

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 Jor. 4/2561
Re: Additional Provisions relating to Offering for Sale of Units of
Foreign Collective Investment Scheme

By virtue of Section 19(3) of the *Securities and Exchange Act B.E. 2535 (1992)*, as amended by the *Securities and Exchange Act (No. 4) B.E. 2551 (2008)*, Section 72 and Section 81 of the *Securities and Exchange Act B.E. 2535 (1992)*, and Clause 11 of the *Notification of the Capital Market Supervisory Board No. Tor Jor. 4/2561 Re: Provisions relating to Offering for Sale of Units of Foreign Collective Investment Scheme* dated 17 January 2018, the SEC Office hereby issues the following regulations:

Clause 1 The following Notifications shall be repealed:

- (1) *Notification of the Office of the Securities and Exchange Commission No. Sor Nor. 1/2554 Re: Verification and Announcement of Qualified Units of Foreign ETF and Application for Allotment of Foreign ETF Units* dated 4 January 2011;
- (2) *Notification of the Office of the Securities and Exchange Commission No. Sor Or. 62/2559 Re: Verification and Announcement of Qualified Units of Foreign Collective Investment Scheme* dated 27 December 2016.

Clause 2 This Notification contains additional provisions which shall apply in conjunction with the provisions prescribed in the *Notification of the Capital Market Supervisory Board concerning Offering for Sale of Units of Foreign Collective Investment Scheme*, regarding the following matters:

- (1) Application Form for Offering for Sale of Units of Foreign Collective Investment Scheme and Submission of Evidentiary Documentation in Chapter 1;
- (2) Provisions relating to Draft Prospectus in Chapter 2;
- (3) Reporting of the Sales of Units of Foreign Collective Investment Scheme to Investors in Thailand in Chapter 3.

Chapter 1
Application Form for Offering for Sale of Units of
Foreign Collective Investment Scheme and
Submission of Evidentiary Documentation

Clause 3 A CIS operator who intends to offer for sale of units of foreign collective investment scheme shall submit an application form together with evidentiary documentation to the SEC Office in compliance with the following regulations:

- (1) an offer for sale of units of ASEAN Collective Investment Scheme to institutional investors, ultra-high net worth investors, high net worth investors or big retail investors shall comply with the regulations in Clause 4;
- (2) an offer for sale of units of ASEAN Collective Investment Scheme to retail investors shall comply with the regulations in Clause 5;

(3) an offer for sale of units of APEC Asia Region Funds Passport shall comply with the regulations in Clause 6;

(4) an offer for sale of units of foreign ETF shall comply with the regulations in Clause 7.

In case of having reasonable and appropriate ground or having limitations under other laws which causes the CIS operator not to be able to submit certain information or evidentiary documentation under this Notification, the CIS operator may submit requisition for a waiver of submitting such information or evidentiary documentation.

For deliberation of requisition for a waiver under Paragraph 2, the SEC Office shall also take into account the necessity to submit such information or evidentiary documentation, as requested for a waiver, or other measures that are sufficient and able to substitute for the submission of such information or evidentiary documentation.

Clause 4 An applicant for an offer for sale of units of ASEAN Collective Investment Scheme to institutional investors, ultra-high net worth investors, high net worth investors or big retail investors shall submit the following evidentiary documentation:

(1) an application form for an offer for sale of units of ASEAN Collective Investment Scheme to institutional investors, ultra-high net worth investors, high net worth investors or big retail investors by using Form 35-NRI CIS as provided on the website of the SEC Office;

(2) documents containing details in relation to ASEAN Collective Investment Scheme to be offered for sale which shall have the same characteristics of the forms and list specified in the Registration Statement pursuant to the Notification of the *Capital Market Supervisory Board concerning Provisions relating to Offering for Sale of Units of Foreign Collective Investment Scheme*.

In the case where the applicant files the Registration Statement and draft prospectus together with filing the application to obtain approval, it shall be deemed that the submitted Registration Statement is the evidentiary documentation supplemented to the application filed by the applicant under Paragraph 1 above;

(3) documents demonstrating that the ASEAN Collective Investment Scheme is established legally under the law of the jurisdiction where the home regulator is established;

(4) a letter appointing a brokerage firm to perform duty as a representative responsible for the trading of units of ASEAN Collective Investment Scheme in Thailand, and a letter appointing a local representative in Thailand to be the person responsible for the operation of the ASEAN Collective Investment Scheme to perform duties as specified under the *Notification of the Capital Market Supervisory Board concerning Provisions relating to Offering for Sale of Units of Foreign Collective Investment Scheme*;

(5) documents demonstrating that the ASEAN Collective Investment Scheme complies with the regulations under Clause 14(5) and (6) of the *Notification of the Capital Market Supervisory Board concerning Provisions relating to Offering for Sale of Units of Foreign Collective Investment Scheme*;

(6) document comparing between the regulations relating to the management of ASEAN Collective Investment Scheme under the laws or regulations of the jurisdiction where the home regulator is established and the regulations relating to the management of mutual funds issued by virtue of Section 117 [of the *Securities and Exchange Act B.E. 2535 (1992)*].

