

(UNOFFICIAL TRANSLATION)

Codified up to No. 2

As of 6 August 2015

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 Khor. 8/2554**

**Re: Approval for Undertaking Derivatives Business in the
Category of Derivatives Brokerage Limited to
Precious Metals Derivatives**

By virtue of Section 9 and the third paragraph of Section 16 of the *Derivatives Act B.E. 2546 (2003)* which contain certain provisions relating to the restriction of rights and liberty of persons which Section 29 in conjunction with Section 33, Section 34, Section 36, Section 41, Section 43 and Section 45 of the *Constitution of the Kingdom of Thailand* so permit by virtue of law, the Securities and Exchange Commission hereby issues the following regulations:

Clause 1 The *Notification of the Securities and Exchange Commission No. Kor Khor. 16/2551 Re: Approval for Undertaking of Derivatives Business in the Category of Derivatives Brokerage Limited to Gold Derivatives dated 14 November 2008* shall be repealed.

Clause 2 In this Notification:

- (1) “***precious metal derivatives brokerage***” means derivatives business in the category of derivatives brokerage limited to ***precious metal*** derivatives;
- (2) “***precious metal trading firm***” means any person engaging in business relating to buying or selling ***precious metal*** in Thailand;
- (3) “***major shareholder***” means any shareholder or beneficial owner of shares holding more than 10% of the total number of the applicant’s voting rights shares;

For the purpose of the first paragraph, a beneficial owner of shares means a beneficial owner of shares as prescribed in the fourth paragraph of Section 25 of the *Derivatives Act B.E. 2546 (2003)*.

- (4) “***precious metal***” means gold, silver or platinum.

**Chapter 1
Qualification of Applicant**

Clause 3 An applicant applying for the license of ***precious metal derivatives brokerage*** shall be newly established limited company or public limited company of which shares are held by one or various ***precious metal trading firm***, who undertake ***precious metal*** business continuously not less than 3 years, more than 50% of the total voting rights shares.

Clause 4 An applicant may obtain ***precious metal derivatives brokerage*** license by possessing the following qualifications:

- (1) having paid-up registered capital not less than 100 million Baht;

(2) not having any circumstance which may cause an impact to the financial status or the operation of an applicant;

(3) at least one of the directors has at least 3 years of work experience relating to buying or selling of *precious metals* or derivatives relating to *precious metal*;

(4) demonstrating that a director, a manager or an authorized management person who is responsible for undertaking derivatives business shall have the qualification and shall not have prohibited characteristics under Section 24 of the *Derivatives Act B.E. 2546 (2003)* and the *Notification of the Capital Market Supervisory Board concerning Qualification and Other Prohibited Characteristics of Directors and Executives of Derivatives Intermediary*;

(5) demonstrating that a *major shareholder* of an applicant shall not have prohibited characteristics under the second paragraph of Section 25 of the *Derivatives Act B.E. 2546 (2003)* and the *Notification of Capital Market Supervisory Board concerning Prohibited Characteristics of Major Shareholder of Derivatives Intermediary*. In addition, where a *major shareholder* is a juristic person, a director, a manager and a partner of such person shall not have prohibited characteristics as well;

(6) demonstrating that the applicant will have a good and efficient management;

(7) demonstrating that the applicant will have an efficient policy and measure for [i] preventing conflicts of interest and accessing inside information by unauthorized personnel [ii] internal control and [iii] risk management for undertaking *precious metal derivatives brokerage* including measure for controlling and monitoring performance of its personnel to action in accordance with the constituted policy and measure;

(8) demonstrating that it will have fit and proper operating system to undertake *precious metal derivatives brokerage*;

(9) demonstrating that it will have availability of personnel for business of *precious metal derivatives brokerage*.

Chapter 2 Submitting Application and Fees

Clause 5 An applicant shall submit an application with the SEC Office together with the relevant evidentiary documentation in accordance with the form and procedure prepared on the website of the SEC Office.

Clause 6¹ In case the SEC Office has considered that an applicant has correctly and completely qualified with criteria as prescribed under Clause 3 and Clause 4, the SEC Office shall make the proposal to the Securities and Exchange Commission for permitting license within ninety days from the date on which the SEC Office has received complete application and documentation. In this regard, the Securities and Exchange Commission will complete its deliberation within 30 days from the date on which the Securities and Exchange Commission has received the proposal from the SEC Office.

¹ Amended by the *Notification of the Securities and Exchange Commission No. KorThor. 15/2558 Re: Approval for Undertaking Derivatives Business in the Category of Derivatives Brokerage Limited to Precious Metals Derivatives (No.2)* dated 6 August 2015.

The *precious metal derivatives brokerage* license form shall be in accordance with the illustration attached in this Notification.

Clause 7 Fees for applying a license and permitting license to undertake derivatives business under this Notification shall be as follows:

(1) an application fee shall be Bath 30,000;

(2) a licensing fee shall be Bath 500,000;

A licensed person shall pay the licensing fee on the date obtaining a license.

Chapter 3

Conditions for Compliance after Obtaining the License

Clause 8 A person who obtained *precious metal derivatives brokerage* license shall comply with the following conditions:

(1) before commencement of *precious metal derivatives brokerage* business, the derivatives broker shall have preparedness of management, policies, measures and personnel as prescribed in clause 4(6) (7) (8) and (9) and harmonize with the elaborate commitment specified in its application unless where there is a difference in the details which does not cause such qualification demonstrated in the application process changing materially, and the SEC Office has passed such preparedness;

(2) maintaining qualifications and keeping its characteristics as demonstrated in Clause 4 throughout undertaking business of *precious metal derivatives brokerage*;

(3) maintaining the proportion of shareholding that possesses the specified characteristics under Clause 3 throughout undertaking business of *precious metal derivatives brokerage*;

In case a person who obtained *precious metal derivatives brokerage* license is unable to comply with the conditions as prescribed in the first paragraph, the Securities and Exchange Commission may revoke its license thereof.

Chapter 4

Transitional Provisions and Effective Date of this Notifications

Clause 9 It shall be deemed that derivatives broker limited to gold derivatives who was legally undertaking business under the Notification of the Securities and Exchange Commission which is repealed by this Notification is a person who obtained *precious metal derivatives brokerage* license according to this Notification.

A person who obtained license under the first paragraph shall comply with the conditions as specified in this Notification and shall provide service of *precious metal* derivatives besides gold derivatives only when the SEC Office has conducted a review and acknowledged that such derivatives broker has qualified personnel sufficiently to provide derivatives services relating to such *precious metal* derivatives.

A person who obtained license under the first paragraph shall return the certificate of previous license to and obtain a new certificate of license under this

Notification from the SEC Office. In this regard, such person is granted an exemption for the licensing fee under this Notification.

Clause 10 This Notification shall come into force as from 1 May 2011.

Notified this 28th day of April 2011.

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(Mr. Vijit Supinit)
Chairman
Securities and Exchange Commission

Remark: The Rationale for issuing this Notification is to permit precious metal trading firm who has appropriate qualifications and readiness in financial status and administration to undertake derivatives business in the category of derivatives broker limited to precious metal derivatives, therefore, it is necessary to issue this Notification.