

(UNOFFICIAL TRANSLATION)

Codified up to No.9

As of 20 February 2017

*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 Capital Market Supervisory Board  
No. TorThor. 35/2556  
Re: Standard Conduct of Business, Management  
Arrangement, Operating Systems, and Providing Services  
to Clients of Securities Companies and  
Derivatives Intermediaries**

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By virtue of Section 16/6 and Section 113 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 98(3) (5) and (7), the second paragraph of Section 100, the first paragraph of Section 109, Section 114, Section 115, Section 116 and Section 117 of the *Securities and Exchange Act B.E. 2535 (1992)* and the second paragraph of Section 133 of the *Securities and Exchange Act B.E. 2535 (1992)* as amended by the *Securities and Exchange Act (No. 2) B.E. 2542 (1999)*, including Section 18 Section 33 and Section 34 of the *Derivatives Act B.E. 2546 (2003)* which contain certain provisions relating to the restriction of rights and liberties of persons which Section 29 in conjunction with Section 33, Section 34, Section 36, Section 41, Section 43, Section 44, Section 45 and Section 64 of the *Constitution of the Kingdom of Thailand* so permit by virtue of law, as well as Clause 16(6) of the *Ministerial Regulation concerning Granting Permission of Securities Business B.E. 2551 (2008)* as amended by the *Ministerial Regulation concerning Granting Permission of Securities Business (No. 3) B.E 2555 (2012)* and the first paragraph of Clause 5 of the *Ministerial Regulation concerning Granting Permission of Securities Business in the Category of Financing B.E. 2555 (2012)*, the Capital Market Supervisory Board hereby issues the following regulations:

**Clause 1** This Notification shall come into force as from 1 April 2014 unless:

- (1) Clause 42(8) relating to comparative results of mutual fund management's performance shall come into force as from 1 January 2015;
- (2) the second paragraph of Clause 34 relating to fundamental recommendation regarding the importance of basic asset allocation shall come into force as from 1 April 2016.

**Chapter1  
General Provisions**

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**Division 1  
Regulatory Purpose**

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**Clause 2** Due to the undertaking of an *intermediary* as capital market servicer renders credibility to Thai capital market system significantly, this Notification is stipulated with the objective to be standard of business operation which the *intermediary* shall comply with. In this regard, the *intermediary* shall provide services by taking into

account the best interests of a *client*, protection of *client*'s interests, and preventing the causes of damage to investors and appearance of Thai capital market.

**Division 2**  
**Principle for Business Operation**  
**of an Intermediary**

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**Clause 3** For legitimacy of business operation, an *intermediary* is obligated to the principles as prescribed in the *Notification of the Securities and Exchange Commission concerning the Principles for Undertaking Securities and Derivatives Businesses*. In order to adhere to the principles, the *intermediary* shall comply with this Notification. In this regard, where the rules, under this Notification or under other Notifications of Capital Market Supervisory Board including any regulations or guidelines issued by virtue of this Notification or other Notifications thereof, have not been stipulated as a requirement for any particular business operation, or have been stipulated such requirement but it is necessary to determine the implementation or to make clarification, the *intermediary* shall operate its business, or implement or clarify such requirement according to the principles of the *Notification of the Securities and Exchange Commission concerning the Principles for Undertaking Securities and Derivatives Businesses*.

**Division 3**  
**Substance of Provisions**

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**Clause 4** The requirements of this Notification are as follows:

- (1) undertaking business professionally, as specified in details in Chapter 2;
- (2) management arrangement and operating systems, as specified in details in Chapter 3;
- (3) preventing and managing conflicts of interest, as specified in details in Chapter 4;
- (4) communicating with a *client* and providing services to the *client*, as specified in details in Chapter 5;
- (5) *advertisement* and *sale promotion*, as specified in details in Chapter 6;
- (6) particular provisions for some kinds of service, as specified in details in Chapter 7.

