

UNOFFICIAL TRANSLATION

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 Nor. 87/2558
Re: Rules, Conditions, and Procedures for Management of Retail Funds,
Mutual Funds for Accredited Investors,
Mutual Funds for Institutional Funds, and Private Funds**

By virtue of Clause 6, Clause 8, and Clause 9 of the *Notification of the Capital Market Supervisory Board No. Tor Nor. 89/2558 Re: Rules for Management of Retail Funds, Mutual Funds for Accredited Investors, Mutual Funds for Institutional Funds, and Private Funds* dated 17 December 2015, the SEC Office hereby issues the following regulations:

Clause 1 This Notification shall come into force as from 16 January 2016.

Clause 2¹ In this Notification:

The terms, “*management company*”, “*mutual fund management company*”, “*private fund management company*”, “*derivatives*” and “*structured note*” shall have the same meanings as defined in the *Notification on Investment of Funds*;

“*Notification on Investment of Funds*” means the *Notification of the Capital Market Supervisory Board concerning Investment of Funds*;

“*business day*” means a day on which *management companies* are open for normal business;

“*Stock Exchange*” means the Stock Exchange of Thailand;

“*provident fund with multiple investment policies*” means a provident fund which employs more than one investment policy, whether it is a single fund or a pooled fund;

“*single fund*” means a provident fund established for employees of a single employer;

“*pooled fund*” means a provident fund established for employees of multiple employers;

“*foreign fund*” means any of the following funds:

(1) a fund established under the laws of a foreign country that is a collective investment scheme, whether in the form of a company, trust, or any other form;

(2) a fund established under the laws of a foreign country of which the main objective is to make investment in assets relating to infrastructure (infrastructure fund), whether in the form of a company, trust, or any other form;

¹ Amended by the *Notification of the Office of the Securities and Exchange Commission No. Sor Nor. 16/2560 Re: Rules, Conditions, and Procedures for Management of Retail Funds, Mutual Funds for Accredited Investors, Mutual Funds for Institutional Funds, and Private Funds (No. 4)* dated 20 February 2017 (effective on 1 March 2017).

(3) a trust fund or a fund established under the laws of a foreign country of which the main objective is to make investment in real estate or in real estate development business, whether in the form of a company, trust, or any other form;
“*net exposure*” means the net investment value, whether from direct or indirect investment in a financial instrument or a contract that offer returns from the asset underlying, which results in the fund being exposed to such asset.

Part 1
Regulations on Mutual Fund Management
and Private Fund Management

Chapter 1
Fund Managers

Clause 3 In this Chapter,
“*relevant employee*” means an employee of an *investment management company* who, in the course of his/her job duties, receives information about investment of a fund.

Clause 4 A person who may be appointed by an *investment management company* as a fund manager shall meet the following requirements:

(1) not being a director, executive, or employee of another company and not being a derivatives investment manager for another person whose business is of similar nature or competitive with the *investment management company’s* business, unless the *investment management company* proves that the organizational structure of the company will not cause conflicts of interest or that efficient measures to prevent conflicts of interest are put in place; and

(2) in cases where the person appointed as a fund manager is an employee of the *investment management company*, holding a position having either of the following characteristics:

(a) a position which will not cause conflicts of interest with respect to the fund management; or

(b) a position of a director, a derivatives investment manager, a manager of the *investment management company*, or an equivalent position regardless of title of which the holder assumes highest responsibility in the investment-related field.

Clause 5 *Investment management companies* shall educate or train their fund managers and *relevant employees* at least once a year about the following law, regulations, and documents:

(1) the law on securities and exchange², and any regulations issued by virtue of such law;

(2) the codes of conduct specified by the SEC Office, or by the Association of Investment Management Companies with approval of the SEC Office;

(3) the professional ethics and standards specified by the Association; and

² The law on securities and exchange means the *Securities and Exchange Act B.E. 2535 (1992)*, as amended by the *Securities and Exchange Act (No. 4) B.E. 2551 (2008)*.

(4) internal policies and rules of *investment management companies*.

Whenever any of the law, regulations, or documents in paragraph one is issued or amended, *investment management companies* shall inform, by any method, their fund managers and *relevant employees* of such issuance or amendment.

Chapter 2 Information Disclosure

Clause 6 In cases where an *investment management company* is obligated to disclose any information, the information to be disclosed shall be correct and up-to-date, and shall not be misleading or otherwise distort the truth.

Part 2 Mutual Fund Management

Clause 7 In this Part,
 “*mutual fund supervisor*” means the supervisor of a mutual fund;
 “*scheme*” means a mutual fund scheme;
 “*investment unit value*” is the net asset value divided by the total number of outstanding investment units as of the end of the *business day* of the calculation;
 “*selling and redemption supporter*” means any person designated by a *mutual fund management company* to sell or redeem investment units, as the case may be, of a mutual fund;
 “*trading day*” means any of the days on which selling or redemption of investment units may take place, as specified by a *mutual fund management company* in a *scheme*; and
 “*commitment*” means the commitment between a unitholder and a *mutual fund management company* according to the notification of the Capital Market Supervisory Board regarding commitments between unitholders and mutual fund management companies³.

Chapter 1 General Rules

Division 1 Mutual Fund Supervisors

Clause 8 A *mutual fund management company* may change a *mutual fund supervisor* for any reason whatsoever only after approval of the SEC Office has been obtained.

³ The notification of the Capital Market Supervisory Board regarding commitments between unitholders and mutual fund management companies means the *Notification of the Capital Market Supervisory Board No. Tor Nor. 48/2556 Re: Commitments between Unitholders and Mutual Fund Management Companies (No. 2)*.

In cases where a *mutual fund supervisor* no longer meets the qualifications set forth in the notification of the Office of the Securities and Exchange Commission regarding qualifications of mutual fund supervisors⁴, the *mutual fund management company* shall instruct the *mutual fund supervisor* to correct the defects in its qualifications within 15 days from the day the *mutual fund management company* becomes aware of the disqualification, and shall inform the SEC Office of such correction within 3 *business days* from the day the correction is completed.

In cases where the *mutual fund supervisor* fails to correct the defects in its qualifications within the time period specified in paragraph two, the *mutual fund management company* shall request the SEC Office's permission to change the *mutual fund supervisor* within 15 days from the end of such time period. Once the permission is obtained, the *mutual fund management company* shall immediately appoint a new *mutual fund supervisor* to replace the former one.

Division 2

Calculation of Asset Values and Investment Unit Values

Clause 9 In the management of a closed-end fund, the *mutual fund management company* shall calculate and announce net asset values and *investment unit values* of a closed-end fund in accordance with the following rules:

- (1) calculate the net asset value and *investment unit value* at the end of every *business day*; and
- (2) announce the net asset value and *investment unit value* as of each of the following days:
 - (a) the last *business day* of each month, to be announced within the following *business day*, except in the case of a closed-end fund of which investment units are securities listed on the *Stock Exchange*, where the net asset value and *investment unit value* as of the latest *business day* shall be disclosed to the *Stock Exchange* within the following *business day*;
 - (b) the day of the closing of the register of unitholders for payment of dividends, to be announced within the following *business day*; and
 - (c) the *business day* before the day of the selling of investment units to increase authorized share capital, to be announced within the day of the selling of investment units.

Net asset values and *investment unit values* under paragraph one, subclause (2) shall have the number of decimal digits as set forth in Clause 11, and approval of the *mutual fund supervisor* shall be obtained prior to announcement.

Unless otherwise specified, *mutual fund management companies* may announce net asset values and *investment unit values* under paragraph one through any channels that they think are appropriate so that unitholders know such information, such as newspapers, websites, etc., within a time period that allows investors to make use of such information in making investment decisions.

⁴ The notification of the Securities and Exchange Commission regarding qualifications of mutual fund supervisors means the *Notification of the Office of the Securities and Exchange Commission No. Sor Nor. 14/2544 Re: Qualifications of Mutual Fund Supervisors*.

Clause 10 In the management of an open-end fund, the *mutual fund management company* shall calculate and announce net asset values, *investment unit values*, and offering and redemption prices for investment units of an open-end fund in accordance with the following rules:

(1) calculate the net asset value and *investment unit value* at the end of every *business day*;

(2) calculate offering and redemption prices at the end of every *trading day* based on the *investment unit value* as of the end of such *trading day*;

(3) announce the net asset value and *investment unit value* as of each of the following days:

(a) announce the net asset value and *investment unit value* as of the latest *trading day* within the following *business day*, and, in the case of a mutual fund which does not trade every *business day*, also announce the net asset value and *investment unit value* as of each of the following days:

1. the *business day* before the latest *trading day*, to be announced within said latest *trading day*, except in the case of institutional funds; and

2. in the case of mutual funds of which *trading days* are more than one month apart from each other, the last *business day* of each month, to be announced within the following *business day*;

(b) announce the net asset value and *investment unit value* as of the day of the closing of the register of unitholders for payment of dividends within the following *business day*; and

(4) announce offering and redemption prices as of the latest *trading day* within the following *business day*.

Announcement of values and prices under paragraph one, subclauses (3) and (4) by a *mutual fund management company* shall be in accordance with the following rules:

(1) The values and prices shall have the number of decimal digits as set forth in Clause 11, and approval of the *mutual fund supervisor* shall be obtained prior to announcement;

(2) Announcement may be made through any appropriate channels so that unitholders know such information, such as newspapers, websites, etc., within a time period that allows investors to make use of such information in making investment decisions; and

(3) Such information shall also be made available at every office of the *mutual fund management company* and every place where the trading of investment units by a *selling and redemption supporter* takes place, except in the case of institutional funds, where provision of such information is optional.

Clause 11 With respect to the number of decimal digits for net asset values, *investment unit values*, offering and redemption prices, and the number of mutual fund investment units, *mutual fund management companies* shall comply with the following rules:

(1) In the case of a closed-end fund:

(a) When calculating and announcing net asset values, the values shall be rounded to 2 decimal digits according to international rules; and

(b) When calculating *investment unit values*, the values shall be rounded to 5 decimal digits according to international rules, and the results when announced shall be represented in 4 decimal digits by deleting the digit in the 5th decimal place; and

(2) In the case of an open-end fund:

(a) When calculating and announcing net asset values, the values shall be rounded to 2 decimal digits according to international rules;

(b) When calculating *investment unit values*, the values shall be rounded to 5 decimal digits according to international rules. For *investment unit values* for use in calculating offering prices, the digit in the 4th decimal place shall be rounded up. For *investment unit values* for use in calculating redemption prices, the digit in the 5th decimal place shall be deleted;

(c) The results of the calculation of *investment unit values* under subclause (2)(b) shall be represented in 4 decimal digits by deleting the digit in the 5th decimal place, and the results of the calculation of offering and redemption prices under subclause (2)(b).

(d) When calculating the number of investment units, the number shall be rounded to 5 decimal digits according to international rules. However, the results of such calculation shall be represented in 4 decimal digits by deleting the digit in the 5th decimal place.

In cases where calculation according to paragraph one results in benefits, the *mutual fund management company* shall include such benefits as part of the assets of the relevant mutual fund.

Clause 12 A *mutual fund management company* shall be exempt from Clause 9 and Clause 10 [*with respect to a mutual fund*] during the following periods:

(1) throughout the period when the *mutual fund management company* does not sell or repurchase investment units, or ceases accepting purchase or redemption orders for investment units;

(2) from the day the mutual fund needs to be dissolved.

Division 3

Action to Take When an Investment Unit Value or Investment Unit Price is Incorrect

Clause 13 In this Division:

“*price compensation*” means an increase or decrease in the number of investment units of any person who buys or redeems an investment unit at an incorrect investment unit price, or a payment in an amount equivalent to the difference between an incorrect investment unit price and the correct one in lieu of an increase or decrease in the number of investment units; and

“*investment unit price*” means an offering or redemption price of an investment unit.

Clause 14 In cases where an *investment unit value* of a closed-end fund is calculated incorrectly and the incorrect value has been announced, or an *investment unit price* of an open-end fund is incorrect, and the difference between the correct value or price and the incorrect value or price is less than 1 satang or worth less than 0.5% of the correct value or price, the relevant *mutual fund management company* shall take the following action:

(1) prepare a report on the incorrectness, containing the following information, and submit it to the *mutual fund supervisor* within **7 business days** from the day the value or price is found to be incorrect:

- (a) the incorrect value or price;
- (b) the correct value or price;
- (c) the cause of the incorrectness; and
- (d) measures to prevent an incorrect *investment unit value* or *investment unit price* in the future, in cases where the incorrectness is not caused by an uncontrollable external factor; and

(2) in cases where the cause of the incorrectness also affects future calculation of *investment unit values* or *investment unit prices*, the *mutual fund management company* shall correct the *investment unit value* or *investment unit price* within the day the value or price is found to be incorrect.

Clause 15 In cases where an *investment unit value* of a closed-end fund is calculated incorrectly and the incorrect value has been announced, or an *investment unit price* of an open-end fund is incorrect, and the difference between the correct value or price and the incorrect value or price is at least 1 satang and worth at least 0.5% of the correct value or price, the relevant *mutual fund management company* shall comply with the following rules:

(1) calculate *investment unit values* or *investment unit prices* for earlier dates starting from the day an *investment unit value* or *investment unit price* is found by the *mutual fund management company* to be incorrect until the day the *investment unit value* or *investment unit price* is not calculated incorrectly;

(2) take the following action only on the days on which the value or percentage of the difference between the correct value or price and the incorrect value or price is worth as specified above:

(a) prepare a retrospective price correction report within the *business day* following the day an *investment unit value* or *investment unit price* is found by the *mutual fund management company* to be incorrect, and submit said report within the *business day* following the day the retrospective price correction is made to the *mutual fund supervisor*, who will certify the information contained therein within the *business day* following the day of the submission of the report to the *mutual fund supervisor*.

The report under paragraph one, subclause (2)(a), paragraph one shall contain the information as set forth in Clause 14(1) *mutatis mutandis*, except for Clause 14(1)(d) in the case of a retrospective price correction report for an open-end fund, which shall specify the action taken by the *mutual fund management company* when an *investment unit price* is found to be incorrect;

(b) correct the *investment unit value* or *investment unit price* within the day on which the *mutual fund supervisor* certifies the report under paragraph one, subclause (2)(a); and

(c) make available among investors, through any methods, the name of the mutual fund of which the *investment unit value* or *investment unit price* is corrected, and the date on which the correction is made within **3 business days** from the day of the certification of the report by the *mutual fund supervisor* under paragraph one, subclause (2)(a).

Paragraph one, subclause (2)(c) shall not apply to a closed-end fund of which investment units are securities listed on the *Stock Exchange* and the correct *investment unit value* has been announced according to the regulations or requirements set by the *Stock Exchange*.

Clause 16 In addition to the action set forth in Clause 15, in cases where an *investment unit price* of an open-end fund is incorrect and the difference between the correct price and the incorrect price is at least 1 satang and worth at least 0.5% of the correct value or price, the relevant *mutual fund management company* shall also take the following action only on the days on which the value or percentage of the difference between the correct value or price and the incorrect value or price is worth as specified above:

- (1) include a price compensation report in the price correction report under Clause 15, paragraph one, subclause (2)(a), in the section of the action taken by the *mutual fund management company* when an *investment unit price* is found to be incorrect;
- (2) make a *price compensation* in accordance with the rules set forth in Clause 17, and use any methods to ensure that the persons who buy or redeem investment units within the period in which the *investment unit price* is incorrect know about the price correction under Clause 15, paragraph one, subclause (2)(b) and the *price compensation* within 5 *business days* from the day of the certification of the relevant retrospective price correction report and price compensation report by the *mutual fund supervisor*; and
- (3) implement measures to prevent an incorrect *investment unit price* in the future, and submit said report and a copy of the retrospective price correction report under Clause 15, paragraph one, subclause (2)(a) to the SEC Office within 7 *business days* from the day of the certification of such report by the *mutual fund supervisor*, except in cases where the incorrectness is caused by an uncontrollable external factor, where the *mutual fund management company* shall submit together with said report a copy of a document containing the *mutual fund supervisor's* certification that the incorrectness of the *investment unit price* is caused by an uncontrollable external factor.

