

**UNOFFICIAL TRANSLATION**

Codified up to No. 2

As of 15 November 2006

*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 Yor. 51/2547**

**Re: Determining Proportion of Directors of Derivatives Exchange and Prohibited Characteristics of Directors of Derivatives Exchange and Derivatives Clearing House**

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By virtue of Sections 9, Section 60, Section 61 and Paragraph 1 of Section 89 in conjunction with Section 61 of the *Derivatives Act B.E. 2546 (2003)*, the Securities and Exchange Commission hereby issues the following regulations:

**Clause 1** In this Notification:

“**goods**” means securities, gold, crude oil or any other property as specified in the Notification of the Securities and Exchange Commission with the approval of the Cabinet, excluding any currencies;

“**derivatives exchange**” means an entity licensed to operate business as a derivatives exchange;

“**derivatives clearing house**” means an entity licensed to operate business as a derivatives clearing house;

“**personnel in derivatives business**” means:

(1) a person who assumes a job for the benefits of a derivatives business operator or in connection with derivatives business in a position or a nature of work related to derivatives trading, solicitation or provision of advice relating to derivatives, management of derivatives business, management of customers’ assets in derivatives business or any other positions or nature of work similar thereto for which the job holder is required to obtain an approval from, or registration with, the **SEC Office** or will be eligible to perform such job upon having no prohibited characteristics as specified; and

(2) a person who is a director of a **derivatives exchange** or a **derivatives clearing house** which is a position or nature of work permissible to be performed provided that the job holder has no prohibited characteristics as specified.

“**personnel in securities business**” means:

(1) a person who assumes a job for the benefits of a securities company or in connection with securities business in a position or a nature of work related to securities trading, securities analysis, solicitation or provision of advice relating to securities, management of a securities business, management of customers’ assets in securities business, or any other positions or nature of work similar thereto for which the job holder is required to obtain an approval from, or registration with, the **SEC Office** or will be eligible to perform such job upon having no prohibited characteristics as specified; and

(2) a person who is a director or a person with the controlling power of a juristic person with the duty of asset custody or protection of customers’ interest in securities business, or holds any other similar position or nature of work permissible to be performed provided that the job holder has no prohibited characteristics as specified.

“**financial institution**” means a financial institution under the *Law on Loan Interests of Financial Institutions*;

“**Stock Exchange**” means the Stock Exchange of Thailand under the *Law on Securities and Exchange*;

“**SEC Office**” means the Office of the Securities and Exchange Commission.

**Clause 2** At least two fifths of the total number of directors of a **derivatives exchange** shall be persons capable of performing the duty to safeguard the benefits of members, investors or persons involved with the **derivatives exchange**, and at least one person of which shall be an investor or a person capable of protecting the benefits of investors, and at least two persons of which shall be persons in a business related to the derivatives traded or to be traded on the **derivatives exchange** or involved in the trading of the underlying asset of such derivatives.

**Clause 3** Any director of a **derivatives exchange** and a **derivatives clearing house** shall not have a record of tarnished characteristics or any conduct indicating a lack of responsibilities or professional due care, as follows:

- (1) being under receivership by the court’s order;
- (2)<sup>1</sup> being banned by the **Stock Exchange** from performing the position of executive or person who has the controlling power of a listed company;
- (3) being considered under an accusation or criminal proceedings by an agency with legal authority for an offense related to unfair activities against derivatives or securities trading or management in deceitful, fraudulent or dishonest manners;
- (4) being prohibited from acting or performing duties as a director, manager, a person with the management power, or an advisor of a **financial institution**;
- (5) being in the period specified by the order of the **SEC Office** regarding suspension, revocation or prohibition from work in any position or any nature of work as **personnel in derivatives business, personnel in securities business**, a principal valuer of a property valuation company or an auditor;
- (6) being in the period specified by the order of the **SEC Office** regarding withdrawal of name from the database of the issuing company executives or rejection of name display on the database of the issuing company executives due to prohibited characteristics;
- (7) being in the period specified by the order of the authority under foreign law regarding suspension, revocation or prohibition from work in any position or any nature of work equivalent to **personnel in derivatives business, personnel in securities business**, a principal valuer of a property valuation company, or an auditor under Thai law;
- (8) having been a director, manager or person with the management power of a **financial institution** who contributed to the damage or shared the responsibility for the damage incurred to such **financial institution** whose license was revoked, operation controlled or suspended due to a rehabilitation plan or operation was not approved by the regulator of such **financial institution** or the Committee of the Financial Sector Restructuring Authority, or subject to an order to amend the financial loss through a capital decrease and a capital increase thereafter with the assistance of a governmental agency or financial institution, unless an exemption is granted by the Securities and Exchange Commission.

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<sup>1</sup> Amended by the *Notification of the Securities and Exchange Commission No. Kor Yor. 29/2549 Re: Re: Determining Proportion of Directors of Derivatives Exchange and Prohibited Characteristics of Directors of Derivatives Exchange and Derivatives Clearing House (No. 2)* dated 15 November 2006.

**Clause 4** This Notification shall come into force from 16 October 2004.

Notified this 11<sup>th</sup> day of October 2004.

(Mr. Somkid Jatusripitak)  
Minister of Finance  
Chairman  
Securities and Exchange Commission