

UNOFFICIAL TRANSLATION

Codified up to No. 2

As of 5 April 2017

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. 24/2558

Re: Application for the Agricultural Derivatives Business License

By virtue of Section 6, Section 9 and Paragraph 3 of Section 16 of the *Derivatives Act B.E. 2546 (2003)*, the Securities and Exchange Commission hereby issues the following regulations:

Clause 1 This Notification shall come into force as from 16 December 2015.

Clause 2 In this Notification:

“agricultural derivatives business license” means the license for undertaking derivatives business related to agricultural goods or variables related to agricultural goods, which applies to the undertaking of business as:

- (1) a derivatives broker;
- (2) a derivatives dealer;
- (3) a derivatives advisor;
- (4) a derivatives fund manager.

“major shareholder” means a shareholder or a beneficial owner of more than ten percent of the total voting rights of the applicant.

For the interest of the provision under Paragraph 1, a **“beneficial owner”** means the beneficial owner of shares as specified under Paragraph 4 of Section 25.

Chapter 1

Qualifications of a License Applicant

Clause 3 An applicant for the **agricultural derivatives business license** shall be:

(1)¹ a person who had been licensed to undertake the derivatives business in the category of Futures broker under the *Agricultural Futures Trading Act B.E. 2542 (1991)* as of the date when the Cabinet passed a resolution on the guideline for the merger of the Agricultural Futures Exchange on 30 December 2014, and who has filed or will file an application for the **agricultural derivatives business license** within 30 December 2018;

(2) a company which is newly established to apply for the **agricultural derivatives business license**, except the companies under (1).

¹ As amended by the *Notification of the Securities and Exchange Commission No. Kor Thor. 14/2560 Re: Application for the Agricultural Derivatives Business License (No. 2)* dated 5 April 2017 (effective on 16 April 2017).

Clause 4 An applicant shall be granted the *agricultural derivatives business license* on the condition that the applicant has the following qualifications:

(1) having a minimum paid-up capital of fifty million baht, unless the applicant is a juristic person specified under Clause 3(1), in which case the consideration of the paid-up capital shall be in accordance with Clause 5;

(2) having no reasonable ground to believe that its financial condition may cause damage, or not having any behavior which indicates an ongoing financial problem, including having no reasonable ground to believe that there is a shortcoming or unsuitability encompassing business control and good practice;

(3) being able to show that the capital market personnel performing duties in any of the following areas have the qualifications and do not have any prohibited characteristics specified under Section 24 and in the *Notification of the Capital Market Supervisory Board regarding Rules on Capital Market Business Personnel*:

(a) work related to management, establishment, control and supervision of policies of the applicant;

(b) work related to control, supervision and management of business units concerning investment advice, investment planning, analysis of investment or products in the capital market, investment management, or branch management of the applicant;

(c) work related to control, supervision and management of business units concerning operation, compliance, internal audit or risk management;

(4) being able to show that no *major shareholder* has any prohibited characteristic as specified in Paragraph 2 of Section 25 and the *Notification of the Capital Market Supervisory Board regarding the Prohibited Characteristics of the Major Shareholders of Agricultural Derivatives Business Operators*, and in the case where a *major shareholder* is a juristic person, the directors, managers and partners of such juristic person shall not have such prohibited characteristics.

¹Repealed.

Clause 4/1¹ In the case where an applicant is a juristic person under Clause 3(1) who submitted an application for the *agricultural derivatives business license* after 1 November 2016, the applicant shall demonstrate that its existing shareholding structure as of the issue date of the Cabinet's resolution on the guideline for the merger of Agricultural Exchange on 30 December 2014 consisted of one or more original shareholders who aggregately held at least twenty-five percent of the total voting rights of the applicant.

The original shareholders in Paragraph 1 shall mean the shareholders whose names are on the applicant's shareholder list as submitted to the Ministry of Commerce.