Clause 17 *Price compensation* under Clause 16(2) shall be made in accordance with the following rules:

- (1) In cases where an incorrect *investment unit price* is lower than the correct one, the *mutual fund management company* shall take the following action:
 - (a) In the case of sale of investment units:
 1. The *mutual fund management company* shall reduce the number of investment units of each relevant investment unit buyer in a number equal to the difference between the incorrect *investment unit price* and the correct one; and
 2. In cases where it appears that an investment unit buyer does not have any remaining investment unit or the number of a buyer's remaining investment units is lower than the number of investment units to be reduced, the *mutual fund management company* shall make a payment out of its own funds in an amount equal to the difference representing the deficiency, or reduce the number of such remaining investment units and make a payment out of its own funds in an amount equal to the difference representing the deficiency, as the case may be, in order to make *price compensation* to the open-end fund, except in cases where the incorrectness is caused by an uncontrollable external factor, such as the fact that a securities price which is the last market price as declared by the *Stock Exchange* or a securities trading center is incorrect, and the *mutual fund supervisor* has certified the existence of such cause;
 - (b) In the case of redemption of investment units, the *mutual fund management company* shall increase the number of investment units of each person who redeemed investment units in a number equal to the difference between the incorrect *investment unit price* and the correct one, or make a payment out of the open-end fund

in an amount equal to the difference of such prices in order to make a *price compensation* to that person. If it appears that the person who redeemed investment units does not have any remaining investment unit, the *mutual fund management company* shall make a payment out of the open-end fund in an amount equal to the difference of such prices in order to make a *price compensation* to that person;

(2) In cases where an incorrect *investment unit price* is higher than the correct one, the *mutual fund management company* shall take the following action:

(a) In the case of sale of investment units, the *mutual fund management company* shall increase the number of investment units of each relevant investment unit buyer in a number equal to the difference between the incorrect *investment unit price* and the correct one, or make a payment out of the open-end fund in an amount equal to the difference of such prices in order to make a *price compensation* to the investment unit buyer;

(b) In the case of redemption of investment units:

1. The *mutual fund management company* shall reduce the number of investment units of each person who redeemed investment units in a number equal to the difference between the incorrect *investment unit price* and the correct one;

2. In cases where it appears that a person who redeemed investment unit does not have any remaining investment unit or the number of the remaining investment units of a person who redeemed investment units is lower than the number of investment units to be reduced, the *mutual fund management company* shall make a payment out of its own funds in an amount equal to the difference representing the deficiency, or reduce the number of such remaining investment units and make a payment out of its own funds in an amount equal to the difference representing the deficiency, as the case may be, in order to make a *price compensation* to the open-end fund, except in cases where the incorrectness is caused by an uncontrollable external factor, such as the fact that a securities price which is the last market price as declared by the *Stock Exchange* or a securities trading center is incorrect, and the *mutual fund supervisor* has certified the existence of such cause.

In the event that the amount of the monetary compensation that a *mutual fund management company* is required to make to any person who purchased or redeemed investment units is less than 100 baht, the *mutual fund management company* may make a payment for the *price compensation* together with the first payment to be made to the unitholder. If such person is no longer a unitholder, the *mutual fund management company* shall make a payment for the *price compensation* within 5 *business days* from the day of the certification of the relevant retrospective price correction report and price compensation report by the *mutual fund supervisor*.

In making a payment out of an open-end fund to make a *price compensation* to a person who redeemed investment units under paragraph one, subclause (1)(b) or a investment unit purchaser under paragraph one, subclause (2)(a), the *mutual fund management company* may make such payment out of its own funds instead.

Clause 18 *Mutual fund management companies* shall make copies of reports under Clause 14(1) and Clause 15, paragraph one, subclause (2)(a) available at their offices for inspection by the SEC Office.

Clause 19 A *mutual fund management company* shall not make a payment out of a mutual fund for any expenses arising from an incorrect *investment unit value* or an incorrect *investment unit price*, except in cases where the incorrectness is caused by an uncontrollable external factor.

Division 4

Sale and Repurchase of Investment Units of an Open-End Fund

Clause 20 Unless otherwise provided for in a notification, the sale and repurchase of investment units of an open-end fund by a *mutual fund management company* shall be in accordance with the following rules:

(1) accept purchase or redemption of investment units in the number specified in the relevant purchase or redemption order that is placed on a *trading day*.

The provisions of paragraph one shall not apply to cases where the right to accept purchase orders is reserved in the *scheme*. In such event, the *mutual fund management company* may reject purchase orders as provided for in the *scheme*;

(2) sell or repurchase investment units in the number specified in the relevant purchase or redemption order at the offering or redemption price as of that *trading day*, and increase the number of investment units of the relevant fund in a number equal to the number of investment units sold or cancel the number of investment units redeemed on the *business day* following the day the investment units are traded;

(3) make a redemption payment to each person who redeems investment units within the time period specified in the *scheme*, which shall not be longer than the following periods:

(a) In the case of investment units of a retail fund offered under the Framework for Cross-Border Public Offerings of ASEAN Collective Investment Schemes, the time period shall not be longer than the period specified in Part I: Qualifications of the CIS Operator, Trustee/Fund Supervisor, and Requirements relating to Approval, Valuation, and Operational Matters of Appendix C: Standards of Qualifying CIS of the Memorandum of Understanding on Streamlined Authorization Framework for Cross-Border Public Offerings of ASEAN Collective Investment Schemes;

(b) In the case of investment units of a fund which focuses on investment involving foreign risks according to the *notification on investment* that is not a mutual fund under paragraph one, subclause (3)(a), the time period shall not exceed 5 *business days* from the day the investment units are repurchased. In this case, any holiday in a foreign country of a *foreign fund* management business operator whose business has a similar nature to a mutual fund management business, which is indicated in the *scheme* as a holiday in a foreign country, shall not be counted as a *business day*; and

(c) In the case of investment units of any mutual fund other than those under paragraph one, subclause (3)(a) and (b), the time period shall not exceed 5 *business days* from the day the investment units are repurchased.

(4) include in the subscription form or purchase order a statement that once an investor is allocated with an investment unit, it shall be deemed that the investor acknowledges and agrees to be bound by the *scheme*, which has been approved by the SEC Office, as duly amended, as well as any *commitments* duly made and signed by the *mutual fund supervisor*.

In cases where a *mutual fund management company* is granted with an extension of a time period for calculation of net asset values, *investment unit values*, or offering or redemption prices under this Notification or any other notifications, the *mutual fund management company* shall increase the number of investment units of the relevant fund or cancel the number of investment units redeemed under paragraph one, subclause (2) within the *business day* following the day on which it is obligated to make such calculation at the end of such extension, and make a redemption payment under paragraph one, subclause (3) within 5 *business days* from the end of the extension or within a time period determined by the SEC Office in the order approving such extension.

A *mutual fund management company* shall not make a redemption payment under paragraph one, subclause (3) on the day the relevant redemption order is submitted, except for a mutual fund of which the investment policy covers money market funds according to the *notification on investment* and of which investment meets the conditions set forth in Clause 21, where the *mutual fund management company* may determine that a redemption payment may be made on the day the order is submitted, provided that it is stated accordingly in the *scheme* and the redemption is in accordance with the rules set forth in Clause 22.

Clause 21 Any mutual fund which is exempt under Clause 20, paragraph three and may make a redemption payment on the day the relevant redemption order is submitted shall make investment in assets which meet all the following conditions:

(1) the investment involves investing in an instrument or entering into an agreement of which the issuer or counterparty is a juristic person established under the laws of Thailand or a branch of a foreign commercial bank authorized to operate commercial bank business according to the law on financial institution business⁵;

(2) the instrument of any issuer under subclause (1) shall be offered for sale in Thailand or the agreement under subclause (1) shall be entered into in Thailand; and

(3) payment of the debt according to such instrument or agreement shall be made in Thai baht.

Clause 22 A redemption payment made by a *mutual fund management company* on the day the relevant redemption order is submitted under Clause 21 shall be in accordance with the following rules:

(1) Repurchase of investment units must be within the total limit specified in the *scheme*, and allocation of such limit shall be made on a first-come, first-served basis;

(2) Calculation of a redemption price shall be in accordance with the following rules:

(a) In cases where the redemption order is submitted during normal trading hours, the calculation shall be based on the *investment unit value* as of the end of the day of the redemption;

(b) In cases where the redemption order is submitted after normal trading hours and before the beginning of the normal trading hours of the following day on which redemption may be made, the calculation shall be based on the *investment unit value* as of the end of such following day on which redemption may be made;

⁵ The law on financial institution business means the *Financial Institution Business Act B.E. 2551 (2008)*.

- (3) The maximum amount of investment units that each unitholder may be allowed to make redemption is either of the following limits, whichever is less:
- (a) 20,000 baht, which shall include the amount of investment units under all redemption orders submitted in one day; or
 - (b) 80% of the total amount of investment units presently held by a unitholder, which shall include the amount of investment units under all redemption orders which has not been deducted from said total amount of investment units presently held by the unitholder;
- (4) Sufficient and appropriate measures to manage the liquidity of the mutual fund shall be put in place; and
- (5) The criteria for redemption payment under subclauses (1), (2), and (3) shall be clearly disclosed in the prospectus.

Clause 23 A *mutual fund management company* shall not commit by itself, connive at, or agree with another person to commit any act which causes a unitholder to obtain benefits as if a redemption payment was made to such person at a time which is not in accordance with the time periods specified in Clause 20, paragraph one, subclause (3).

Clause 24 A *mutual fund management company* may postpone a redemption payment to a unitholder of an open-end fund who submits a redemption order only in the cases specified in the *scheme*, which shall not be beyond these cases:

- (1) in cases where the *mutual fund management company*, upon consideration, honestly and reasonably believes that either of the following circumstances occurs and approval of the *mutual fund supervisor* has been obtained:
 - (a) the securities or assets of the open-end fund cannot be reasonably distributed, disposed of, or transferred due to reasonable circumstances; or
 - (b) there is an event that prevents the mutual fund from receiving payment for the securities or assets in which the mutual fund invests on the normal schedule, and such event is beyond the *mutual fund management company's* control;
- (2) in cases where the redemption order is placed before or during the time period when the *mutual fund management company* finds a redemption price to be incorrect as set forth in Clause 15, and the *mutual fund supervisor* has not yet certified the relevant retrospective price correction report and price compensation report.

Clause 25 To postpone a redemption payment under Clause 24, a *mutual fund management company* shall comply with the following rules:

- (1) make a postponement of no longer than 10 *business days* from the day of the redemption order, unless permitted otherwise by the SEC Office;
- (2) immediately inform each unitholder who places a redemption order of the postponement of redemption payment, and immediately disclose such information to other unitholders and general investors through any methods;
- (3) by itself or by the *mutual fund supervisor* delegated to act on its behalf, immediately inform the SEC Office of the postponement of redemption payment and submit a report explaining the reasons of the postponement as well as proof of approval of the *mutual fund supervisor* according to Clause 24(1) or the *mutual fund supervisor's* certification of the relevant reports according to Clause 24(2);
- (4) when unitholders redeem investment units during a postponement of a redemption payment, the *mutual fund management company* shall accept the

redemption orders and make redemption payments in chronological order according to the dates of submission of the redemption orders.

Clause 26 A *mutual fund management company* shall suspend selling of investment units or acceptance of purchase orders for investment units during the period of time when the company finds a redemption price to be incorrect according to Clause 15 and the *mutual fund supervisor* has not yet certified the relevant retrospective price correction report and price compensation report. In such event, the *mutual fund management company* shall immediately inform unitholders who have placed purchase orders for investment units of such suspension of investment unit sale and immediately disclose such information to other unitholders and general investors through any methods.

Clause 27 In cases where a *trading day* of a mutual fund falls on a day on which the SEC Office has announced as a holiday of *mutual fund management companies* based on special circumstances, *mutual fund management companies* shall suspend acceptance of purchase and redemption orders on such day, and shall inform unitholders of the suspension of orders at least 5 *business days* prior to said special holiday by posting notice in a conspicuous place in every office of the companies and making such notice available at every place where the trading of investment units by a *selling and redemption supporter* takes place (if any).

Clause 28 A *mutual fund management company* may reject the selling or repurchase of an investment unit under an order which it has accepted, or may suspend acceptance of purchase or redemption orders only in the cases specified in the *scheme*, which shall not be beyond these cases:

- (1) the *Stock Exchange* is unable to open for normal business;
- (2) the *mutual fund management company*, upon consideration, honestly and reasonably believes that either of the following circumstances occurs and approval of the *mutual fund supervisor* has been obtained, in which case such rejection or suspension may last no longer than one *business day*, except in cases where the SEC Office has granted an extension:
 - (a) the securities or assets of the open-end fund cannot be reasonably distributed, disposed of, or transferred due to reasonable circumstances;
 - (b) the net asset value of the open-end fund cannot be calculated fairly and appropriately; or
 - (c) there is any other event in which such rejection or suspension is necessary in order to protect unitholders' interest; or
- (3) the mutual fund makes investment in securities or assets in a foreign country and any of the following events occurs and has significant effects on the mutual fund:
 - (a) the stock exchange on which the securities invested by the mutual fund are listed cannot open for normal business, in cases where the investment made by the mutual fund in securities listed on said stock exchange accounts for more than 10% of the net asset value of the mutual fund;
 - (b) there is an event that makes it impossible to exchange currency freely and to normally make outbound money transfers or receive money transfers from a foreign country; or

(c) there is an event that prevents the mutual fund from receiving payment for the securities or assets in which the mutual fund invests on the normal schedule, and such event is beyond the *mutual fund management company's* control and the *mutual fund supervisor* has acknowledged the existence of such event; or

(4) the rejection to sell an investment unit under an order which has been accepted or the suspension of accepting of purchase orders to a certain investor is due to either of the following facts:

(a) the *mutual fund management company* reasonably suspects that such investor is involved in any of the following acts:

1. an act which is an offense based on or an offense of money laundering under the anti-money laundering law, either of Thailand or a foreign country;
2. provision of financial support to a terrorist movement; or
3. an act to comply with an order concerning seizure or attachment of assets which is issued by an authority.

(b) the *mutual fund management company's* Know Your Customer process fails and thus significant facts about the customer are not known.

Clause 29 When an event under Clause 28 occurs and a *mutual fund management company* wishes to not sell or repurchase investment units, or to suspend accepting purchase orders or redemption orders, the *mutual fund management company* shall do the following:

(1) immediately inform unitholders who have placed purchase or redemption orders of the rejection to sell or repurchase investment units, and, in the case of Clause 28(1), (2), or (3), immediately disclose such information to other unitholders and general investors through any methods;

(2) immediately report the rejection to sell or repurchase investment units, or suspension of accepting of purchase or redemption orders, together with reasons, and submit an operation plan for the open-end fund to the SEC Office;

(3) in cases where the *mutual fund management company* does not sell or repurchase investment units, or suspends accepting purchase or redemption orders under Clause 28(1), (2), or (3) longer than one *business day*, the *mutual fund management company* shall do the following before resuming acceptance of purchase or redemption orders:

(a) report to the SEC Office about the resumption of acceptance of purchase or redemption orders and the investment portfolio of the open-end fund as of the last *business day* before the reporting day within the *business day* preceding the day of resumption of acceptance of purchase or redemption orders; and

(b) immediately inform unitholders who have placed purchase or redemption orders of such resumption of acceptance of purchase or redemption orders, and immediately disclose such information to other unitholders and general investors through any methods.

Clause 30 To protect unitholders' interest, or to maintain national economic and financial stability or stability of the financial market system, *mutual fund management companies* shall suspend accepting purchase or redemption orders for a period of time as determined by the SEC Office, which shall not be longer than 20 consecutive *business days*.

Clause 31 A *mutual fund management company* shall make redemption payments to unitholders in the form of securities or other assets in lieu of cash only when the conditions and procedures for such payment method are clearly specified in the *commitment*, and the specified procedures are practical and fair to all unitholders of the relevant open-end fund. Conditions shall be one or more of the following:

- (1) It is specified that the open-end fund may generally make a redemption payment in the form of securities or other assets in lieu of cash;
- (2) The objective of such redemption payment is to enable unitholders to purchase investment units of another fund under the management of the same *mutual fund management company* by using such securities or other assets;
- (3) The *mutual fund management company* is unable to make a redemption payment in the form of cash; and/or
- (4) Unitholders agree to receive redemption payments in the form of securities or other assets in lieu of cash and the *mutual fund management company* has obtained approval of the *mutual fund supervisor*, or a majority of the unitholders holding more than 50% of the total number of outstanding investment units has approved of redemption payments in the form of securities or other assets in lieu of cash.