As a result of promulgating this Notification, [i] the Notifications as prescribed in the *Notification of the Capital Market Supervisory Board No. TorThor 34/2556 Re: Cancellation of the Notification of the Capital Market Supervisory Board regarding Undertaking of Securities and Derivatives Businesses of Securities Company and Derivatives Intermediary dated 6 September 2013*, and [ii] the Notifications of the Office of Securities and Exchange Commission, guidelines, orders and circulations issued by virtue of those prescribed Notifications in the Notification of the Capital Market Supervisory Board thereof, shall be repealed. For the preliminary period of conformity to this Notification, the transitional provisions shall be applied, as specified in detail in Chapter 8.

#### Division 4 Powers of the SEC Office

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**Clause 5** For the purpose of compliance with this Notification, the SEC Office is empowered as follows:

(1) issuing detailed Notifications under the scope of this Notification in order that any *intermediary* would comply with this Notification under the same standard. In this regard, the SEC Office may impose the detail for consistence with the category of any *intermediary* or *capital market products*;

(2) issuing the Notification, by having obtained an approval from the Capital Market Supervisory Board, to allow exemption for some kinds of *intermediary* not to comply with any requirement under this Notification on condition that such exempted requirement:

(a) is dispensable for providing services to a *client*;

(b) is inconsistency or inappropriateness with conditions of such *intermediary*'s business;

(c) is not necessary for some types of *capital market products*;

(3) announcing a detailed guideline for the benefit of compliance with the requirements under this Notification in order to instruct appropriate and corresponding practicality. In case of having complied with such guideline, it shall be deemed that the *intermediary* has already complied with the requirements under this Notification;

(4) specifying the activities of the *intermediary* which shall be approved by the SEC Office before doing thereof in order to prevent the breach or fail to comply with requirements of this Notification;

(5) ordering the *intermediary*, who has breached or failed to comply with this Notification or the SEC Office's Notifications issued by virtue of this Notification, to [i] amend or refrain to act or [ii] act any action within determined period which the SEC Office shall stipulate reasonably and in consistency with related circumstances, matters and issues;

(6) imposing the *intermediary* to submit any information, report or relevant document to the SEC Office within appropriate period, whether general or case-by-case basis without excessive burden to the *intermediary*, in order to monitor the compliance with this Notification by the *intermediary*. In this regard, the SEC Office shall determine such period according to the following scopes:

(a) in case of urgent matter which substantially affect the *intermediary*, investors or capital market, the SEC Office may determine to submit thereof within the business day when such matter has been occurred;

(b) in case of matters other than sub clause (a), the SEC Office shall stipulate the period reasonably and in consistency with related circumstances, matters and issues.

#### Division 5 Definitions

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**Clause 6** In this Notification:

**"intermediary"** means a securities company or derivatives intermediary,

excluding venture capital fund management company, inter-dealer brokerage company and registered derivatives intermediary.

“**client**” means a person who uses services of **intermediary**, including any **fund**, unit holder and member of provident fund.

“**fund**” means a mutual fund or a private fund.

“**capital market products**” means any securities and derivatives.

“**advertisement**” means an action which makes publicly known about information of [i] **intermediary**’s businesses or services, [ii] **capital market products** or [iii] selling **capital market products** by using regardless of textual matters, pictures, sounds, signs or any symbol, and whether making through medias or any device.

“**sale promotion**” means providing incentive gifts, rights or other benefits to a **client** in order to stimulate or reward the **client** to immediately [i] use offered services or [ii] invest in **capital market products** presented by the **intermediary**.

“**institutional investor**”<sup>6</sup> means an institutional investor under the Notification of the Securities and Exchange Commission Re: Determination of Definitions of Institutional Investor, Ultra High Net Worth Investor and High Net Worth Investor.

“**ultra-high net worth investor**”<sup>6</sup> means an ultra-high net worth investor under the Notification of the Securities and Exchange Commission Re: Determination of Definitions of Institutional Investor, Ultra High Net Worth Investor and High Net Worth Investor.

“**high net worth investor**”<sup>6</sup> means a high net worth investor under the Notification of the Securities and Exchange Commission Re: Determination of Definitions of Institutional Investor, Ultra High Net Worth Investor and High Net Worth Investor.