Clause 5 In the case where an applicant is a juristic person under Clause 3(1), the consideration of the qualifications regarding the registered capital shall comply with the following criteria:

(1) having a minimum paid-up capital of twenty-five million baht as of the filing date of the application;

¹ As repealed by the *Notification of the Securities and Exchange Commission No. Kor Thor. 14/2560 Re: Application for the Agricultural Derivatives Business License (No. 2)* dated 5 April 2017 (effective on 16 April 2017).

¹ As amended by the *Notification of the Securities and Exchange Commission No. Kor Thor. 14/2560 Re: Application for the Agricultural Derivatives Business License (No. 2)* dated 5 April 2017 (effective on 16 April 2017).

(2) being able to demonstrate the ability to comply with the conditions concerning the paid-up capital as prescribed under Clause 10(4).

Chapter 2 Application Procedure and Fees

Clause 6 An applicant shall file an application with the SEC Office, together with the evidentiary documentation via the form and method provided by the SEC Office on the SEC Office's website.

Clause 7¹ In the case where the SEC Office considers that the applicant has the correct and complete qualifications as specified under Clause 4 and Clause 4/1, the SEC Office shall propose for the Securities and Exchange Commission to consider granting the license within sixty days as from the date when the SEC Office receives the application together with the correct and complete evidentiary documentation according the Licensing Manual for the Public, and the Securities and Exchange Commission shall complete the consideration process within thirty days as from the date of receiving the application from the SEC Office.

The *agricultural derivatives business license* shall be in accordance with the forms attached herein.

Clause 8 The application fee and the license fee for the *agricultural derivatives business license* are as follows:

- (1) thirty thousand baht per application;
- (2) one hundred and fifty thousand baht per license.

The applicant shall pay for the application fee after the SEC Office has received the application together with the correct and complete evidentiary documentation according to the Licensing Manual for the Public.

The applicant shall pay for the license fee on the date of receiving the license.

Clause 9 The fees specified under Clause 8 shall be exempted in the case where the applicant is a juristic person specified under Clause 3(1).

Chapter 3 Conditions Imposed on Licensees

Clause 10 An agricultural derivatives business licensee shall comply with the following conditions:

¹ As amended by the *Notification of the Securities and Exchange Commission No. Kor Thor. 14/2560 Re: Application for the Agricultural Derivatives Business License (No. 2)* dated 5 April 2017 (effective on 16 April 2017).

(1) commencing the operation of the agricultural derivatives business according to the type specified in the license only after the SEC Office has examined and viewed that the licensee can demonstrate its possession of:

- (a) good and efficient management;
- (b) efficient policies and measures on prevention of conflicts of interest, prevention of access to inside information between responsible units and other personnel, internal control and risk management regarding the operation of the agricultural derivatives business according to the type of license, including measures for overseeing the compliance with the laid-out policies and measures;
- (c) a work system ready for commencing the operation of the agricultural derivatives business according to the type of license;
- (d) responsible personnel ready for commencing the operation of the agricultural derivatives business according to the type of license.

(2) commencing the operation of the agricultural derivatives business according to any of the types specified in the license within one hundred and eighty days as from the date of receiving the license;

(3)¹ maintaining the qualifications specified under Clause 4 and proceeding with the matters as specified in (1) (a), (b), (c) and (d) throughout the period of undertaking the agricultural derivatives business;

(4) having the paid-up capital of not less than the amounts specified hereunder in the case where the licensee is a juristic person specified under Clause 3(1):

- (a) thirty-five million baht from 1 January 2019 to 31 December 2021;
- (b) fifty million baht from 1 January 2022 onwards.

In the case where the licensee fails to comply with the conditions stipulated under Paragraph 1, the Securities and Exchange Commission may revoke the granted license.

Clause 11¹ Repealed.

Notified this 2nd day of December 2015.

-Signature-

Mr. Voravidh Champeeratana
Chairman
Securities and Exchange Commission

¹ As amended by the *Notification of the Securities and Exchange Commission No. Kor Thor. 14/2560 Re: Application for the Agricultural Derivatives Business License (No. 2)* dated 5 April 2017 (effective on 16 April 2017).

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