Division 5 Preparation of Mutual Fund Reports

Clause 32 In this Division:

“*brokerage*” means any of the following persons:

- (1) a securities company licensed to undertake securities business in the category of securities brokerage; or
- (2) a person licensed to undertake derivatives business in the category of derivatives agency or a person registered as a derivatives intermediary in the category of a derivatives agent; and

“*net exposure*” means the net value of investments made, whether directly or indirectly, in instruments or agreements under which returns are based on assets, which result in the fund being exposed to risks in such assets.

Clause 33 A *mutual fund management company* shall prepare and disclose the following information with respect to each mutual fund on its website on a monthly basis:

- (1) performance data for the mutual fund, in the form as determined by the Association;
- (2) information about investments made by the mutual fund, including the following details:
 - (a) in the case of an equity fund, the names of the top 5 securities, and their industries, which have the highest amounts of investment value, as well as the weights assigned to these securities and industries;
 - (b) in the case of a fixed-income fund, the names of the top 5 debt instruments which have the highest amounts of investment value, as well as their credit ratings and the weights assigned to these debt instruments;

(c) in the case of a mixed fund, the names of the top 5 securities which have the highest amounts of investment value and the weights assigned to these securities, as well as their credit ratings, in the case of debt instruments;

(d) in the case of a mutual fund of which the *net exposure* of units of a *foreign fund* is more than 20% of the net asset value of the mutual fund, the information about investments made by such *foreign fund*, as far as the information is made available to the public by the *foreign fund* or as far as the information is accessible by the *mutual fund management company*.

Disclosure of the information under paragraph one shall be made within 15 days from the last *business day* of each month, or, in the case of paragraph one, subclause (2)(d), within 15 days from the first day the investment information is made available by the relevant *foreign fund*.

Clause 34 Preparation and disclosure of mutual fund information on a monthly basis under Clause 33 is optional in cases where:

(1) the mutual fund focuses on a single investment strategy, i.e. by holding the assets purchased until maturity, through an investment term of the mutual fund, or through the term of the mutual fund (buy-and-hold fund); and

(2) the investment information under Clause 33, paragraph one, subclause (2) is included in the prospectus of the mutual fund and the *mutual fund management company* has disclosed to unitholders the sources of information which unitholders have access to and can check investment information by themselves.

Clause 35 A *mutual fund management company* shall prepare a report on each mutual fund containing the information as specified in Clause 37, paragraph one, every accounting period, and submit said report to unitholders whose names appear in the register of unitholders and to the SEC Office within 3 months from the end of that accounting period. In the case of an open-end fund where the *mutual fund management company* chooses to prepare and submit a report under Clause 36 based on a calendar year, the period for submission of a mutual fund report in each accounting period shall be extended to 4 months from the end of each accounting period.

Submission of a report for each accounting period to the SEC Office under paragraph one shall be made through the electronic system established by the SEC Office.

Submission of a report for each accounting period to unitholders under paragraph one shall be made at least through any of the following methods:

(1) in the form of a printed publication or electronic media;

(2) publication on the *mutual fund management company's* website, provided that unitholders are informed of said channel of information access, and also in the form specified in paragraph three, subclause (1) if requested by a unitholder.

The provisions of paragraph one shall not apply to a mutual fund which is subject to dissolution due to any condition under Clause 102 and Clause 103 which occurs before or on the day of the preparation or submission of a report.

Clause 36 In the case of an open-end fund, in addition to the preparation of a report every accounting period under Clause 35, a *mutual fund management company* shall also prepare a report on the mutual fund containing the information as specified in Clause 37, paragraph two every 6 months in an accounting period or calendar year, and submit said report to unitholders whose names appear in the register

of unitholders and to the SEC Office within 2 months from the end of said 6-month period.

In cases where the *mutual fund management company* chooses to prepare and submit the report based on an accounting period, the company shall be exempt from the requirement to prepare and submit such report for the second-half of such accounting period.

The provisions of paragraph two, paragraph three, and paragraph four of Clause 35 shall apply *mutatis mutandis*.

Clause 37 A report for each accounting period under Clause 35 shall contain at least the following details:

(1) balance sheet, profit and loss account, and schedule of investments audited and commented on by an auditor;

(2) details of investments, borrowings, and encumbrances of the mutual fund classified in accordance with the investment policy of the mutual fund as described in the SEC Office's electronic system;

(3) performance data for the mutual fund according to the rules and procedures specified by the Association;

(4) total amount of brokerage fees in connection with the trading of securities or derivatives of the mutual fund, a list of the top 10 *brokerages* with highest amounts of brokerage fees paid by the mutual fund, the percentage of the amount of brokerage fees received by each of the 10 *brokerages* as compared to the total amount of brokerage fees, and the percentage of the brokerage fees received by other *brokerages* as compared to the total amount of brokerage fees;

(5) expenses chargeable to the mutual fund, having the details as specified in the relevant schedule in the SEC Office's electronic system;

(6) portfolio turnover ratio calculated by taking either the total amount of new securities purchased or the total amount of securities sold, whichever is less, over the past accounting period, divided by the total net asset value of the fund over the same accounting period;

(7) opinion of the *mutual fund management company* on investments made for the mutual fund's portfolio over a particular accounting period and any changes during the past accounting period as compared to the previous accounting period, and, in cases where the mutual fund has policy to invest in derivatives with complex strategies or in exotic derivatives, an explanation as to why the average actual leverage is higher than the gross leverage estimate specified in the prospectus;

(8) opinion of the *mutual fund supervisor* on the management of the mutual fund by the *mutual fund management company*;

(9) in cases where, on average, the *mutual fund management company* is unable to invest in accordance with the investment policy during a particular accounting period, information about such matter and reasons;

(10) information about transactions with related persons (if any);

(11) information about any recording of a debt instrument or claim as zero in cases where the issuer of such debt instrument or the debtor of such claim is in default or there are circumstances that may make debt repayment impossible (if any);

(12) information about any receipt of other assets as a means of debt repayment (if any);

(13) information about votes casted in the name of the mutual fund at shareholders' meetings over the latest calendar year;

(14) information about any holding of investment units in excess of investment limits (if any), and the number of persons or groups of persons who hold investment units in excess of said limits and channels for examination of the proportions of units held by said persons or groups of persons; and

(15) list of fund managers.

A report for a 6-month period under Clause 36 shall contain at least the information according to paragraph one, subclauses (1)-(9) *mutatis mutandis*, except that financial statements under subclause (1) are not required to be audited and commented on by an auditor.

Clause 38 A *mutual fund management company* shall prepare and disclose the details of investments, borrowings, and encumbrances of each mutual fund under Clause 37, paragraph one, subclause (2) on its website on a quarterly basis. Such disclosure shall be made within 60 days from the end of such period. In the case of a money market fund, the *mutual fund management company* shall also prepare and disclose the average duration of the assets invested by each mutual fund calculated according to international standards and the proportion of investments in assets with high liquidity to the net asset value of each fund.

Clause 39 A *mutual fund management company* shall make copies of reports under Clause 35 and Clause 36 of the latest period available at all of its offices and every place where the trading of investment units by a *selling and redemption supporter* takes place for examination by unitholders. Copies of said reports shall also be made to unitholders upon request.

Clause 40 A *mutual fund management company* shall prepare and submit the following information about mutual fund management using the form and in accordance with the procedures specified by the SEC Office:

(1) details of the securities and assets purchased or held by all mutual funds in each month, which shall be submitted within the 20th day of the following month;

(2) the status and investments made by each mutual fund in each month, which shall be submitted within the 20th day of the following month;

(3) report on the selling and redemption of investment units of each open-end fund in each month, which shall be submitted within the 20th day of the following month; and

(4) report on the selling and redemption of investment units of each open-end fund on each day, which shall be submitted within the following *business day*, except in the case of an open-end fund with automatic redemption and other types of mutual funds as determined by the SEC Office.

Submission of the information under paragraph one shall be made through the electronic system established by the SEC Office, in accordance with the regulations of the Office of the Securities and Exchange Commission Re: Electronic Data Transmission.

Clause 41 In cases where a mutual fund's *net exposure* in units of a *foreign fund* accounts for more than 20% of the net asset value of the mutual fund, the *mutual fund management company* shall prepare the following information every 6 months in an accounting period or calendar year, and every accounting period:

(1) investments made by the *foreign fund* and its performance data; and

(2) fluctuation of the *foreign fund's* performance.

The *mutual fund management company* shall disclose the information under paragraph one as far as the information is made available to the public by the *foreign fund* or as far as the information is accessible by the *mutual fund management company*.

Clause 42 A *mutual fund management company* shall prepare a report on distribution channels of investment units of all mutual funds under its management every 6 months in a calendar year, using the form available on the SEC Office's electronic system, and submit said report through the electronic system established by the SEC Office within 30 days from the end of said period.

Clause 43 In cases where a mutual fund engages in a securities lending transaction, the *mutual fund management company* shall prepare a report on such transaction on a monthly basis, containing the following information:

- (1) the name of the counterparty and the transaction date;
- (2) the name, type, and value as of the transaction date of the securities lent;
- (3) return rate per year and the term of the agreement; and
- (4) the name and type of collateral.

The *mutual fund management company* shall keep a report under paragraph one for examination by the SEC Office.

Clause 44 In cases where a mutual fund invests in debt instruments, hybrid instruments, or deposits, the *mutual fund management company* shall prepare the following information:

- (1) report summarizing the amount of investments in debt instruments, hybrid instruments, or deposits, and the proportion of such investments to the net asset value of the mutual fund, the investments being categorized as follows:
 - (a) instruments issued by the Thai government and instruments issued by a foreign government;
 - (b) instruments issued, drawn, accepted, granted aval, endorsed, or guaranteed by a bank established by virtue of specific law, a commercial bank, or a finance company;
 - (c) instruments rated in the investment grade; and
 - (d) instruments rated below investment grade or non-rated;
- (2) details and credit ratings of hybrid instruments or deposits invested in or held on an individual basis; and
- (3) the proportion of the upper investment limit to the net asset value of the mutual fund as determined by the *mutual fund management company* in the investment plan for the instruments under paragraph one, subclause (1)(d).

The information under paragraph one shall be disclosed on a monthly basis on the *mutual fund management company's* website within 15 days from the end of each month.

The information about details and credit ratings under paragraph one, subclause (2) may be disclosed based on the instrument's category set forth in paragraph one, subclause (1)(a), (b), (c), and (d) instead of on an individual basis.

Clause 45 In cases where a mutual fund invests in derivatives or structured notes, the *mutual fund management company* shall prepare the following information:

- (1) objectives and strategies for the investment or holding of such derivatives or structured notes, as well as the anticipated profit or loss;
- (2) counterparty risk analysis, in cases where the derivatives are traded outside of the derivatives exchange; and
- (3) measures to guarantee debt repayments under the derivatives or structured notes.

The *mutual fund management company* shall submit the information under paragraph one to the *mutual fund supervisor* within 5 *business days* from the day the investment is made, and make a copy of such information available for examination by the SEC Office.

Clause 46 For the purposes of regulating the mutual fund business, *mutual fund management companies* shall prepare and submit the following information regarding mutual fund management when requested by the SEC Office, in the form, according to the procedures, and within the time period specified by the SEC Office:

- (1) information as required by the SEC Office, which shall be submitted through the information transmission system on the SEC Office's website; and
- (2) any other reports concerning mutual fund management.

Submission of the information under paragraph one, subclause (1) shall be made through the electronic system established by the SEC Office, in accordance with the regulations of the Office of the Securities and Exchange Commission Re: Electronic Data Transmission.

Division 6 Scheme Amendment

Clause 47 In cases other than those under Clause 51 and Clause 52, a *mutual fund management company* may request permission to amend a *scheme* by submitting a written request to the SEC Office, together with all the required supporting evidence specified in the relevant handbook for the public. Upon the receipt of said request and all the required supporting evidence specified in the handbook for the public by the SEC Office, the *mutual fund management company* shall pay the relevant fee to the SEC Office at a rate specified in the notification of the Office of the Securities and Exchange Commission regarding determination of fees for filing registration statement, registration and filing of other applications⁶, except for amendments of a *scheme* under Clause 48, where the *mutual fund management company* is exempt from such fee.

After receiving a request and all the required supporting evidence under paragraph one, the SEC Office shall consider and make a decision on the matter within 30 days.

⁶ The notification of the Office of the Securities and Exchange Commission regarding determination of fees for filing registration statement, registration and filing of other applications means the *Notification of the Office of the Securities and Exchange Commission No. Sor Bor. 28/2547 Re: Determination of Fees for Filing Registration Statement, Registration and Filing of Other Applications*.

The *mutual fund management company* shall not charge the fee under paragraph one to the mutual fund.

Clause 48 In making amendments to a *scheme* which are beneficial to unitholders of the mutual fund, or in a bid to comply with the law and rules established by the Capital Market Supervisory Board or the SEC Office, the *mutual fund management company* shall submit a written request, together with all the required supporting evidence specified in the relevant handbook for the public, to the SEC Office.

Upon receipt of a request and all the required supporting evidence under paragraph one by the SEC Office, it shall be deemed that the SEC Office's approval for such amendments is granted.

Clause 49 As for amendments to a *scheme* according to a resolution of unitholders, if it appears that the number of investment units held by the unitholders who vote for said resolution does not exceed 55% of the total number of outstanding investment units, or, in the case of a mutual fund of which the investment units are classified, if it appears that the number of investment units in each class held by the unitholders who vote for said resolution does not exceed 55% of the total number of investment units in said class, the *mutual fund management company* shall submit documents and evidence relating to the request for votes and the counting of votes to the *mutual fund supervisor* so that the *mutual fund supervisor* certifies the vote results.

Clause 50 In cases where amendments to a *scheme* cannot be made by a resolution of a majority of unitholders due to certain limitations on the counting of votes according to the notification of the Capital Market Supervisory Board regarding limitations on the holding of investment units of a mutual fund and duties of a management company⁷, the *mutual fund management company* may request approval of the SEC Office according to the guidelines set by the SEC Office.

Clause 51 As for amendments to a *scheme* in a bid to change the *mutual fund supervisor*, it shall be deemed that the SEC Office's approval for such amendments is granted after approval of the SEC Office has been obtained under Clause 8.

Clause 52 Amendments to a *scheme* with a view to reducing fees or expenses of an open-end fund shall be made in compliance with Clause 97, paragraph two.

Division 7

Increase of Registered Capital and Scheme Capital

Clause 53 In this Division:

“*registered capital*” means a fund raised by a *mutual fund management company* through an offer of investment units and registered with the SEC Office; and

⁷ The notification of the Capital Market Supervisory Board regarding limitations on the holding of investment units of a mutual fund and duties of a management company means the *Notification of the Capital Market Supervisory Board No. Tor Nor. 45/2556 Re: Limitations on the Holding of Investment Units of a Mutual Fund and Duties of a Management Company*.

“*scheme capital*” means the amount of scheme capital filed for registration by a *mutual fund management company* with the SEC Office according to the notification of the Capital Market Supervisory Board regarding registration of a pool of assets as a mutual fund and amendments to registered particulars⁸.

Clause 54 In increasing the capital of an institutional fund, the *mutual fund management company* may not increase the *registered capital* of the fund to the extent that it exceeds the registered *scheme capital* as of the effective date of this Notification, and may not make amendments with a view to increasing the *scheme capital*.

Clause 55 To increase the *registered capital* and *scheme capital* of a mutual fund, the *mutual fund management company* shall comply with the following rules:

(1) An increase in the number of investment units shall not make the total value of investment units exceed the *scheme capital*, calculation of which being based on the par value of the investment units;

(2) An offering price for investment units shall be determined according to the net asset value of the mutual fund as of the end of the day on which newly-issued investment units are offered; and

(3) In the case of an open-end fund, the *mutual fund management company* may offer newly-issued investment units according to increasing *scheme capital* only after the change in the *scheme capital* has been registered with the SEC Office.

Division 8 Classification of Investment Units

Clause 56 To classify investment units of a mutual fund which are not originally classified, or, in the case of a mutual fund of which investment units are originally classified, to amend or add classes of investment units, the *mutual fund management company* shall amend the *scheme* and comply with the following rules:

(1) The nature of investment unit classes shall be in accordance with the rules set forth in the notification of the Capital Market Supervisory Board regarding establishment of retail funds and non-retail funds, and execution of agreements for management of private funds⁹; and

(2) Classification of investment units shall not affect the rights previously enjoyed by unitholders.