“**association**” means:

(1) an association relating to a securities business, of which objectives is for promoting and developing securities business, having obtained an approval to establish from and having registered [such establishment] with the SEC Office; [or]

(2) an association relating to supervision of derivatives intermediaries, of which objectives is for promoting and supervising derivatives intermediaries, having obtained an approval [for establishment] from the Securities and Exchange Commission.

“**mutual fund management company**” means a securities company licensed to undertake securities business in category of mutual fund management.

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<sup>6</sup> Amended by the Notification of the Capital Market Supervisory Board No. TorThor. 6/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 7) dated 9 February 2017 (effective on 16 February 2017).

<sup>6</sup> Amended by the Notification of the Capital Market Supervisory Board No. TorThor. 6/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 7) dated 9 February 2017 (effective on 16 February 2017).

<sup>6</sup> Amended by the Notification of the Capital Market Supervisory Board No. TorThor. 6/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 7) dated 9 February 2017 (effective on 16 February 2017).

## Chapter 2 Conduct of Business as a Professional

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**Clause 7** An *intermediary* shall at least comply with the following standards:

(1) conducts its business and provides services for a *client* with loyalty, expertise and proficiency, including due diligence and care in the same manner as a professional would exercise in like circumstances;

(2) operates its business by maintaining corporate image and reputation including credibility of capital market essentially, as well as operates its business with reasonable awareness by taking account of time, business manner or circumstance, and services providing;

(3) provides quality services [to the *client*] and treats the *client* fairly and equally by taking account of types, nature and conditions of the *client*;

(4) avoids any action which causes the *client* to breach or fail to comply with the restrictions or duties as stipulated by any law in case the *client* notified [the *intermediary*] about such restrictions or duties;

(5) avoids any action which may cause conflicts of interest or cause business operation out of reaching professional standards unless it is the action performed under the rules and conditions as prescribed in Division 4 of Chapter 4 or the action having been done as a duty by law;

(6) avoids receiving or rewarding remunerations or any other benefits, whether in form of cash, things or services, more than those should be received or rewarded in normal commercial practice;

(7) supervises to prevent improper use of *intermediary*'s resources for wrongful action or support of such action.

**Clause 8** An *intermediary* shall supervise its directors, executives and other personnel to perform in accordance with the rules under this Notification, and shall have a proper measure to obligate them to comply with such rules.

In case those persons have breached the obligation under the first paragraph which cause the *intermediary* to breach or fail to comply with the rules under this Notification, the *intermediary* shall have measures for correctness [of fault action], control [of impact] and punishment [for wrongdoing] in proportion to the seriousness of their actions.

**Clause 9** In case the *association* determines the guideline, having obtained an approval from the SEC Office, regarding standards of business operation, management structure, operating system or service providing of an *intermediary*, the *intermediary* shall comply with those standards as well.

In case the *association* specifies the guideline, having obtained an approval from the SEC Office, regarding operational standards of *intermediary*'s personnel, the *intermediary* shall govern its personnel to comply with such standards.

**Clause 10** An *intermediary* shall not make a contract with a *client* in a manner of release or limit its liability for damage to the *client* caused by breaching the rules under this Notification by the *intermediary*, or directors, executives or other personnel of the *intermediary*.

### Chapter 3

#### Management Structure, Operating System and Personnel

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**Clause 11** An *intermediary* shall equip management structure, operating system and personnel appropriately and sufficiently in order to be capable to operate business efficiently, responsibly and in compliance with applicable laws and regulations, including relevant standards of business operation.

In considering appropriateness and sufficiency as stipulated under the first paragraph, it shall be taken account of nature, scale, quantity, complexity and diversity of businesses and services, as well as acceptable level of risks relevant to such businesses and services.

<sup>2</sup> In case where any material change is made to its operating system, the *intermediary* shall deliver a report of such change to the SEC without delay.

**Clause 12** The management structure and operating system as prescribed in Clause 11 shall cover at least the following managements and systems:

(1) determining strategies, policies, objectives and operational procedure clearly, thoroughly and obviously;

(2)<sup>3</sup> determining organization structure, roles, authority and responsibility of directors, executives and other personnel of the *intermediary* clearly.