Clause 5 An applicant for an offer for sale of units of ASEAN Collective Investment Scheme to retail investors shall submit the following evidentiary documentation:

(1) an application form for an offer for sale of units of ASEAN Collective Investment Scheme to retail investors by using Form 35-retail ASEAN CIS as provided on the website of the SEC Office;

(2) the documents specified in Clause 4(2) (3) and (4) above.

Clause 6 An applicant for an offer for sale of units of APEC Asia Region Funds Passport shall submit the following evidentiary documentation:

(1) an application form for an offer for sale of units of APEC Asia Region Funds Passport by using Form 35-ARFP CIS as provided on the website of the SEC Office;

(2) documents containing details in relation to APEC Asia Region Funds Passport to be offered for sale which shall have the same characteristics of the forms and list specified in the Registration Statement pursuant to the *Notification of the Capital Market Supervisory Board concerning Provisions relating to Offering for Sale of Units of Foreign Collective Investment Scheme*.

In the case where the applicant files the Registration Statement and draft prospectus together with filing the application to obtain approval, it shall be deemed that the submitted Registration Statement is evidentiary documentation supplemented to the application filed by the applicant under Paragraph 1 above;

(3) document demonstrating that the APEC Asia Region Funds Passport is established legally under the law of the jurisdiction where the home regulator is established;

(4) a letter appointing a brokerage firm to perform duty as a representative responsible for the trading of units of APEC Asia Region Funds Passport in Thailand, and a letter appointing a local representative in Thailand to be the person responsible for the operation of APEC Asia Region Funds Passport to perform duties as specified under the *Notification of the Capital Market Supervisory Board concerning Provisions relating to Offering for Sale of Units of Foreign Collective Investment Scheme*.

Clause 7 An applicant for an offer for sale of units of foreign ETF shall submit the following evidentiary documentation:

(1) an application form for an offer for sale of units of foreign ETF by using Form 35-foreign ETF as provided on the website of the SEC;

(2) documents containing details in relation to foreign ETF to be offered for sale which shall have the same characteristics of the forms and list specified in the Registration Statement pursuant to the *Notification of the Capital Market Supervisory Board concerning Provisions relating to Offering for Sale of Units of Foreign Collective Investment Scheme*.

In the case where the applicant files the Registration Statement and draft prospectus together with filing the application to obtain approval, it shall be deemed that the submitted Registration Statement is evidentiary documentation supplemented to the application filed by the applicant under Paragraph 1 above;

(3) documents on establishment of foreign ETF as follows:

(a) in case of foreign ETF established by an investment company, the Memorandum of Association and the Articles of Association, or documents demonstrating establishment of company under the law of the jurisdiction where the foreign ETF is established;

(b) in case of foreign ETF established as trust, the Contract of Trust Establishment.

(4) a letter appointing a local representative in Thailand to be the person responsible for the operation of the foreign ETF to perform duties as specified under the *Notification of the Capital Market Supervisory Board concerning Provisions relating to*

Offering for Sale of Units of Foreign Collective Investment Scheme.

Chapter 2
Provisions relating to Draft Prospectus

Clause 8 The form of draft prospectus that the offeror [CIS operator] of units of foreign collective investment scheme shall submit to the SEC Office shall be in accordance with the regulations relating to submission of the registration statement for an offer for sale of units of foreign collective investment scheme pursuant to the *Notification of the Capital Market Supervisory Board concerning Provisions relating to Offering for Sale of Units of Foreign Collective Investment Scheme, mutatis mutandis.*

Chapter 3
**Reporting of the Sale of Units of
Foreign Collective Investment Scheme to
Investors in Thailand**

Clause 9 An offeror [CIS operator] of units of foreign collective investment scheme shall report the sale of units of foreign collective investment scheme offered to investors in Thailand to the SEC Office within forty-five days after the last official day of the year that such solicitations occurred, and such reporting [Sales Report Form] shall comply with the regulations and procedures specified on the website of the SEC Office.

Clause 10 In case of a necessary ground causing the offeror [CIS operator] of units of foreign collective investment scheme not to be able to submit the sale report as prescribed under Clause 9 to the SEC Office within the specified period, the offeror [CIS operator] may request a waiver in a written form to the SEC Office before the submission period ends whereby the offeror [CIS operator] shall clarify reasons for such waiver and specify the exact time when the sale report would be able to be submitted. If the SEC Office views that the request for the waiver is reasonable and appropriate, it may be granted.

Clause 11 This Notification shall come into force from 16 February 2018.

Notified this 17th day of January 2018.

(Mr. Rapee Sucharitakul)
Secretary-General
Office of the Securities and Exchange Commission