⁸ The notification of the Capital Market Supervisory Board regarding registration of a pool of assets as a mutual fund and amendments to registered particulars means the *Notification of the Capital Market Supervisory Board No. Tor Nor. 10/2554 Re: Registration of a Pool of Assets as a Mutual Fund and Amendments to Registered Particulars*.

⁹ The notification of the Capital Market Supervisory Board regarding establishment of retail funds and non-retail funds, and execution of agreements for management of private funds means the *Notification of the Capital Market Supervisory Board No. Tor Nor. 88/2558 Re: Establishment of Retail Funds and Non-Retail Funds, and Execution of Agreements for Management of Private Funds*.

Clause 57 In the case of a mutual fund of which investment units are classified, the *mutual fund management company* may allow unitholders to switch their investment units from one class to another, provided that the method for switching classes of investment units is clearly described in the *scheme*.

Clause 58 In the case of a mutual fund of which investment units are classified, in addition to the rules on requirements for a resolution to pass which are set forth in the *commitment*, Section 129, or this Notification, the following rules shall also be complied with:

(1) In the case of a resolution on a matter that affects holders of units in all classes with different degrees of effects, said resolution shall be passed by holders of units representing more than 50% of the number of units in each class that is affected;

(2) In the case of a resolution on a matter that affects the interest of unitholders, in any case, said resolution shall be passed by holders of units representing more than 50% of the number of units in each class; and

(3) In the case of a resolution on a matter that affects holders of units in a particular class, said resolution shall be passed by holders of units representing more than 50% of the number of units in said class.

The *mutual fund management company* shall clearly set out in the *commitment* the additional rules on requirements for a resolution to pass in the case of a mutual fund of which investment units are classified under paragraph one.

Clause 59 To classify investment units in cases where net asset values, *investment unit values*, and offering and redemption prices of investment units in each class shall be calculated and announced, the *mutual fund management company* shall comply with the rules in Part 2: Mutual Fund Management, Chapter 1: General Rules, Division 2: Calculation of Asset Value and Investment Unit Value, *mutatis mutandis*.

Clause 60 In cases where investment units of a mutual fund are classified and there is no unitholder in a particular class, the *mutual fund management company* may continue to maintain said class, and if investment units in said class are subsequently offered, the *mutual fund management company* shall calculate its offering price based on the asset value of the mutual fund or the net asset value of the mutual fund, whichever the *mutual fund management company* thinks is appropriate for said unit class.

Division 9

Conversion of a Closed-End Fund to an Open-End Fund

Clause 61 A *mutual fund management company* may convert a mutual fund from a closed-end fund to an open-end fund only when either of the following criteria is met:

(1) The conversion is originally specified in the *scheme* prior to the first offering of investment units; or

(2) A resolution approving amendments to the *scheme* so as to convert the mutual fund from a closed-end fund to an open-end fund is passed by unitholders representing more than 50% of the total number of outstanding investment units.

Clause 62 To convert a mutual fund from a closed-end fund to an open-end fund, the *mutual fund management company* shall proceed with the following:

(1) provide an option for unitholders of the closed-end fund to be able to exit from the mutual fund and *[if a unitholder opts to exit]* comply with the following rules:

(a) make a payment for repurchase of investment units to the unitholder based on the *investment unit value* as of the *business day* before the effective date of the conversion;

(b) payment under subclause (a) shall be made within 5 *business days* from the effective date of the conversion (the 5-day period is inclusive of said effective date);

The provisions of paragraph one shall not apply in the case of a merger between closed-end funds or between a closed-end fund and an open-end fund where the assuming mutual fund is an open-end fund by conversion, where Clause 74 shall apply;

(2) submit to the SEC Office within 3 *business days* prior to the first *trading day* of investment units of the open-end fund a request for amendments to the following particulars of the register in the form available on the SEC Office's system and, in cases where the amendments are made so that the particulars of the register reflect the conversion of the mutual fund, the *commitment* and an executed agreement to appoint the *mutual fund supervisor*, together with a report on the net asset value as of the last *business day* of the latest week, certified by the *mutual fund supervisor*:

(a) status of the mutual fund; and

(b) registration of an increase in the *registered capital* or *scheme capital* of the mutual fund (if any); and

(3) prepare a prospectus for the open-end fund and submit a summary of important information provided in the prospectus to the SEC Office at least one *business day* prior to the day the prospectus is delivered, distributed, or made available to the public. A copy of the prospectus to be delivered or distributed shall be attached with the following information:

(a) brief history of the mutual fund;

(b) financial statements of the latest accounting period audited and commented on by an auditor; and

(c) report on the investment portfolio as of the last *business day* of the latest week certified by the *mutual fund supervisor*, containing at least the information about the name, amount, acquired price, and value of each item of the purchased securities and other assets, and the proportion of the value of such securities and other assets to the net asset value of the mutual fund, listed by category as specified by the *Stock Exchange*.

Clause 63 In cases where it is specified in the *scheme* that holders of investment units in one or more classes may receive payments of the capital and returns when the mutual fund is converted from a closed-end fund to an open-end fund if the following conditions are met, the *mutual fund management company* shall be exempt from the provisions of Clause 62(1), paragraph one:

(1) The mutual fund is converted upon the expiration of the original *scheme*;

(2) Payment of the capital and returns to unitholders is in accordance with their entitlement upon the expiration of the closed-end fund, as specified in the original *scheme*; and

(3) Unitholders pass a resolution to amend the *scheme* so as the fund is converted to an open-end fund according to Clause 61, and, in the case of a mutual fund of which investment units are classified, Clause 58.

The provisions of Clause 62(1), paragraph one, subclauses (a) and (b) shall apply *mutatis mutandis* to the payment of the capital and returns to unitholders under paragraph one.

Clause 64 The provisions of Clause 101(1) and Clause 102(1) shall not apply to a mutual fund that is converted from a closed-end fund to an open-end fund on the last day on which the fund is a closed-end fund and the first *business day* on which the conversion to an open-end fund becomes in effect.

Clause 65 It shall be deemed that the day the SEC Office registers amendments under Clause 62(2) (a) is the first day of the fund as an open-end fund scheme.

Division 10

Amalgamation and Merger of Mutual Funds

Clause 66 In this Division:

“*amalgamation of mutual funds*” means the uniting of at least 2 mutual funds to form a new mutual fund, which acquires or accepts the assignment of assets, rights, and obligations of the former mutual funds, which are then dissolved;

“*merger of mutual funds*” means the uniting of at least 2 mutual funds into one, whereby the surviving mutual fund acquires or assumes the assets, rights, and obligations of the mutual fund(s) so merged, which is/are then dissolved;

“*amalgamation or merger of mutual funds*” means an *amalgamation of mutual funds* or a *merger of mutual funds*, as the case may be;

“*new mutual fund*” means the mutual fund newly established through *amalgamation of mutual funds*; and

“*former mutual fund*” means the mutual fund that is united into another mutual fund through amalgamation.

Clause 67 Mutual funds may be amalgamated or merged only when they are under the management of the same *mutual fund management company*, and after the *mutual fund management company* has objectively considered possible impacts on unitholders of each mutual fund and approval of the SEC Office has been obtained.

Clause 68 Two or more mutual funds may be amalgamated or merged only when a resolution is passed by unitholders pursuant to the rules specified in the *scheme* and *commitment*, and to the following rules:

(1) A majority vote in favor of the amalgamation or merger cast by unitholders holding more than 50% of the total number of outstanding investment units of each mutual fund to be amalgamated or merged is obtained;

(2) In cases where unitholders holding less than 50% of the total number of outstanding investment units of each mutual fund to be amalgamated or merged cast their votes or unitholders holding at least 50% of the total number of outstanding investment units of a mutual fund cast their votes but a majority vote cast by unitholders holding more than 50% of the total number of outstanding investment units in support of

the decision in either way is not reached, and the *mutual fund management company* wishes to amalgamate or merge the mutual funds, the *mutual fund management company* shall request unitholders to pass another resolution within 14 days from the day of the first meeting or the last day for acceptance of votes from unitholders in the first voting. A majority vote in favor of the amalgamation or merger cast by unitholders holding more than 50% of the total number of outstanding investment units of each mutual fund to be amalgamated or merged is then obtained.

In cases where a *mutual fund management company* has to proceed with paragraph one, subclause (2), the company shall notify the resolution of the first voting to unitholders.

When requesting unitholders to pass a resolution under paragraph one, the *mutual fund management company* shall provide details of the new *scheme* and *commitment*, or the amendments to the *scheme* and *commitment* of the surviving mutual fund (if any), and also request that unitholders pass a resolution to dissolve the *former mutual funds* or the merging mutual fund(s).

In the case of a merger between closed-end funds or between a closed-end fund and an open-end fund where the assuming mutual fund is an open-end fund, the *mutual fund management company* shall request unitholders of the assuming mutual fund to pass a resolution to convert the mutual fund from a closed-end fund to an open-end fund. In cases where the resolution is passed by a majority vote according to the rules under paragraph one, subclause (1), it shall be deemed that a resolution in favor of the mutual fund conversion under Clause 61(2) has been passed.

Clause 69 In requesting unitholders to vote on a resolution under Clause 68, the *mutual fund management company* shall send meeting invitations at least 14 days prior to the meeting day, or send written requests for unitholders to cast their votes at least 30 days prior to the last day for acceptance of votes from unitholders. Such invitations or written requests shall also clearly contain at least the following notable information with respect to the *amalgamation or merger of mutual funds*:

(1) up-to-date investment portfolio of the mutual funds to be amalgamated or merged before the request for unitholders to pass a resolution on the *amalgamation or merger of mutual funds* is sent, including details of each item of securities or other assets, namely the type, name, amount, return rate (if any), fair market value according to the accounting standards for investment business as determined by the Association, with approval of the SEC Office, net asset value, *investment unit value* as of the last *business day* of the latest week, and recent performance data for the mutual fund;

(2) comparative analysis on key information and differences of the mutual funds to be amalgamated or merged, and changes resulting from said amalgamation or merger, at least including details of the type and objectives of the *scheme*, investment policy, and expenses chargeable to buyers or holders of investment units and to the mutual fund;

(3) procedures, important details of every step in the amalgamation or merger process, and duration of the amalgamation or merger process;

(4) rights of unitholders of the mutual funds to be amalgamated or merged;

(5) report on the financial position of the mutual funds to be amalgamated or merged, projected financial position of the *new mutual fund* or the assuming mutual fund;

(6) details of dividend payments (if any) prior to the amalgamation or merger, and dividend payment policy after the amalgamation or merger (if any);

(7) amalgamation or merger expenses chargeable to unitholders and the mutual fund (if any), such as liquidation expenses, etc.; and

(8) advantages and disadvantages of the amalgamation or merger, such as those relating to expenses, risks, or benefits of unitholders from the realistic point of view.

After sending meeting invitations or written requests for a resolution together with the above relevant documents to unitholders, the *mutual fund management company* shall submit copies of said documents to the SEC Office within 3 *business days* from the sending date of said meeting invitations or written requests.

Clause 70 During the period from the sending of meeting invitations or written requests for a resolution on the *amalgamation or merger of mutual funds* to the day of the *amalgamation or merger of mutual funds*, the *mutual fund management company* may reject the selling of investment units of the mutual funds to be amalgamated or merged according to purchase orders which have been accepted, or suspend acceptance of purchase orders for said mutual funds. In such event, the *mutual fund management company* shall post a notice on such matter at all of its offices and all contact places of the *selling and redemption supporter*.

During the period under paragraph one, the *mutual fund management company* shall prepare a report on the investment position as of the last *business day* of each week of the mutual funds to be amalgamated or merged, and make a copy of such report available at all of its offices and all contact places of the *selling or redemption supporter* for examination by unitholders. A copy of such report shall also be made to a unitholder upon request.

Clause 71 After unitholders have passed a resolution to amalgamate or merge mutual funds under Clause 68, the *mutual fund management company* shall submit a request for approval of the SEC Office, together with the following supporting documents:

(1) details of the new *scheme* or amendments to the *scheme* of the mutual funds to be amalgamated or merged;

(2) a draft *commitment* with the *mutual fund management company*, a draft agreement on appointment of the *mutual fund supervisor* of the *new mutual fund*, and a summary of important information provided in a draft prospectus of the *new mutual fund* or the assuming mutual fund, as well as a draft *commitment* and a draft agreement on appointment of the *mutual fund supervisor* of the assuming mutual fund in cases where amendments are made to said *commitment* and agreement;

(3) letter certifying that unitholders of the mutual funds to be amalgamated or merged have passed a resolution in favor of the amalgamation or merger; and

(4) report on net asset values, *investment unit values*, and the investment position with respect to the securities or assets of the mutual funds to be amalgamated or merged as of the last *business day* prior to the day a request for the SEC Office's approval is submitted.

The SEC Office shall inform the *mutual fund management company* of its decision on the request under paragraph one within 45 days from the day it receives all the required documents and supporting evidence.

Clause 72 If the *mutual fund management company* obtains the SEC Office's approval for *amalgamation or merger of mutual funds*, it shall be deemed that the SEC Office approves the new *scheme* or amendments to the mutual funds to be amalgamated or merged, and the *mutual fund management company* shall complete the *amalgamation or merger of the mutual funds* within 30 days from the day of the SEC Office's approval is obtained, except where an extension is granted by the SEC Office. The *mutual fund management company* shall also set the day for dissolution of the *former mutual fund(s)* or merging mutual fund(s) on the same day as the day of the *amalgamation or merger of the mutual funds*.

Clause 73 The *mutual fund management company* shall inform the *amalgamation or merger of mutual funds* and amendments to the *scheme* and *commitment* (if any), as well as the rights and the period for exercise such rights of unitholders of the *former mutual fund(s)* or merging mutual fund(s) through the following methods within 15 days from the day the SEC Office's approval is obtained:

(1) notify all unitholders of the mutual funds to be amalgamated or merged in writing, and provide them with an overview of the new *scheme* and *commitment* or the assuming mutual fund, the date of the amalgamation or merger, the first *trading day* of investment units, with the day, month, and year clearly specified, and contact address for enquiry or further information; and

(2) publish in at least 2 widely-circulated local daily newspapers for 2 consecutive days.

In the case of a merger between closed-end funds or between a closed-end fund and an open-end fund where the assuming mutual fund is an open-end fund, in addition to the notification and publication of the information under paragraph one, the *mutual fund management company* shall also notify and publish the resolution of unitholders under Clause 68, paragraph four.

Clause 74 After having notified and published the *amalgamation or merger of mutual funds* under Clause 73, the *mutual fund management company* shall proceed in accordance with the *scheme* and *commitment* of the *former mutual fund(s)* or the merging mutual fund(s) with respect to the transfer of unitholders from the *former mutual fund(s)* or the merging mutual fund(s) to the *new mutual fund* or the assuming mutual fund, as the case may be.

As for unitholders of a *former mutual fund* or a merging mutual fund who vote against or do not vote in favor of the *amalgamation or merger of the mutual funds*, the *mutual fund management company* shall provide such unitholders an option to exit from the mutual fund before the completion of the amalgamation or merger. Under the procedure to exit, such unitholders shall be provided with a sufficient period of time and shall be treated fairly, taking into consideration the net asset values, *investment unit values*, and selling and redemption prices of investment units prior to the amalgamation or merger, and chances of the unitholders to be informed of the amalgamation or merger.

Clause 75 In the case of an *amalgamation of mutual funds*, the *mutual fund management company* shall offer for sale investment units of the *new mutual fund* and acquire or accept the assignment of assets, rights, and obligations of the *former mutual fund* as assets, rights, and obligations of the *new mutual fund*, as specified in the new *scheme* and *commitment*. In the case of a *merger of mutual funds*, the *mutual fund management company* shall offer for sale investment units of the assuming mutual fund

and acquire or accept the assignment of assets, rights, and obligations of the merging mutual fund as assets, rights, and obligations of the assuming mutual fund, as specified in the *scheme* and *commitment* of the assuming mutual fund. Acquisition or acceptance of claims which are being asserted in a lawsuit shall be in compliance with the provisions of the applicable law on such matter.

In cases where the *former mutual fund* or the merging mutual fund is a secured creditor, the *mutual fund management company* shall cause the collateral to be held instead by the *new mutual fund* or the assuming mutual fund.

