

(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 Securities and Exchange Commission

No. Kor Thor. 32/2560

Re: Maintenance of Net Capital

By virtue of Section 14 of the *Securities and Exchange Act B.E. 2535 (1992)*, as amended by the *Securities and Exchange Act (No. 4) B.E. 2551 (2008)*, and Section 97 of the *Securities and Exchange Act B.E. 2535 (1992)*, the Securities and Exchange Commission hereby issues this Notification with details as follows:

Clause 1 The following Notifications shall be repealed:

- (1) *Notification of the Securities and Exchange Commission No. Kor Thor. 18/2549 Re: Maintenance of Net Capital dated 2 May 2006;*
- (2) *Notification of the Securities and Exchange Commission No. Kor Thor 27/2552 Re: Maintenance of Net Capital (No. 2) dated 20 November 2009;*
- (3) *Notification of the Securities and Exchange Commission No. Kor Thor 30/2552 Re: Maintenance of Net Capital (No. 3) dated 15 December 2009;*
- (4) *Notification of the Securities and Exchange Commission No. Kor Thor 14/2554 Re: Maintenance of Net Capital (No. 4) dated 21 July 2011;*
- (5) *Notification of the Securities and Exchange Commission No. Kor Thor 5/2557 Re: Maintenance of Net Capital (No. 5) dated 5 June 2014;*
- (6) *Notification of the Securities and Exchange Commission No. Kor Thor 12/2559 Re: Maintenance of Net Capital (No. 6) dated 14 December 2016.*

Clause 2 In this Notification:

“**net capital**” means the **liquid capital** deducted by **risk haircuts**;

“**liquid capital**” means **liquid assets** deducted by **total liabilities**;

“**liquid asset**” mean the total sum of the following assets:

- (1) cash and bank deposit;
- (2) securities purchased under reverse repurchase agreement with accrued interests;
- (3) promisory notes and bill of exchange issued by financial institution under the *Law on Loan Interest of Financial Institution*;
- (4) investments in securities, derivatives and other financial instruments;
- (5) receivables of securities purchased to order;
- (6) margin loan receivables and securities borrowing receivables;
- (7) collateral receivables;
- (8) any other asset as stipulated by the SEC Office.

“general liabilities” means *total liabilities* deducted by *qualified liabilities*;

“total liabilities” mean:

(1) all liabilities shown in the financial statement but not including the following liabilities:

(a) subordinated liabilities which is unsecured and is not under the condition permitting the creditor to call for prepayment before the maturity date, only in the portion of liabilities not exceeding the shareholders’ equity of the *securities company*;

(b) financing lease which is under the condition allowing for early termination of lease by the *securities company* as the lessee without purchasing the asset, except for the penalty arising from the early termination;

(c) any other liabilities as stipulated by the SEC Office.

(2) other off-balance sheet’s contingent liabilities which may contribute to the *securities company*’s liabilities in the future as follows:

(a) contingent liabilities arising from guarantee, certifying or aval on bill of exchange;

(b) other contingent liabilities which require payment by cash or other assets from the *securities company* upon occurrence of the specified events;

(c) other contingent liabilities as stipulated by the SEC Office.

“qualified liabilities” mean:

(1) liabilities which are secured with collateral placed by the *securities company* and are not under the condition allowing the creditor to call for prepayment before the maturity date, only in the portion of liabilities not exceeding the value of collateral placed by the *securities company*;

(2) contingent liabilities which are secured and are under the agreement clearly specified that the creditor has no right to call for prepayment before the maturity date, only in the portion of liabilities not exceeding the value of collateral;

(3) total sum of the following liabilities:

(a) securities borrowing payables, only in the portion not exceeding value of the *collateral*;

(b) collateral payables;

(c) payable to client account;

(d) securities sold under the repurchase agreement;

(4) other liabilities as stipulated by the Notification of the SEC Office.

“risk haircut” means a *risk haircut* arising from the engagement in the securities business or any other operations of the *securities company*;

“collateral” means the total sum of the *collateral* pledged by the client for

its exposure to derivatives according to the rate or value stipulated by the Notification of the SEC Office;

“**securities company**” means a securities company which obtains the securities business license in the following categories, but exclude a securities company being a commercial bank under the *Law on Financial Institution*, a life insurance company under the *Law on Life Insurance*, and a financial institution established under other laws:

- (1) securities financing business;
- (2) brokerage, dealing or underwriting of any securities, which is not limited to debt securities or the **units**;
- (3) brokerage, dealing or underwriting of **units** which:
 - (a) has investment in or possess securities for the investment of the company;
 - (b) trade **units** listed on **SET** for clients through a member of **SET**
- (4) brokerage, dealing or underwriting of debt securities and sukuk.

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

“**unit**” means an investment unit of a mutual fund, certificate of trust having characteristics similar to a mutual fund or other securities prescribed by the Securities and Exchange Commission as the securities with investment characteristics similar to unit;

“**derivatives broker**” means any person who obtains the derivatives business license in the category of derivatives brokerage under the *Derivatives Act B.E. 2546 (2003)*.

Clause 3 Maintenance of the **net capital** by a **securities company** shall be in accordance with the criteria as follows:

- (1) **securities company** shall maintain the **net capital** at the end of any business day in the amount not less than fifteen million Baht and not less than seven percent of the **general liabilities** except in case of (2) or (3)
- (2) **securities company** which also operates as the **derivatives broker** shall maintain the **net capital** at the end of any business day in the amount not less than twenty-five million Baht and not less than seven percent of the **general liabilities** and the **collateral** except in case of (3);
- (3) **securities company** under (1) or (2) which has all of the following characteristics shall maintain the **net capital** at the end of any business day in the amount not less than one million Baht and not less than seven percent of the **general liabilities** and **collateral** (if any):
 - (a) not keeping the client’s assets in its possession;
 - (b) not having investment in or holding securities or derivatives for its

investment;

(c) not bearing responsibility for the clearing and settlement for securities and derivatives.

Where the *securities company* which also operates as the *derivatives broker* under Paragraph 1(2) ceases to operate the derivatives business as the *derivatives broker* and has given a written notice of such intention to the SEC Office, such *securities company* shall maintain the *net capital* at the end of any business day in the amount prescribed in Paragraph 1(1) or (3), as the case may be.

Clause 4 The calculation of the *net capital* under Clause 3 shall be in accordance with the Notification of the SEC Office.

Clause 5 A *securities company* which ceases the operation of the securities business of all kinds and has given a written notice of such intention to the SEC Office is not required to comply with the provisions under Clause 3 and Clause 4. However, where such *securities company* has been, and continues to operate as, the *derivatives broker*, it shall not be exempted from the duty to comply with the *Notification of the Securities and Exchange Commission re: Maintenance of Financial Condition of Licensed Derivatives Broker*.

The SEC Office is empowered to require the *securities company* under the first paragraph to submit any necessary documents or reports within the appropriate period for the purpose of considering the capability to maintain its *net capital*.

Clause 6 In the event that, prior to the effective date of this Notification, the *securities company* has existing subordinated liabilities, which are not included in the calculation of the *total liabilities* under Clause 2, in the amount exceeding its shareholders' equity, it may deduct the value of such liabilities from the *total liabilities* within six months from the effective date of this Notification.

Clause 7 This Notification shall come into force from 16 January 2018 onwards.

Notified this 29th day of December 2017.

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(Mr. Voravidh Champheeratana)

Chairman

Securities and Exchange Commission