(3) having appropriate, reliable and efficient operating system to support an *intermediary*'s business continuously in order that [i] the *intermediary* would be able to provide services for the best interests of a *client*, and [ii] the *intermediary*'s personnel would be able to complete their functions correctly and will not make the *intermediary* breach or fail to comply with applicable laws and regulations, including relevant standards of business operation;

(3/1)<sup>6</sup> having systems for communication with and providing services to a client at least in accordance with the rules as prescribed in Clause 25/1;

(4) having efficient system of operational control for examining and counterbalancing [the personnel's performance];

(5) having efficient internal audit and control system;

(6) having exhaustively comprehensive risk management of which preventive measures and arrangement shall be adequate and effective;

(7) having systems and measures for preventing conflict of interests

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<sup>2</sup> Amended by the *Notification of the Capital Market Supervisory Board No. TorThor. 51/2558 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 3)* dated 13 July 2015 (effective on 16 September 2015).

<sup>3</sup> Amended by the *Notification of the Capital Market Supervisory Board No. TorThor. 62/2558 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 4)* dated 13 August 2015 (effective on 16 September 2015).

<sup>6</sup> Added by the *Notification of the Capital Market Supervisory Board No. TorThor. 6/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 7)* dated 9 February 2017 (effective on 16 February 2017).

at least in accordance with the rules as prescribed in Clause 18(2);

(8) having appropriate and sufficient system for proprietary trading which would be able to prevent the following occurrences:

- (a) negative result to financial status of an *intermediary*;
- (b) affected trade of *capital market products* deviated from

regularity;

- (c) being the manner of inappropriate investment as a professional;
- (d) bringing about [i] conflicts of interest with the *client* or [ii]

unfairness to the *client*;

(9) having a system for protecting the *client*'s asset which is under the following rules:

(a) in case the *client*'s assets have been in custody of the *intermediary*, the administrative system shall be provided adequately in order to protect the *client*'s assets and comply with the specific Notifications stipulating about arranging, safeguarding and administration of the assets;

(b) in case any law stipulates that the *client*'s assets shall be in custody of a third party, the *intermediary* shall provide efficient system for receiving and delivery the *client*'s assets between the *intermediary* and such third party, and for monitoring the consequence thereof. In this regard, while awaited delivery of the asset or investment for the *client*, the *intermediary* shall provide a system for controlling the *client*'s assets to prevent being lost, damaged and unlawful exploitation;

(10) having compliance system in accordance with the *Notification of the Capital Market Supervisory Board concerning Establishment of Compliance Unit of Intermediaries*;

(11) having efficient information technology system;

(12) having system for arranging and keeping information, documents and evidentiary documentations relating to the *intermediary*'s business. In this regard, such system shall serve accurately and thoroughly, including verification and safety of such stored things, and shall be at least in accordance with Clause 14;

(13) having additional system for the following specific services:

(a) investment analysis for *capital market products* as specified in Clause 49;

(b) service of buying and selling investment units in form of omnibus account as specified in Clause 57;

(c) additional systems as stipulated by other notifications.

In case the *intermediary* wishes to outsource operational functions to others, the *intermediary* shall comply with the specific rules under the Notifications of Capital Market Supervisory Board concerning the outsourcing<sup>1</sup> thereof.

**Clause 13** An *intermediary* shall employ personnel in capital market business in sufficient amount for undertaking its business, with the knowledge, skill and expertise necessary for discharge of the responsibilities allocated to them, and having honest behaviors without notorious background.

In case the personnel under the first paragraph are required to obtain an approval from the SEC Office before they perform their duties, the *intermediary* shall

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<sup>1</sup> The notification referred in this Clause means the *Notification of the Capital Market Supervisory Board concerning Outsourcing Some Operations in Securities or Derivatives Business to Others*.

govern them to be approved person according to such requirement and control them to conduct their functions pursuant to operational standard as prescribed by relevant Notifications of Capital Market Supervisory Board.