Clause 76 In selling of investment units during the period from the sending of meeting invitations or written requests for a resolution on the *amalgamation or merger of mutual funds* to the day of the *amalgamation or merger of mutual funds*, the *mutual fund management company* shall disclose the information under Clause 69, concerning the *amalgamation or merger of mutual funds*, to any persons interested to buy investment units or to investors so that they know and understand the position of the mutual funds when the amalgamation or merger takes place. The *mutual fund management company* shall ensure that contact persons with investors also comply with this rule.

Clause 77 The *mutual fund management company* shall prepare a summary of important information and details of the *scheme* provided in an updated prospectus for the *new mutual fund* or the assuming mutual fund, including the date of amalgamation or merger, and brief history of the *new mutual fund* or the assuming mutual fund. The *mutual fund management company* shall submit a copy of the prospectus to the SEC Office at least one *business day* prior to the day the summary of important information provided in the prospectus is delivered or distributed among the public.

Clause 78 The *mutual fund management company* shall notify in writing the status as a unitholder of the *new mutual fund* or the assuming mutual fund to each unitholder of the *new mutual fund* or the assuming mutual fund by registered mail within 15 days from the completion of the *amalgamation or merger of mutual funds*.

Division 11
Action to Take
in Cases Where an Issuer of a Debt Instrument
or a Debtor of a Claim is in Default

Clause 79 In this Division:

“*claim*” means any claim arising from the business operation of a financial institution according to the law on interest on loans by financial institutions¹⁰;

“*net income from other assets received as repayment of debts*” means income from the disposal of other assets received as repayment of debts, proceeds from making use of such assets as well as any legal fruits of such assets, and reserve money (if

¹⁰ The law on interest on loans by financial institutions means the *Interest on Loans by Financial Institutions Act B.E. 2523 (1980)*, as amended by the *Interest on Loans by Financial Institutions Act (No. 2) B.E. 2524 (1981)* and the *Interest on Loans by Financial Institutions Act (No. 3) B.E. 2535 (1992)*.

any), after deductions for expenses due to the acquisition, holding, or disposal of such assets; and

“*reserve money*” means the money reserved for use in the management of other assets received as repayment of debts.

Clause 80 In managing a mutual fund, if default of debt repayment occurs or there are circumstances in which an issuer of a debt instrument or a debtor of a *claim* may be unable to repay the debt, the *mutual fund management company* shall comply with the rules in this Division, except permitted otherwise by the SEC Office.

Clause 81 In the case of an open-end fund which the *mutual fund management company* records the value of a debt instrument or *claim* as zero, all the unitholders whose names are on the register of unitholders on the day of such recording of the value of the debt instrument or *claim* as zero shall be the persons entitled to the *net income from other assets received as repayment of debts*, except where the *mutual fund management company* has taken the action under Clause 82.

Clause 82 In cases where there are circumstances in which an issuer of a debt instrument or a debtor of a *claim* may be unable to repay the debt, the *mutual fund management company* may entitle all the unitholders whose names are on the register of unitholders on the day the circumstances in which an issuer of a debt instrument or a debtor of a *claim* may be unable to repay the debt occur to the *net income from other assets received as repayment of debts*, provided that said debt instrument or *claim* shall not be included when calculating the net asset value of the mutual fund.

Clause 83 In cases where a *mutual fund management company* has taken the action under Clause 81 or Clause 82, the *mutual fund management company* shall inform the SEC Office of the type, amount, and the name of the issuer of the debt instrument or the debtor of the *claim*, and *reserve money* (if any), as well as the date on which the value of the debt instrument or *claim* is recorded as zero, or the date on which the *mutual fund management company* becomes aware of the circumstances in which the issuer of the debt instrument or the debtor of the *claim* may be unable to repay the debt, as the case may be, within 3 *business days* from the day on which the value of the debt instrument or *claim* is recorded as zero or the day on which the *mutual fund management company* becomes aware of the circumstances in which the issuer of the debt instrument or the debtor of the *claim* may be unable to repay the debt, as the case may be.

In cases where a *mutual fund management company* has taken the action under Clause 81, the *mutual fund management company* shall make the information under paragraph one available for a period of at least 30 days at its head office and branch offices, as well as every place where the trading of investment units by a *selling and redemption supporter* takes place, within the *business day* following the day it informs the SEC Office of said information.

Clause 84 In cases where a *mutual fund management company* does not take the action under Clause 81 or Clause 82, as the case may be, the *mutual fund management company* may accept assets other than collateral as repayment of debts only when it complies with the following rules:

(1) The *mutual fund management company* has specified in the *scheme* details relating to acceptance of other assets as repayment of debts; and

(2) Each time assets other than collateral are accepted as repayment of a debt, the *mutual fund management company* has to obtain prior approval of unitholders in the form of a resolution by a majority of unitholders representing more than 50% of the total number of outstanding investment units or prior approval of the *mutual fund supervisor*, provided that the *mutual fund supervisor* has conducted an examination and provided comments together with the reasons justifying that acceptance of the assets as repayment of the debt at that time is more beneficial to the unitholders than the holding or possessing of such debt instrument or *claim*.

Clause 85 In requesting approval of unitholders or the *mutual fund supervisor* under Clause 84, the *mutual fund management company* shall specify the details of the other assets to be received by the mutual fund as repayment of debts, the value of the assets, and estimates of expenses, such as expenses on the acquisition, management, and disposal of the assets, as well as the reasons and necessity of the acceptance of such debt repayment. Furthermore, the *mutual fund management company* shall conduct or prepare the following documents that apply to the case:

- (1) documentary evidence that proves the default of debt repayment; or
- (2) analysis and its rationale demonstrating the circumstances in which the issuer of the debt instrument or the debtor of the *claim* may be unable to repay the debt.

Clause 86 After receiving assets as repayment of a debt for a mutual fund, the *mutual fund management company* shall take the following action:

- (1) inform the SEC Office within 15 *business days* from the receipt of such assets the type, amount, the name of the issuer of the relevant debt instrument or the debtor of the relevant *claim*, the date of the receipt of such assets for repayment of the debt, as well as details of the assets, at least including the values of the assets and expenses incurred from the acceptance of such assets as debt repayment; and
- (2) make available for a period of at least 30 days the information under subclause (1) at the head office and branch offices of the *mutual fund management company*, as well as every place where the trading of investment units by a *selling and redemption supporter* takes place within the *business day* following the day it informs the SEC Office of said information.

In the case of a closed-end fund, in addition to the action under paragraph one, the *mutual fund management company* shall announce in at least the next three announcements of net asset values and *investment unit values* that the mutual fund has accepted debt repayment by other assets and that investors may review the details thereof at the head office and any branch office of the company.

Clause 87 The *mutual fund management company* shall determine the values of the assets received by the mutual fund as debt repayment for use in the calculation of the net asset value of the mutual fund in accordance with the rules and procedures set out by the Association, with approval of the SEC Office.

Clause 88 The *mutual fund management company* shall calculate the net asset value of the mutual fund that accepts debt repayment with other assets as follows:

- (1) In cases where the *mutual fund management company* has taken the action under Clause 81 or Clause 82, the *mutual fund management company* shall not include the assets received as debt repayment and the net income from the assets

received as debt repayment in the mutual fund's assets when calculating the net asset value of the mutual fund; and

(2) In cases other than subclause (1), the *mutual fund management company* shall include the assets received as debt repayment in the mutual fund's assets when calculating the net asset value of the mutual fund.

Clause 89 The *mutual fund management company* shall take the following action with respect to other assets received as debt repayment:

(1) In cases where the *mutual fund management company* has taken the action under Clause 81 or Clause 82, the *mutual fund management company* shall dispose of the assets at the earliest opportunity, taking into account the best interest of unitholders, except where unitholders who are entitled to the *net income from other assets received as repayment of debts* agree to accept such assets as debt repayment in lieu of cash, provided that this is allowed for in the *commitment* and in accordance with the rules and procedures set out by the Association, with approval of the SEC Office.

During the period when the *mutual fund management company* has not yet disposed of the assets received as debt repayment, the *mutual fund management company* may seek benefits from such assets.

(2) In cases other than paragraph one, subclause (1), the *mutual fund management company* shall comply with the following rules with respect to other assets received as debt repayment:

(a) in the case of assets of the type that may be invested in or held by the mutual fund, the *mutual fund management company* may continue to hold such assets as assets of the mutual fund; and

(b) in the case of assets of the type that may not be invested in or held by the mutual fund, the *mutual fund management company* shall dispose of such assets at the earliest opportunity, taking into account the best interest of unitholders. During the period when the *mutual fund management company* has not yet disposed of such assets, the *mutual fund management company* may seek benefits from such assets.

In cases where there are expenses on the management of such assets, such expenses shall be paid by using the mutual fund's assets, except in the case of an open-end fund which the *mutual fund management company* records the value of debt instruments or *claims* as zero, where such expenses shall be paid by using *reserve money*, income, or benefits arising from the management of such assets.

Clause 90 For each amount of net income arising from other assets received as debt repayment, the *mutual fund management company* shall proportionally allocate the amount to unitholders of the open-end fund under Clause 81 or Clause 82, as the case may be, within 45 days from the day such net income arises from the assets, and shall provide the SEC Office with the details of such allocation within 15 days from the day the assets are allocated, except where the SEC Office has granted an extension for the allocation period.

In allocating net income under paragraph one, if the *mutual fund management company* can show that it is not financially worth to allocate net income to unitholders, taking into account the amount of net income and costs of the income allocation, the *mutual fund management company* may combine many amounts of net income to be allocated to the extent that it is financially worth to allocate net income to unitholders. However, if all the assets received as debt repayment have been disposed of and it appears that it is still not financially worth allocating the net income from such assets to unitholders when compared to costs of the income allocation, the company may

include the net income from other assets received as debt repayment to the mutual fund's assets when calculating the net asset value of the mutual fund.

The *mutual fund management company* may proceed with the rules under paragraph two only if details of the rules are specified in the *commitment*.

Clause 91 In the case of an open-end fund which the *mutual fund management company* records the value of a debt instrument or *claim* as zero, if it subsequently appears that the *mutual fund management company* receives debt repayment according to such debt instrument or *claim* in the form of money, Clause 90 shall apply *mutatis mutandis*.

Division 12

Exercise of Voting Rights as a Shareholder in the Name of a Mutual Fund

Clause 92 In cases where a *mutual fund management company* invests in or holds shares of a company as assets of a mutual fund, the *mutual fund management company* shall comply with the rules on exercise of voting rights as a shareholder in the name of a mutual fund as follows:

- (1) exercise voting rights at a meeting of the shareholders in matters that may significantly affect the mutual fund's benefit; and
- (2) disclose to investors through an appropriate method and with sufficient details of the practice and the actual course of action with respect to the exercise of voting rights at a shareholders' meeting.

Division 13

Dividend Payment

Clause 93 A mutual fund may pay dividends only from its retained earnings or net profits and only in an accounting period when the mutual fund has any retained earnings or net profits, provided that such dividend payment will not increase the mutual fund's retained loss in the same accounting period.

In cases where the *mutual fund management company* opines that a certain mutual fund shall pay dividends, the company shall announce the payment of dividends, the day of the closing of the register of unitholders for payment of dividends, and the dividend rate without delay, and shall take the following action:

- (1) publish such announcement in at least one daily newspaper, except in the case of an institutional fund, where the *mutual fund management company* may use any methods instead of publication in a newspaper to make such information known among investors;
- (2) use any methods to make the dividend payment known among investors; and
- (3) send written notification upon request to the *mutual fund supervisor*, a unitholder whose name is on the register of unitholders, and a holder of an investment unit of the type which the name of holder is not specified in the relevant instrument.

In the case of an open-end fund, the *mutual fund management company* may pay dividends to unitholders by using different methods for investment units sold during different periods of time only when this rule is specified in the *scheme* and approval of the SEC Office is obtained prior to each payment.

In cases where a unitholder fails to claim payment of an amount of dividends within the prescription period for *claims* according to the Civil and Commercial Code, the *mutual fund management company* may not use said amount of dividends for any purposes other than for the mutual fund's benefit.

Clause 94 Dividends of a mutual fund shall not be paid, whether in full or in part, by issuing investment units to unitholders.

Division 14 Fees

Clause 95 A *mutual fund management company* may collect fees, other remunerations, or necessary and reasonable expenses from buyers of investment units, unitholders, persons who redeem investment units, or a mutual fund only in cases where the rates and procedures thereof are clearly specified in the *scheme* and prospectus, which shall be in compliance with the following rules:

(1) The *mutual fund management company* shall set the maximum amount of advertising expenses that may be collected from the mutual fund, and collection of advertising expenses from the mutual fund shall not exceed the specified amount;

(2) Collection of management fees shall comply with either of the following rules:

(a) Management fees shall be set at a fixed rate or a fixed percentage of the asset value or net asset value of the mutual fund; or

(b) Management fees shall be based on performance of the mutual fund, according to the rules set out by the SEC Office; and

(3) Fees for sales or redemption of investment units of an open-end fund are collected from investors on each sale or redemption instead of collection of annual selling fees from the mutual fund.

The total amount of fees, remunerations, and all estimable expenses collected from a mutual fund shall not exceed the maximum total amount of fees, remunerations, and all estimable expenses specified in the *scheme* and prospectus of the mutual fund.

Clause 96 In the case of a mutual fund worth less than 50 million baht, the *mutual fund management company* shall set management fees only at a fixed percentage of the asset value or net asset value of the mutual fund.

In cases where the value of a mutual fund at the time of registration of a pool of assets as a mutual fund is not less than 50 million baht but subsequently decreases to less than 50 million baht, the *mutual fund management company* shall collect fees under paragraph one according to the following rules:

(1) In cases where the *mutual fund management company* already sets management fees at a fixed percentage of the asset value or net asset value of the mutual fund, such percentage shall not exceed the percentage previously fixed by the *mutual*

fund management company for the period when the value of the mutual fund is not less than 50 million baht, calculated based on the par value of investment units; and

(2) In cases other than paragraph two, subclause (1), the **mutual fund management company** shall collect fees under paragraph one at a rate that is justifiably appropriate and fair, with approval of the SEC Office.

The value of a mutual fund under paragraph one and paragraph two shall be calculated based on the par value of investment units.

Clause 97 In cases where [*a mutual fund management company wishes to reduce fees or expenses and*] it is clearly specified in the **scheme** that fees or expenses are subject to reduction, the **mutual fund management company** shall post a notification on reduction of fees or expenses at its head office and branch offices, and at every place where the trading of investment units by a **selling and redemption supporter** takes place.

Amendments to a **scheme** with respect to reduction of fees or expenses to a rate different from that specified in the **scheme** shall be considered to be approved by the SEC Office when the **mutual fund management company** posts a notification on reduction of fees or expenses at its head office and branch offices, and at every place where the trading of investment units by a **selling and redemption supporter** takes place.

Clause 98 In cases where it is clearly specified in the **scheme** of an open-end fund that fees or expenses may be collected at a higher rate than the most recent rate specified in the **scheme** and the **mutual fund management company** wishes to collect fees or expenses at a higher rate as allowed for in the **scheme**, the **mutual fund management company** shall inform investors of such action at least 60 days prior to the collection of the fees or expenses at the increased rate through the following methods:

(1) publish the notification in at least 1 daily newspaper for 3 consecutive days; and

(2) post the notification at the **mutual fund management company's** head office and branch offices, and at every place where the trading of investment units by a **selling and redemption supporter** takes place.

In cases where the increase in fees or expenses collected is more than 5% of the most recent rate specified in the **scheme**, the **mutual fund management company** may collect the fees or expenses at the increased rate only when a majority vote of unitholders representing more than 50% of the total number of outstanding investment units is obtained.

In the case of an institutional fund, the **mutual fund management company** may use any methods instead of the action under paragraph one, subclauses (1) and (2) to make an increase in fees or expenses known among unitholders.

Clause 99 A **mutual fund management company** shall notify the SEC Office of a change in fees or expenses under Clause 97 or Clause 98 within 15 days from the effective date of such change.

Division 15
Dissolution of Mutual Funds

Clause 100 In this Division, “*fund of funds*” and “*feeder fund*” mean mutual funds of which the investment policies have the nature of a fund of funds or feeder fund, as the case may be, according to the *notification on investment*.

