

(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. 33/2560

Re: Maintenance of Financial Condition of Licensed Derivatives Broker

By virtue of Section 9 and Section 49 of the *Derivatives Act B.E. 2546* (2003), the SEC 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Clause 1 The following notifications shall be repealed: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. 66/2547 Re: Maintenance of Financial Condition of Licensed Derivatives Broker dated 22 December 2004;*

(2) *Notification of the Securities and Exchange Commission No. Kor Thor 19/2549 Re: Maintenance of Financial Condition of Licensed Derivatives Broker (No. 2) dated 2 May 2006;*

(3) *Notification of the Securities and Exchange Commission No. Kor Thor 31/2552 Re: Maintenance of Financial Condition of Licensed Derivatives Broker (No. 3) dated 15 December 2009;*

(4) *Notification of the Securities and Exchange Commission No. Kor Thor 13/2559 Re: Maintenance of Financial Condition of Licensed Derivatives Broker (No. 4) dated 14 December 2016.*

Clause 2 In this Notification:

“**derivatives Broker**” means the person obtaining the derivatives business license in the category of derivatives brokerage, but not including the person obtaining the commercial banking business license under the law on financial institutions.

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

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

“**liquid assets**” means total sum of the following assets:

(1) cash and bank deposit;
(2) securities purchased under reverse repurchase agreement with accrued interest;

(3) promisory notes and bills 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 *derivatives broker*;

(b) financing lease which is under the condition allowing for early termination of lease by the ***derivatives broker*** 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 ***derivatives broker***'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 ***derivatives broker*** 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 ***derivatives broker*** 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 ***derivatives broker***;

(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 SEC Office.

“***risk haircuts*** mean the ***risk haircuts*** arising from the engagement in the derivatives business or any other operations of the ***derivatives broker***.

“***collateral***” means the total sum of the ***collateral*** pledged by the client for its exposure to derivatives according to rate or value stipulated by the SEC Office.

Clause 3 Maintenance of the financial condition of the ***derivatives broker*** shall be in accordance with the criteria as follows:

(1) the ***derivatives broker*** shall maintain its ***net capital*** as at the end of any business day in the amount not less than 15 million baht and not less than 7% of the ***general liabilities*** and ***collateral*** except in case of (2);

(2) the ***derivatives broker*** under (1) which has all of the following characteristics shall maintain the ***net capital*** as at the end of any business day in the amount not less than 1 million baht and not less than 7% of the ***general liabilities*** and ***collateral***:

(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 derivatives.

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

Clause 5 The *derivatives broker* which ceases the operation of the derivatives business in the category of derivatives brokerage 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.

The SEC Office shall be empowered to require the *derivatives broker* under the first paragraph to submit any necessary document or report within the appropriate period for the purpose of considering the capability to maintain its *net capital*.

Clause 6 The *derivatives broker* may not reduce the paid-up capital to the extent that causes decrease in the shareholders' equity in the financial statement, unless approval is given by Capital Market Supervisory Board.

Clause 7 In the event that, prior to the effective date of this Notification, the *derivatives broker* 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 8 This Notification shall come into force from 16 January 2018.

Notified this 29th day of December 2017.

(Mr. Voravidh Champheeratana)
Chairman
Securities and Exchange Commission