SEC Office shall proceed with either one of the following actions, as the case may be, after receiving accurate and complete evidentiary documentation according to the Licensing Manual for the Public:

(1) In the case where the applicant for approval is a foreign auditor under Clause 6(1), the SEC Office shall complete the consideration of the application within seventy-five days from the date of receiving accurate and complete evidentiary documentation according to the Licensing Manual for the Public;

(2) In the case where the applicant for approval is a foreign auditor under Clause 6(2), the SEC Office shall:

(a) review the facts according to the procedures and methods as prescribed in the Licensing Manual for the Public and notify the applicant of any issue arising from such review for the applicant to clarify. The process shall be completed within one hundred and eighty days from the date on which the SEC Office has received accurate and complete evidentiary documentation according to the Licensing Manual for the Public. In this regard, the SEC Office shall specify a period for clarification in the notifying letter which shall not be less than fourteen days but not more than twenty-one days;

(b) complete the consideration of the application for approval within sixty days from the date on which the SEC Office has received the clarification of the issue arising from the review of facts from the applicant or from the expiration of the clarification period in the case where the applicant fails to clarify within the period specified by the SEC Office under (a).

Clause 10 Each approval granted under this Notification shall last for a period of not more than two years.

Clause 11 In the case where a fact appears in the following circumstances, the SEC Office may suspend or revoke the approval of any foreign auditor under Clause 6(1) as deemed appropriate:

(1) the foreign auditor fails to have the qualifications in compliance with Clause 7;

(2) the foreign auditor has a behavior that indicates a lack of professional ethics or violates or fails to comply with the international auditing standards, only in the case where such behavior may affect the reliability of the overall Thai capital market.

⁶ Amended by the *Notification of the Office of the Securities and Exchange Commission No. Sor Chor. 57/2558 Re: Granting of Approval to Foreign Auditors (No.2)* dated 10 July 2015.

Clause 12 Unless otherwise specified herein, the rules as prescribed in the *Notification of the Office of the Securities and Exchange Commission concerning Approval of Auditors in the Capital Market* shall be applicable to the approval of foreign auditors under this Notification, *mutatis mutandis*, to the extent that such rules are not in conflict or contradiction of the principles for supervision of foreign auditors, in any case, subject to the following rules:

(1) in the case where the applicant for approval is a foreign auditor under Clause 6(1) or (2), the rules of such Notification shall be applicable in the following matters:

(a) the consideration of behaviors of prohibited characteristics, including the procedure and processes of such consideration;

(b) the renewal of approval;

(c) the duties of the auditor after obtaining an approval;

(d) the power of the SEC Office to take any action concerning the approval and other rules.

(2) in the case where the applicant for approval is a foreign auditor under Clause 6(2), the rules of such Notification shall be applicable to the following matters additionally:

(a) the qualifications and prohibited characteristics of auditors excluding the rules concerning affiliation with an audit firm;

(b) the additional duties of the leader of an audit firm;

(c) the rectification to maintain the prescribed qualifications;

(d) the suspension, revocation, and termination of approval.

Clause 13 This Notification shall come into force as from 16 May 2015.

Notified this 9th day of April 2015.

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(Mr. Vorapol Socratyanurak)

Secretary-General

Office of the Securities and Exchange Commission