Clause 101 A *mutual fund management company* shall dissolve a closed-end fund in either of the following circumstances within the *business day* following the day the *mutual fund management company* becomes aware of such circumstance:

- (1) in the case of a retail fund or non-retail fund, when the number of unitholders is less than 35; or
- (2) in the case of an institutional fund, when the number of unitholders is less than 10, except for a mutual fund of which investment units are sold exclusively to the Government Pension Fund or Social Security Fund.

Clause 102 A *mutual fund management company* shall dissolve an open-end fund in accordance with the rules under Clause 105 under either of the following circumstances:

- (1) The number of unitholders decreases as follows on any *business day*:
 - (a) in the case of a retail fund or non-retail fund, when the number of unitholders is less than 35; or
 - (b) in the case of an institutional fund, when the number of unitholders is less than 10, except for a mutual fund of which investment units are sold exclusively to the Government Pension Fund or Social Security Fund;
- (2) Investment units are redeemed as follows, except redemption of investment units of a money market fund, *fund of funds*, and *feeder fund*, the last two being subject to the rules under Clause 104:
 - (a) The net number of investment units redeemed in one day accounts for more than two-thirds of the total number of outstanding investment units; or
 - (b) The total number of investment units redeemed within 5 consecutive *trading days* accounts for more than two-thirds of the total number of outstanding investment units.

In the case of an interval fund, which periodically offers to repurchase investment units from unitholders, only the days on which the fund offers to repurchase investment units are used to count the time period under subclause (2)(b).

Clause 103 In the case of a *fund of funds* and *feeder fund*, if it appears that the net asset value of another fund invested by the *fund of funds* decreases as follows, the *mutual fund management company* shall take the action under Clause 104:

- (1) A decrease in the net asset value in one day accounts for more than two-thirds of the net asset value of the other fund; or
- (2) A decrease in the net asset value within 5 consecutive *business days* accounts for more than two-thirds of the net asset value of the other fund.

Another fund under paragraph one shall be:

- (1) a fund under the *Securities and Exchange Act B.E. 2535 (1992)*, including a fund which is a joint investment of investors, whether established under the laws of Thailand or a foreign country, and whether in the form of a company, trust, or

any other form, such as a real estate investment trust (REIT), collective investment scheme, etc.; and

(2) a fund of which investments made by a *fund of funds* or *feeder fund* account for at least 5% of the net asset value.

Clause 104 In cases where the net asset value of a fund invested by a *fund of funds* or *feeder fund* decreases according to Clause 103, the *mutual fund management company* shall take the following action:

(1) inform the SEC Office and unitholders of the cause of the decrease in the asset value under Clause 103 as well as an action plan, taken into account the best interest of overall unitholders, within 3 *business days* from the day of disclosure of the information about such other fund under Clause 103;

(2) perform and complete the action under subclause (1) within 60 days from the day of disclosure of the information about such other fund under Clause 103;

(3) report the results of the action to the SEC Office within 3 *business days* from the day the action is completed; and

(4) ensure that the *mutual fund management company's* relevant personnel disclose information about the mutual fund's action under subclause (1) to prospective investors so that they know and understand the mutual fund's status.

Clause 105 When any circumstance under Clause 102 occurs, the *mutual fund management company* shall take the following action:

(1) cease accepting purchase or redemption orders for investment units from the day of the occurrence of the circumstance under Clause 102;

(2) inform unitholders whose names are on the register of unitholders by registered mail and the SEC Office in writing of the occurrence of the circumstance under Clause 102 within 3 *business days* from such occurrence;

(3) dispose of the remaining securities or assets of the open-end fund within 5 *business days* from the occurrence of the circumstance under Clause 102 in a bid to obtain as much money as possible for payment for automatic redemption of investment units; and

(4) pay unitholders for the redemption of investment units in proportion to the amount of the proceeds obtained under paragraph one, subclause (3) within 10 *business days* from the day of the occurrence of the circumstance under Clause 102, and the open-end fund shall then be deemed to be dissolved upon payment for the redeemed investment units.

Upon completion of the action under subclauses (1) to (4), any remaining securities or assets after the disposal under paragraph one, subclause (3) shall be managed according to the notification of the Capital Market Supervisory Board regarding rules, conditions, and procedures for liquidation of mutual funds¹¹.

Clause 106 In cases where a mutual fund is dissolved due to maturity of the *scheme* or any other reason that allows dissolution of the mutual fund to be known in advance, the *mutual fund management company* shall take the following action:

¹¹ The notification of the Capital Market Supervisory Board regarding rules, conditions, and procedures for liquidation of mutual funds means the *Notification of the Capital Market Supervisory Board No. Tor Nor. 76/2552 Re: Rules, Conditions and Procedures for Liquidation of Mutual Funds*.

- (1) inform the *mutual fund supervisor* and the SEC Office, and, in cases where investment units of such mutual fund are securities listed on the *Stock Exchange*, the *Stock Exchange*, in writing at least 5 *business days* before the dissolution;
- (2) use any methods so that unitholders and general investors know about the dissolution, such as through a local daily newspaper, at least 5 *business days* before the dissolution; and
- (3) dispose of the mutual fund's assets in order to collect cash, deposits in current accounts, deposits in saving accounts, and promissory notes at call prior to the dissolution date.

Division 16 Relaxation

Clause 107 In cases where reasonable and appropriate grounds exist, a *mutual fund management company* may request the SEC Office for relaxation of the following rules:

- (1) changing of a *mutual fund supervisor* under Clause 8, paragraph three;
- (2) calculation and announcement of net asset values, *investment unit values*, and offering and redemption prices for investment units, as the case may be, under Clause 9 and Clause 10;
- (3) the time period in which the *mutual fund management company* rejects the selling or repurchase of investment units or suspends acceptance of purchase or redemption orders under Clause 28(2);
- (4) preparation and submission of a report for an accounting period under Clause 35 and a report for a 6-month period under Clause 36, and information to be included in such reports under Clause 37;
- (5) announcement of a dividend payment under Clause 93, paragraph two, subclause (1);
- (6) the time period for taking action when the net asset value of a fund invested by a mutual fund decreases under Clause 103, paragraph one, subclause (2), where the *mutual fund management company* shall obtain approval of the *mutual fund supervisor* for consideration by the SEC Office; and
- (7) action to take in order to dissolve a mutual fund under Clause 105, paragraph one, subclause (4) or Clause 106.

Chapter 2 Additional Rules for Guaranteed Funds

Clause 108 In this Chapter,
 “*guaranteed fund*” means a mutual fund of which the investment policy has the nature of a guaranteed fund according to the *notification on investment*;
 “*guarantor*” means a person who enters into an agreement with a *mutual fund management company* to provide guarantee to unitholders on the capital invested or the capital invested with returns, as the case may be, at a guaranteed amount;

“*resolution of unitholders*” means a resolution by a majority of unitholders representing more than 50% of the total number of outstanding investment units of a *scheme*.

Clause 109 When an event causes a new *guarantor* to be appointed or when such event becomes known, the *mutual fund management company* shall make arrangements with a new *guarantor*, provided that the qualifications of such new *guarantor* and terms of the guarantee agreement shall not be inferior to the previous *guarantor* at the time of the agreement execution or to the requirements set forth in the *commitment*, as the case may be, except in any of the following cases:

(1) The *mutual fund management company* is allowed by a *resolution of unitholders* to appoint a new *guarantor* or make a new guarantee agreement that does not comply with the above; or

(2) The *mutual fund management company* reserves its rights in the *scheme* that upon the occurrence of such event, the *mutual fund management company* will dissolve the *guaranteed fund*, or continue managing such mutual fund but withdraw the guarantee and discontinue the use of the name or any word which indicates that the fund is a *guaranteed fund*. In this case, it shall be deemed that a *resolution of unitholders* has been obtained.

In requesting a *resolution of unitholders* under paragraph one, subclause (1), the *mutual fund management company* shall disclose to unitholders material details of the difference between the previous *guarantor* and the new one, and any matters which may affect unitholders’ rights as a result of the change in the *guarantor*.

In cases where a new *guarantor* is required because of a mistake of the *mutual fund management company*, the *mutual fund management company* shall be liable for any damages incurred from the change in the *guarantor* or during the period when a new *guarantor* has not been appointed, to the *guaranteed fund* or unitholders, as the case may be.

Clause 110 In cases where it appears that the arrangement with a new *guarantor* will cause fees or expenses with respect to the arrangement with a *guarantor* to increase by more than 25% of the original rate for the the latest guaranteed period, the *mutual fund management company* may enter into an agreement with the new *guarantor* only when it has amended the *scheme* on such matter after having obtained a *resolution of unitholders*, except where the *mutual fund management company* reserved its rights in the *scheme* under Clause 109, paragraph one, subclause (2).

Clause 111 In the case of any of the following circumstances, the *mutual fund management company* shall comply with Clause 112:

(1) The *mutual fund management company* does not obtain a *resolution of unitholders* under Clause 109, paragraph one, subclause (1) or Clause 110;

(2) Expenses on the arrangement with a new *guarantor* are higher than the benefits to be acquired by the *guaranteed fund*; or

(3) The *mutual fund management company* fails to make an arrangement with a new *guarantor* for whatever reasons.

Clause 112 When any of the circumstances under Clause 111 occurs, the *mutual fund management company* shall take any of the following action:

(1) dissolve the *guaranteed fund* once a *resolution of unitholders* is obtained; or

(2) withdraw the guarantee upon a *resolution of unitholders* and continue managing said mutual fund, provided that the *mutual fund management company* shall discontinue the use of the name or any word which indicates that the fund is a *guaranteed fund*, and shall no longer advertise or otherwise promote such mutual fund as a *guaranteed fund*.

The action under paragraph one does not exempt the *mutual fund management company* from any liability under Clause 109, paragraph three. In addition, the *mutual fund management company* shall also be liable for any damage which may cause to the *guaranteed fund* and unitholders until the *mutual fund management company* obtains a *resolution of unitholders* under Clause 109, paragraph one, subclause (1).

Chapter 3 Additional Rules for Vayupak Funds

Clause 113 In this Chapter, “*Vayupak fund*” means a mutual fund established by a resolution of the Cabinet dated 1 July 2003.

Clause 114 In the management of a *Vayupak fund*, the *mutual fund management company* may establish an investment committee responsible for determining investment policies and providing advice on investment in general so that the fund’s investment is in line with the objectives of the *Vayupak fund*. In this case, the *mutual fund management company* shall specify in the *scheme* details of the composition of the investment committee and its powers and duties.

Clause 115 A *mutual fund management company* may accept assets other than cash as payment for investment units of a *Vayupak fund* if the following rules are met:

(1) It is the sale of investment units to the Ministry of Finance within 30 days from the conversion of the *Vayupak fund* from a close-end fund to an open-end fund; and

(2) The *mutual fund management company* clearly specifies the method of investment unit payment in the *scheme*.

Clause 116 The provisions of Clause 20, paragraph one, subclause (1) shall not apply to *Vayupak funds*, and a *mutual fund management company* shall comply with the following rules when accepting purchase or redemption orders for investment units of a *Vayupak fund*:

(1) In cases where the *Vayupak fund* reserves its rights or sets conditions for limiting the number of investment units according to purchase or redemption orders to be accepted, the *mutual fund management company* shall clearly indicate such reservation and conditions in the *scheme*; and

(2) In cases where the right to limit the number of investment units according to redemption orders to be accepted is reserved, if the number of investment units according to redemption orders received is higher than the number specified in the *scheme*, the *mutual fund management company* shall repurchase investment units on a pro rata basis.

Clause 117 The provisions of Clause 94 shall not apply to a *Vayupak fund* in the case where payment of dividends to unitholders by the fund by granting investment units or with any assets invested in or held by the fund is in accordance with the following rules:

- (1) The dividends are paid to the Ministry of Finance as a unitholder or any other unitholders of the same type as the Ministry of Finance; and
- (2) The *mutual fund management company* clearly specifies the method of dividend payment in the *commitment*.

Clause 118 The provisions of Clause 93 shall not apply to *Vayupak funds*. A *Vayupak fund* may pay dividends from its retained earnings or net profits only in an accounting period in which the fund has any retained earnings or net profits, or may pay dividends from reserve money for dividend payment.

In cases where the *mutual fund management company* opines that a *Vayupak fund* shall pay dividends, the *mutual fund management company* shall announce the payment of dividends, the day of the closing of the register of unitholders for payment of dividends and the dividend rate without delay, and shall take the following action:

- (1) publish such announcement in at least one daily newspaper;
- (2) use any methods to make the dividend payment known among investors; and
- (3) send written notification upon request to the *mutual fund supervisor*, a unitholder whose name is on the register of unitholders, and a holder of an investment unit of the type which the name of holder is not specified in the relevant instrument.

In cases where a unitholder fails to claim payment of an amount of dividends within the prescription period for *claims* according to the Civil and Commercial Code, the *mutual fund management company* may not use said amount of dividends for any purposes other than for the *Vayupak fund's* interest.

Clause 119 The provisions of Clause 102 shall not apply in cases where a *Vayupak fund* repurchases investment units in a bid to limit damage to unitholders in accordance with the *scheme* to the extent that the number of unitholders decreases to less than 35.

Chapter 4 Additional Rules for Retirement Mutual Funds

Division 1 Retirement Mutual Funds of All Types

Clause 120 In this Chapter, “*retirement mutual fund*” means a mutual fund of which the investment policy has the nature of a retirement mutual fund according to the *notification on investment*.

Clause 121 In the management of a *retirement mutual fund*, the *mutual fund management company* shall establish a system for examination of purchase or redemption of investment units by unitholders.

Clause 122 The provisions of Clause 93 shall not apply to *retirement mutual funds* and a *mutual fund management company* shall not pay dividends to unitholders of such funds.

Clause 123 A *mutual fund management company* shall prepare and submit a report on investment in investment units to unitholders who redeem investment units according to the rules and procedures set out by the Association, with approval of the SEC Office.

Division 2 Retirement Mutual Funds which Receive Transfer of Proceeds from Provident Funds

Clause 124 In this Chapter,
“*retirement mutual fund*” means a retirement mutual fund that accepts transfer of proceeds from a provident fund;
“*proceeds from a provident fund*” means
(1) the proceeds a retirement mutual fund receives from a provident fund;
(2) the proceeds under subclause (1) that a *retirement mutual fund* receives from another *retirement mutual fund*; or
(3) any benefits arising from the proceeds under subclauses (1) and (2);
and
“*contributions*” means contributions under the law on provident funds¹².

Clause 125 A *mutual fund management company* shall take the following action:
(1) develop and implement a system which separates the amounts of money of unitholders which are *proceeds from a provident fund* from the amounts of money of general unitholders of the *retirement mutual fund*;
(2) develop and implement a system which separates *proceeds from a provident fund* of each unitholder into two parts as follows:
(a) *contributions*; and
(b) amounts of money which are not *contributions*; and
(3) compile information of each unitholder about his/her age and the duration of membership or the duration of being a unitholder of a provident fund or *retirement mutual fund*, as the case may be, so that said duration can be counted continuously.

Clause 126 In cases where a unitholder does not wish to invest in a *retirement mutual fund*, whether in whole or in part, the *mutual fund management company* shall provide the unitholder with information about tax benefits he/she will then lose.

Clause 127 In cases where a unitholder wishes to transfer some part of the *proceeds from a provident fund* to another mutual fund, such transfer may be done

¹² The law on provident funds means the *Provident Fund Act B.E. 2530 (1987)*.

only by transferring *contributions* and amounts of money which are not *contributions* at an equal rate.

Clause 128 When disclosing the net asset value of a *retirement mutual fund*, the *mutual fund management company* shall also specify that such net asset value includes *proceeds from a provident fund*.

Mutual fund management companies shall not use *proceeds from a provident fund* to calculate any amounts of investments and any overall figures with respect to the mutual fund business.

Chapter 5 Additional Rules for Country Funds

Clause 129 In this Chapter, “*country fund*” means a mutual fund of which the investment policy has the nature of a country fund according to the *notification on investment*.

Clause 130 The provisions of Clause 9, Clause 10, Clause 11, Clause 93, paragraph two, and Clause 106 shall not apply to *country funds*.

The provisions of Clause 101(2) and Clause 102(1)(b) shall not apply to *country funds* which had registered its pool of assets as a mutual fund with the SEC Office before 16 June 2004, has unitholders that are foreigners, and has the nature similar to either a mutual fund, the Government Pension Fund, the Social Security Fund, or a provident fund.

Chapter 6 Additional Rules for Long-Term Equity Funds

Clause 131 In this Chapter, “*long-term equity fund*” means a mutual fund of which the investment policy has the nature of a long-term equity fund according to the *notification on investment*.

Clause 132 In the management of a *long-term equity fund*, the *mutual fund management company* shall establish the following systems:

- (1) a system for redemption of investment units as specified by the Association, with approval of the SEC Office; and
- (2) a system for examination of purchase or redemption of investment units by unitholders.

Clause 133 To transfer an investment in investment units of a *long-term equity fund* to another *long-term equity fund*, the *mutual fund management company* shall transfer the investment in such investment units as well as all benefits within 5 *business days* from the day the *mutual fund management company* receives the relevant order from a unitholder, or within 5 *business days* from the day the circumstance under Clause 135 occurs, provided that the unitholder expresses such intention in the subscription order or purchase order.

Clause 134 The provisions of Clause 93 shall not apply to *long-term equity funds*. A *long-term equity fund* may pay dividends only when the fund has retained earnings and such payment will not increase the fund's retained loss in the same accounting period.

Each payment of dividends by a *long-term equity fund* shall be in accordance with one of the following rules:

- (1) Dividends shall be paid from any dividends or interest received from any assets of the fund; or
- (2) The amount of dividends to be paid shall not exceed 30% of such retained earnings or net profits in the accounting period for such dividend payment, whichever is less.

Clause 135 A *mutual fund management company* shall take the action under Clause 136 when it appears that the number of unitholders of a *long-term equity fund* decreases to less than 35 on a *business day*. In such event, Clause 102 and Clause 105 shall not apply.

Clause 136 When any circumstance under Clause 135 occurs, the *mutual fund management company* shall take the following action:

- (1) cease accepting purchase and redemption orders for investment units from the *business day* on which such circumstance under Clause 135 occurs;
- (2) inform unitholders whose names are on the register of unitholders by registered mail and the SEC Office in writing of the transfer of investments under Clause 133 and the action to be taken under this subclause within 3 *business days* from the occurrence of the circumstance under Clause 135;
- (3) dispose of the remaining securities or assets of the mutual fund within 5 *business days* from the occurrence of the circumstance under Clause 135 in a bid to obtain as much money as possible for payment to unitholders who do not express their intention to automatically transfer their investments to another *long-term equity fund*; and
- (4) pay for the redemption of investment units to unitholders who do not express their intention to automatically transfer their investments to another *long-term equity fund* in proportion to the amount of the proceeds obtained under paragraph one, subclause (3) within 10 *business days* from the occurrence of the circumstance under Clause 135, and the mutual fund shall then be deemed to be dissolved upon payment for the redeemed investment units.

Upon completion of the action under paragraph one, any remaining securities or assets after the disposal under paragraph one, subclause (3) shall be managed according to the notification of the Capital Market Supervisory Board regarding rules, conditions, and procedures for liquidation of mutual funds¹³.

Chapter 7 Additional Rules for ETFs

¹³ The notification of the Capital Market Supervisory Board regarding rules, conditions, and procedures for liquidation of mutual funds means the *Notification of the Capital Market Supervisory Board No. Tor Nor. 76/2552 Re: Rules, Conditions and Procedures for Liquidation of Mutual Funds*.

Clause 137 In this Chapter, “*ETF*” means a mutual fund of which the investment policy has the nature of an ETF according to the *notification on investment*.

Clause 138 A *mutual fund management company* may accept redemption of investment units of an *ETF* from unitholders who are general investors only when such redemption complies with the conditions specified in the *scheme*.

Clause 139 In the case of an ETF established to promote the development of local currency bond markets under the Asian Bond Fund 2 initiative, according to the resolution of the Executives’ Meeting of East Asia and Pacific Central Bank (EMEAP), the *mutual fund management company* may specify the volume or *investment unit value* of investment units of such mutual fund to be repurchased from unitholders only upon approval of the SEC Office.

Clause 140 In cases where the value on which calculation of offering and redemption prices for investment units under Clause 10, paragraph one, subclauses (1) and (2) is based may cause uncertainty with respect to the number of securities or other assets accepted as payment of investment units of an *ETF*, the *mutual fund management company* may request the SEC Office for a waiver of the requirement to use such value in calculating offering and redemption prices as specified in said Clause.

Clause 141 While the *Stock Exchange* is open for trading of investment units of *ETFs*, *mutual fund management companies* shall disclose the following information by any methods so that investors can make use of such information in making decisions with respect to investment in *ETFs*, except where a waiver is granted by the SEC Office:

- (1) information about changes in net asset values of an *ETF*, in accordance with the following rules:
 - (a) Net asset values to be disclosed are not required to be approved by the *mutual fund supervisor* and are not required to be in accordance with rules regarding the number of decimal digits under Clause 11; and
 - (b) Net asset values of an *ETF* shall be disclosed as frequently as values or prices of underlying assets of the *ETF*; and
- (2) tracking errors measured by the difference between the net asset value of an *ETF* and prices of the ultimate underlying assets, which shall be disclosed before the first trading session on the *Stock Exchange*.

Clause 142 The provisions of Clause 102(1) and Clause 105 shall not apply to *ETFs*.

A *mutual fund management company* shall take the action according to Clause 143 when it appears after the first *trading day* in a secondary market that the number of unitholders of an *ETF* decreases to less than 35

Clause 143 When the circumstance under Clause 142, paragraph two occurs, the *mutual fund management company* shall take the following action:

- (1) cease accepting purchase and redemption orders for investment units from the day on which the *mutual fund management company* becomes aware of the circumstance under Clause 142, paragraph two;
- (2) inform unitholders whose names are on the register of unitholders by registered mail and the SEC Office in writing of said circumstance within the following

day after the *mutual fund management company* becomes aware of the circumstance under Clause 142, paragraph two;

(3) dispose of the remaining securities or assets of the mutual fund within the following day after the *mutual fund management company* becomes aware of the circumstance under Clause 142, paragraph two in a bid to obtain as much money as possible for payment for automatic redemption of investment units; and

(4) pay unitholders for the redemption of investment units in proportion to the amount of the proceeds obtained under subclause (3) within 10 *business days* from the following day after the *mutual fund management company* becomes aware of the circumstance under Clause 142, paragraph two, and the mutual fund shall then be deemed to be dissolved upon payment for the redeemed investment units.

Upon completion of the action under paragraph one, any remaining securities or assets after the disposal under paragraph one, subclause (3) shall be managed according to the notification of the Capital Market Supervisory Board regarding rules, conditions, and procedures for liquidation of mutual funds¹⁴.

Chapter 8

Additional Rules for Sector Mutual Funds That Focus on Investment in the Real Estate Development Sector

Clause 144 In this Chapter, “*sector mutual fund*” and “*retirement mutual fund*” mean mutual funds of which the investment policies have the nature of a sector mutual fund or retirement mutual fund, as the case may be, according to the *notification on investment*.

Clause 145 The provisions in this Chapter shall not apply to *retirement mutual funds*.

Clause 146 In cases where a *sector mutual fund* that focuses on investment in the real estate development sector obtains returns in the form of dividends or any other remunerations of the same nature from investment in any of the following assets, the *mutual fund management company* shall use such proceeds in dividend payment to unitholders of the mutual fund at least one time in the accounting period in which the returns are obtained, in accordance with the rules in Clause 147 and Clause 148:

(1) investment units of a real estate fund;
 (2) trust units according to the notification of the Capital Market Supervisory Board regarding issuance and offer for sale of real estate investment trust units¹⁵;

(3) instruments of a foreign real estate investment fund that invests, whether directly or indirectly through investment in investment units under subclause (1) and/or trust units under subclause (2), in real estate in Thailand worth at least 30% of the

¹⁴ The notification of the Capital Market Supervisory Board regarding rules, conditions, and procedures for liquidation of mutual funds means the *Notification of the Capital Market Supervisory Board No. Tor Nor. 76/2552 Re: Rules, Conditions and Procedures for Liquidation of Mutual Funds*.

¹⁵ The notification of the Capital Market Supervisory Board regarding issuance and offer for sale of real estate investment trust units means the *Notification of the Capital Market Supervisory Board No. Tor Jor. 49/2555 Re: Issuance and Offer for Sale of Real Estate Investment Trust Units*.

latest net asset value as of the day of the closing of the register of unitholders for payment of dividends; and

(4) units of a *foreign fund* that invests, whether directly or indirectly through investment in investment units under subclause (1) and/or trust units under subclause (2), in real estate in Thailand worth at least 30% of the latest net asset value as of the day of the closing of the register of unitholders for payment of returns from the investment of such fund.

Clause 147 The amount of dividends paid by a *mutual fund management company* to unitholders shall not be less than the result of the amount of returns obtained minus all costs incurred during the accounting period of dividend payment, except in the following cases:

(1) In cases where the mutual fund has net profits or retained earnings in the accounting period of dividend payment, but the amount of net profits or retained earnings is less than the amount of dividends to be paid, the amount of dividends to be paid by the *mutual fund management company* shall be equal to the amount of net profits or the amount of retained earnings, whichever is higher; and

(2) In cases where the amount of dividends is less than 25 satang per investment unit, the *mutual fund management company* may refrain from the dividend payment. In the case of a mutual fund which has a policy to pay dividends more than one time in each accounting period, the amount of dividends that is less than 25 satang per investment unit shall be carried forward and added to the next dividend payment in the same accounting year.

Clause 148 Dividend payment to unitholders under this Chapter shall be completed within 90 days from the end of the accounting period of dividend payment.

Part 3 Private Fund Management

Chapter 1 General Provisions

Division 1 General Rules

Clause 149 After a private fund management agreement has been executed, the *private fund management company* shall disclose the following information to its client in writing or through electronic means, except where the client is not a provident fund and refuses to obtain such information:

- (1) assessment of performance results of the private fund:
 - (a) method for assessment of fund performance results, which may be by comparison with reference benchmark, as well as hypotheses and limitations of such assessment; and
 - (b) timeframe for the performance assessment, which shall be conducted on a monthly basis;
- (2) the name of the custodian, including its duties and responsibility;

(3) investment and performance results of the private fund;
 (4) material changes in the private fund;
 (5) information relating to investment in or holding of securities or assets which may create any conflicts of interest or encumbrances to the client's assets, transactions with a reverse repurchase agreement, and securities lending;
 (6) any other information about the private fund as required by the SEC Office in order to protect the client's interest.

Disclosure of the information under subclauses (3), (4), and (6) to a client which is a provident fund shall be in accordance with the rules and procedures set out by the Association, with approval of the SEC Office.

The provisions of paragraph one shall not apply to:

(1) management of the Government Pension Fund according to the law on government pension fund¹⁶;
 (2) management of the Social Security Fund according to the law on social security fund¹⁷.

Clause 150 A *private fund management company* shall disclose information about investment in any instruments according to Clause 44, paragraph one, subclauses (1) and (2) to clients who are provident funds in each monthly report and annual report according to Clause 161.

Clause 151 A *private fund management company* shall prepare a report on securities lending transactions according to Clause 43, paragraph one and keep a copy of such report for the SEC Office's examination.

Clause 152 In cases where a retail private fund or provident fund invests in derivatives or structured notes, the *private fund management company* shall prepare information relating to such investment according to Clause 45, paragraph one, subclauses (1), (2), and (3), and provide such information to clients or the provident fund committee, as the case may be.

For the purposes of paragraph one, "*retail private fund*" means a private fund in which the value of assets invested by each investor is less than 1 million baht, and which is not a provident fund.

Clause 153 Upon expiration of a private fund management agreement, the *private fund management company* shall deliver securities and assets of the private fund to clients or the custodian, as the case may be, within the period of time mutually agreed upon by the *private fund management company* and the clients. In the case of management of a provident fund, the *private fund management company* shall deliver the securities and assets as soon as possible.

Clause 154 The provisions of Clause 95, paragraph one, subclause (2) shall apply *mutatis mutandis* to the collection of management fees of a *private fund management company*.

¹⁶ The law on government pension fund means the *Government Pension Fund Act B.E. 2539 (1996)*.

¹⁷ The law on social security fund means the *Social Security Act B.E. 2533 (1990)*.

Division 2

Proxy Voting at Shareholders' Meetings on Clients' Behalf

Clause 155 In cases where a *private fund management company* invests in or holds shares of a company as assets of a private fund and the client delegates the *private fund management company* to exercise voting rights at shareholders' meetings of such company on the client's behalf, the *private fund management company* shall comply with the rules set out in Clause 92 *mutatis mutandis* and take the following action:

- (1) In the case of a private fund that is not a provident fund, the *private fund management company* shall report the client on the exercise of voting rights; and
- (2) In the case of a private fund that is a provident fund, the *private fund management company* shall inform the client in an annual report according to Clause 161 that the practice and the actual course of action with respect to the exercise of voting rights can be examined through given means arranged by the *private fund management company*.

Clause 156 In cases where a *private fund management company* invests in or holds shares of a company as assets of a private fund and the client does not delegate the *private fund management company* to exercise voting rights at shareholders' meetings of such company on the client's behalf, the *private fund management company* shall take the following action:

- (1) In the case of a private fund that is not a provident fund, the *private fund management company* may give advice on exercise of voting rights to the client; and
- (2) In the case of a private fund that is a provident fund, the *private fund management company* shall give advice on exercise of voting rights to the provident fund committee or request the provident fund committee to delegate its voting power to the *private fund management company*.

Division 3

Preparation and Submission of Reports to the SEC Office

Clause 157 In this Division, "*fund administration*" means any administrative work relating to registration of members of a fund, and preparation and delivery of reports on contributions by each employee and by his/her employer, as well as benefits arising thereof.

Clause 158 A *private fund management company* shall prepare and submit to the SEC Office a monthly report on the status and investments made by each private fund in the form and in accordance with the procedures specified by the SEC Office within the 20th day of the following month, through the electronic system established by the SEC Office, in accordance with the regulations of the Office of the Securities and Exchange Commission Re: Electronic Data Transmission.

The provisions of this Clause shall not apply to a private fund that is a provident fund.

Clause 159 A *private fund management company* shall prepare a report on deposit of assets of each private fund with each custodian on the last *business day* of each year and submit it to the SEC Office within 30 days from the last calendar day of each year. Such report shall be made in the form and in accordance with the procedures set by the SEC Office.

Clause 160 In the management of a private fund that is a provident fund, the *private fund management company* shall prepare and submit the following information about the management of such fund in the form and in accordance with the procedures set by the SEC Office.

(1) monthly detailed report on the securities and assets invested in or held by each provident fund, to be submitted within the 20th day of the following month;

(2) monthly report on the status and investments of each provident fund, to be submitted within the 20th day of the following month;

(3) monthly report on income, expenses, and changes in the employee contributions and employer contributions of each provident fund, to be submitted within the 20th day of the following month;

(4) quarterly report on the details of each provident fund, to be submitted within the 20th day of the month following the last month of each quarter.

Submission of the information under paragraph one shall be made through the electronic system established by the SEC Office, in accordance with the regulations of the Office of the Securities and Exchange Commission Re: Electronic Data Transmission.

Clause 161 *Private fund management companies* shall prepare and submit monthly and annual reports to clients that are provident funds according to the notification of the Association of Investment Management Companies regarding rules and procedures for preparing reports on provident fund management for clients¹⁸.

To prepare monthly and annual reports under paragraph one, *private fund management companies* shall disclose the ratio of maximum investments in debt instruments, hybrid instruments, deposits, or any instruments equivalent to deposits which are rated below investment grade or non-rated, to the net asset value of each fund as specified in the investment plan.

Clause 162 For the purposes of regulating the business of private funds that are provident funds, *private fund management companies* shall prepare and submit information regarding management of private funds that are provident funds when requested by the SEC Office, in the form, according to the procedures, and within the period of time specified by the SEC Office.

Clause 163 *Private fund management companies* shall prepare and submit information regarding investment in or disposal of securities or assets which requires transfer of a private fund's funds to or from a foreign country, in the form and according to the procedures arranged in the SEC Office's electronic system, or other means to be specified by the SEC Office.

¹⁸ The notification of the Association of Investment Management Companies regarding rules and procedures for preparing reports on provident fund management for clients means the *Notification of the Association of Investment Management Companies No. Sor Jor Gor. Gor Chor. 1/2547 Re: Rules and Procedures for Preparing Reports on Provident Fund Management for Clients*.

The provisions of paragraph one shall not apply to private funds that are provident funds, private funds of which clients submit requests directly to the Bank of Thailand for permission to use the funds to invest in a foreign country, and private funds of which all clients are aliens.

Clause 164 *Private fund management companies* shall submit financial statements and audit reports prepared in accordance with Clause 168 to the SEC Office within 150 days from the end of each annual accounting period of provident funds, and make such documents available at their offices for examination by provident fund members.

Chapter 2 Additional Rules for Provident Fund Management

Division 1 General Rules

Clause 165 In cases where a provident fund allows members to choose an investment policy, the *private fund management company* shall take the following action:

- (1) present information about risks and returns of each investment policy to the fund committee and fund members for their consideration so that they can choose suitable investment policies;
- (2) require fund members to take a test of assessment of suitability of their chosen investment policies, in accordance with the rules in Division 2; and
- (3) allow fund members to change their investment policies at least once a year, unless they pass a resolution to set a different timeframe.

Clause 166 In cases where a provident fund does not allow fund members to choose an investment policy and has a high-risk investment policy under Clause 171, the *private fund management company* shall implement a system which ensures that the fund committee and fund members know and well understand possible risks from the investment before becoming a fund member or before the provident fund changes its investment policy to a high-risk one.

Clause 167 *Private fund management companies* shall send a report on the number of units and the value per unit of a provident fund, and the amounts of employee contributions and employer contributions as well as benefits arising therefrom to each fund member at least every 6 calendar months within 30 days from the last day of each 6-month period. If a fund member requests a monthly report, the *private fund management company* shall send said report to the member within a reasonable period of time.

Clause 168 A *private fund management company* shall prepare financial statements, which shall be audited and commented on by an auditor according to Clause 169, and present it, together with the auditor's report, at the general meeting of the members of the provident fund for approval.

The *private fund management company* shall maintain at its office financial statements of the provident fund, the auditor's reports, and documents stating the number of fund members and the fund amount of the provident fund as of the end of the month prior to the appointment of an auditor.

Clause 169 An auditor qualified to audit and comment on a financial statement according to Clause 168 shall not be an auditor whose Certified Public Accountant License is being suspended by the Federation of Accounting Professions or whose approval for being a Certified Public Accountant is being suspended by the SEC Office, and shall obtain approval of the SEC Office according to the notification of the Office of the Securities and Exchange Commission regarding approval of auditors for the capital market¹⁹, except for the following cases where a Certified Public Accountant according to the law on accounting professions²⁰ may be qualified:

(1) Financial statements to be audited and commented on are for a provident fund of which the number of employees as of the end of the month prior to the appointment of the auditor is not more than 100; or

(2) Financial statements to be audited and commented on are for a provident fund of which the net asset value as of the end of the month prior to the appointment of the auditor is not more than 100 million baht, provided that the meeting of the members of the provident fund has granted approval for such person and the fund committee informed at the meeting that such person does not obtain approval of the SEC Office according to the notification regarding approval of auditors.

Division 2

Assessment of Suitability of Investment Policies Chosen by Fund Members

Clause 170 The provisions in this Division apply only to provident funds which allow members to choose investment policies.

Clause 171 In this Division:

“high-risk investment policy” means an investment policy of which investments in one or more of the following securities or assets account for more than 50% of the total investments of that policy:

(1) equity instruments;

(2) any of the following debt instruments:

(a) debt instruments with foreign currency exposures; or

(b) debt instruments having one of the following characteristics:

1. the due date for repayment of the principal or interest is not fixed, or it is stated that only some or none of the principal may be repaid; or

2. the instruments are conditioned in a way that the holders' right to receive repayment of the principal or interest may be affected, such as being

¹⁹ The notification of the Office of the Securities and Exchange Commission regarding approval of auditors for the capital market means the *Notification of the Office of the Securities and Exchange Commission No. Sor Chor. 39/2553 Re: Approval of Auditors for the Capital Market, as amended by the Notification of the Office of the Securities and Exchange Commission No. Sor Chor. 9/2558 Re: Approval of Auditors for the Capital Market (No. 2)*.

²⁰ The law on accounting professions means the *Accounting Profession Act B.E. 2547 (2004)*.

subordinated, converted, forced to be prematurely redeemed, subject to an extension of the repayment date, subject to remission, etc., except for conditions in case of default according to the regulations regarding rights and obligations of the issuer and bond holders; and

(3) the assets specified in Items 5 and 6.2 of Division 3: Product Limits of Appendix 4: PVD attached to the *notification on investment*.

Clause 172 In order to enable fund members to choose investment policies that suit them, considering their knowledge and understanding of investment, investment experience, financial status, acceptable risk levels, and retirement saving purposes, a *private fund management company* shall require fund members to take a test of suitability of investment policies in accordance with the following rules:

(1) require each fund member to take an assessment test when choosing an investment policy for the first time, according to the conditions and within the deadlines specified in Clause 173, and inform each fund member of the benefits and necessity of the assessment of suitability of investment policies;

(2) review to confirm the suitability of chosen investment policies every 2 calendar years from the previous assessment test, within the year of the review, possibly only for members who choose *high-risk investment policies* in the case of investment policies chosen before 2019;

(3) in cases where assessment results do not correspond with the original or new investment policies that fund members intend to choose, warn the fund members about risks from choosing investment policies that do not suit them and require them to sign to acknowledge possible risks from their investment options;

(4) in cases where fund members refuses to provide information or the information provided is insufficient, making it unable to take the action under subclause (1) or (2), warn the fund members about risks from choosing investment policies without taking a test of assessment of suitability of investment policies; and

(5) subsequently ask fund members who refuse to take a test of assessment of suitability of investment policies to take the test.

Clause 173 Compilation of member information and assessment of suitability when choosing investment policies for the first time shall comply with the following rules:

(1) In the case of a new fund member whose membership starts from 1 January 2014, the compilation and assessment shall be completed on the same day the membership starts;

(2) In the case of an existing fund member whose membership starts before 1 January 2014, the *private fund management company* shall take the following action:

(a) for members who choose *high-risk investment policies*, whether the original or new ones, the compilation and assessment shall be completed within 2014;

(b) for members other than subclause (1), the compilation and assessment shall be completed within 2019.

Clause 174 A *private fund management company* shall use the form and procedures for assessment of suitability of investment policies in accordance with the guidelines set out by the Association.

Clause 175 Any action concerning assessment of suitability of investment policies in this Division shall be documented in hard copy or in any other form which can be kept and subsequently examined by fund members or *private fund management companies*.

Division 3
Calculation of Value per Unit and Number of Units and
Verification of Net Asset Values

Clause 176 In this Division:

“*value per unit*” means the value per unit of a provident fund calculated by dividing the net asset value by the total number of units as of the calculation date;

“*number of units*” means the number of units of a provident fund;

“*fund committee*” means the fund committee of a provident fund;

“*price compensation*” means an increase or decrease in the *number of units* of any member whose membership remains valid in cases where the *value per unit* is incorrect, or a payment to any member whose membership remains valid in an amount equivalent to the difference between an incorrect *value per unit* and the correct one in lieu of an increase or decrease in the *number of units*; and

“*trade date*” is the day on which an increase or decrease in the *number of units* of a fund member is calculated, which will be specified in the private fund management agreement as mutually agreed upon by the *private fund management company* and the *fund committee*; and

“*verifier*” means the person who verifies the accuracy of the net asset value of a provident fund.

Clause 177 The *value per unit* calculated by a *private fund management company* shall truly reflect the performance of the relevant provident fund and any amount of money which is not resulted from the operation of the fund shall not be included in the calculation.

Clause 178 When calculating the *number of units* or *value per value*, or making an entry adjustment, correction of the *value per value*, or *price compensation*, the *private fund management company* shall take into consideration the best interest of fund members, and shall treat each fund member equally, except where the *private fund management company* is unable to treat each fund member equally by operation of law, due to different conditions and factors of fund members, or in a bid to comply with the guidelines set out by the SEC Office.

Clause 179 A *private fund management company* shall set a *trade date* for each fund at least once a week. Calculation of an increase or decrease in the *number of units* of a fund member shall be based on the *value per value* as of the end of the earliest *trade date*, which is verified by a *verifier*. An increase or decrease in the *number of units* of a fund member shall be made within 3 *business days* from a *trade date*, except in the case of investment in securities or assets in a foreign country, where the *private fund management company* may request the SEC Office for an extension.

Clause 180 A *private fund management company* may postpone a *trade date* when any of the following events occurs:

(1) The *Stock Exchange* or a securities trading center is unable to open for its normal business;

(2) The SEC Office issues a notification allowing the *private fund management company* to postpone a *trade date* in a bid to protect fund members' interest or to maintain national economic and financial stability or stability of the financial market system;

(3) There are reasonable circumstances making it unable for the *private fund management company* to dispose of securities or assets of the fund, or calculate the net asset value of the provident fund fairly and appropriately, and the *private fund management company* has obtained approval of the *fund committee*, unless it is mutually agreed otherwise in the private fund management agreement;

(4) The provident fund invests in securities or assets in a foreign country according to the *notification on investment* and any of the following events occurs and has significant effects on said provident fund:

(a) in cases where the investment made by the provident fund in the securities in each stock exchange accounts for more than 10% of the net asset value of the provident fund, said stock exchange cannot open for normal business; or

(b) there is an event that makes it impossible to exchange currency freely and to normally make outbound money transfers or receive money transfers from a foreign country.

Clause 181 In cases where a *unit per value* is incorrect, the *private fund management company* shall correct such value without delay. In cases where the difference between the incorrect *unit per value* and the correct one is at least 0.5% of the correct *unit per value* and is worth at least 1 satang, the *private fund management company* shall submit a report to the *fund committee* within the following month from the month in which correction of the *unit per value* or *price compensation* is completed. Such report shall contain at least the following information:

(1) the incorrect *unit per value*;

(2) the correct *unit per value*;

(3) the cause of the incorrectness; and

(4) the *private fund management company's* action when a *unit per value* is found to be incorrect.

During the course of the correction, the *private fund management company* shall establish preventive measures and may suspend calculation of an increase or decrease in the *number of units* for no more than 7 consecutive *business days*, unless with consent of the *fund committee*.

Clause 182 Disclosure of the *number of units*, *value per unit*, and net asset value of a fund by a *private fund management company* shall be made in accordance with the following rules:

(1) the *number of units* and *unit per value* shall be rounded to 4 decimal digits according to international rules; and

(2) the net asset value of a fund shall be rounded to 2 decimal digits according to international rules.

Clause 183 A *verifier* to be assigned by a *private fund management company* to verify the accuracy of a net asset value of a provident fund shall meet the following qualifications:

(1) registered with the SEC Office as a verifier; and

(2) does not have significant interest with the *private fund management company* to the extent that it may jeopardize the independence of such person in performing the duty to verify net asset values of a provident fund, except where the *private fund management company* has disclosed such fact to the *fund committee* and the *fund committee* has given consent.

Division 4
Action to Take
in Cases Where an Issuer of a Debt Instrument
or a Debtor of a Claim is in Default

Clause 184 In managing a provident fund, if default of debt repayment occurs or there are circumstances in which an issuer of a debt instrument or a debtor of a claim may be unable to repay the debt, the *private fund management company* shall comply with the rules in this Division, except permitted otherwise by the SEC Office.

Clause 185 A *private fund management company* may accept for a provident fund assets other than collateral as repayment of debts only when details of said action are specified in the private fund management agreement or fund regulations, or approval of the *fund committee* has been obtained. Each time before assets other than collateral are accepted as repayment of a debt, the *private fund management company* shall obtain approval of the *fund committee*, after the *fund committee* has conducted an examination and provided comments together with the reasons justifying that acceptance of the assets as repayment of the debt at that time is more beneficial to the fund members than the holding or possessing of such debt instrument or claim.

In requesting approval of the *fund committee* under paragraph one, the *private fund management company* shall specify details of the assets to be received by the provident fund as repayment of debts by other assets, values of the assets, and estimates of expenses, such as expenses on the acquisition, management, and disposal of the assets, as well as the reasons and necessity of the acceptance of such debt repayment. Furthermore, the *private fund management company* shall conduct or prepare the following documents that apply to the case:

- (1) documentary evidence that proves the default of debt repayment; or
- (2) analysis and its rationale demonstrating the circumstances in which the issuer of the debt instrument or the debtor of the claim may be unable to repay the debt.

Clause 186 After receiving assets as repayment of a debt for a provident fund, the *private fund management company* shall inform the *fund committee* in writing of the type, amount, and the name of the issuer of the debt instrument or the debtor of the claim, the date of the receipt of such assets for repayment of the debt, as well as details of the assets, at least including values of the assets and expenses incurred from the acceptance of such assets as debt repayment, within the 20th day of the following month after the receipt of such assets.

Clause 187 *Private fund management companies* shall determine values of the assets received by provident funds as debt repayment for use in the calculation of net asset values of the provident funds in accordance with the rules and procedures set out by the Association, with approval of the SEC Office.

Clause 188 *Private fund management companies* shall take the following action with respect to other assets received as debt repayment:

(1) In the case of assets of the type that may be invested in or held by a provident fund, the *private fund management company* may continue to hold such assets as assets of the provident fund; and

(2) In the case of assets of the type that may not be invested in or held by a provident fund, the *private fund management company* shall dispose of such assets within 2 years after the receipt of such assets, except permitted otherwise by the *fund committee*. During the period when such assets have not been disposed of, the *private fund management company* may seek benefits from such assets.

In cases where there are expenses on the management of such assets, such expenses shall be paid by using the provident fund's assets.

Division 5 Management of Assets Donated to Provident Funds

Clause 189 For assets donated to a provident fund, the *private fund management company* shall determine values of the assets donated for use in the calculation of the net asset value of the provident fund in accordance with the rules and procedures set out by the Association, with approval of the SEC Office.

Clause 190 *Private fund management companies* shall take the following action with respect to assets donated to provident funds:

(1) In the case of assets of the type that may be invested in or held by a provident fund, the *private fund management company* may continue to hold such assets as assets of the provident fund; and

(2) In the case of assets of the type that may not be invested in or held by a provident fund, the *private fund management company* shall dispose of such assets within 2 years after the receipt of such assets or within 2 years from the end of the time period in which the assets shall not be disposed of as required by the donor, as the case may be, except permitted otherwise by the *fund committee*. During the period when such assets have not been disposed of, the *private fund management company* may seek benefits from such assets.

In cases where there are expenses on the management of such assets, such expenses shall be paid by using the provident fund's assets.

Division 6 Specific Rules on Management of Provident Funds with Multiple Investment Policies

Clause 191 In the management of a *provident fund with multiple investment policies*, the *private fund management company* shall take the following

action for each investment policy, instead of for all investment policies of the provident fund:

- (1) calculation of the value per unit under Clause 177 and the net asset value of a provident fund;
- (2) disclosure of information regarding the number of units, value per unit, and net asset values of a provident fund under Clause 182; and
- (3) verification of a net asset value of a provident fund under Clause 183.

Clause 192 In the management of a *provident fund with multiple investment policies*, the *private fund management company* shall take the following action for each investment policy managed by the *private fund management company*:

- (1) disclosure of the information after a private fund management agreement has been executed under Clause 149;
- (2) preparation and submission of a report to the SEC Office under Clause 160, paragraph one, subclauses (2) and (4);
- (3) submission of a report under Clause 163 or any other report to clients;
- (4) preparation and maintenance of financial statements under Clause 164;
- (5) management of other assets accepted as repayment of debts under Clause 185; and
- (6) management of assets donated to provident funds under Clause 190.

Part 4 Transitional Provisions

Clause 193 Any orders and circulations issued by virtue of the *Notification of the Office of the Securities and Exchange Commission No. Sor Khor/Nor. 23/2552 Re: Rules, Conditions, and Procedures for Management of Funds* dated 28 July 2009, which is effective on the day before this Notification is enacted, shall remain in full force to the extent that they are not contrary to nor inconsistent with this Notification until relevant orders and circulations issued by virtue of this Notification come into force.

Clause 194 Any reference made in any other notifications to the *Notification of the Office of the Securities and Exchange Commission No. Sor Khor/Nor. 23/2552 Re: Rules, Conditions, and Procedures for Management of Funds* dated 28 July 2009 shall mean reference to this Notification.

Notified this 17th day of December 2015.

(Rapee Sucharitakul)
Secretary-General
Office of the Securities and Exchange Commission
Chairman
Capital Market Supervisory Board