**Clause 14** For the arranging and keeping information, document or evidentiary documentation, an *intermediary* shall operate conformity to the following rules:

- (1) providing system for such arranging and keeping concisely, orderly and promptly to use or verify such stored things within a reasonable time;
- (2) the system as prescribed in sub clause (1) shall be able to prevent:
  - (a) improper modification, disappearance and destruction;
  - (b) using and accessing such stored things wrongfully,
 inappropriately and unlawfully, especially the stored things in respect of *client*'s private data, and unrevealed or non-public information;
- (3) appointing a responsible person who has duty to undertake and be liable for arranging and keeping information, document or evidentiary documentation in accordance with the rules as prescribed in sub clause (1) and (2);
- (4) keeping such stored information according to the specific periods as prescribed by other particular notifications (if any).

## **Chapter 4**

### **Prevention and Management of Conflicts of Interest**

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#### **Division 1**

#### **Types of Conflicts of Interest**

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**Clause 15** It shall be deemed to be conflicts of interest where the interest of the following persons is opposed:

- (1) the interest between a *client* and an *intermediary* or its related person;
- (2) the interest amongst the *clients* of the *intermediary* in case the *intermediary* provides many types or categories of services.

**Clause 16** The actions which cause conflicts of interest in this Chapter shall include the following conducts of an *intermediary* or its related person:

- (1) making [financial] benefit at the expenses of a *client*;
- (2) entering into transactions by exploiting information, relevant to its business and being unrevealed to public, acknowledged by the *intermediary*, or its directors, executives or other personnel;
- (3) receiving or being going to receive reward or other benefit, whether in form of monies, goods or services, from any person other than standard commission or fee for its services;
- (4) receiving or being going to receive financial incentives in order to favor the interest of one *client* [or group of *clients*] over the interest of another *client* [or another group of *clients*] in the manner of unfair treatment, although both *clients* [or both groups of *clients*] are classified in the same category which have to be treated equally;
- (5) [i] providing inappropriate service of each type or category of businesses which has rendered improper benefit to a *client* differentiated from it should



be, since the *intermediary* also receives the interest as a result of such service or of the outcome of a transaction carried out on behalf of the *client*, or [ii] providing inappropriate services to many *clients* which have rendered improper benefits to them as a result of conflict of interest among them;

(6) entering into a transaction between the *intermediary* or its related party and on behalf of the *client*.

## Division 2 Measures for Preventing and Managing Conflicts of Interest

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**Clause 17** An *intermediary* shall determine the policy, in writing, pertaining to preventing and managing conflicts of interest which board of directors or a committee assigned by board of directors has already approved such policy, and shall communicate the policy thoroughly in order to become acknowledged by its personnel. In addition, the *intermediary* shall organize and supervise directors, executives and other personnel to conduct their functions pursuant to such policy.

**Clause 18** The policy to prevent and manage conflicts of interest as prescribed in Clause 17 shall describe at least the following contents:

(1) identifying conflicts of interest which may arise in every process of business operation;

(2) designating systems and measures for preventing conflicts of interest at least the following rules:

(a) ensuring that any *client* in each category is treated fairly and with the best interest for such *client*;

(b) being able to exhaustively prevent illicit exploitation of information or opportunity as a result of the *intermediary*'s services;

(c) separating units and personnel of such units, of which their functions constitute or may give rise to conflicts of interest, from other units and personnel, and specifying the work procedures of those units and personnel for preventing possible conflicts of interest;

(d) imposing code of conduct or measure to prevent operation constituting conflicts of interest, which includes the following issues:

1. prohibited action possibly constituting conflicts of interest, especially the actions as prescribed in Clause 16 unless it is an action allowed by [other clauses of] this Notification;

2. receiving a gift or other benefits from the *client*, servicing person or any person;

3. having a trading account of and investing in *capital market products* belonging to directors, executives and other personnel, in order that the *intermediary* able to pursue and monitor the investment of those persons;

(3) preparing a measure for pursuing, controlling and monitoring compliance with the system and measure as prescribed in sub clause (2);

(4) determining for regular review as to adequacy of measure and system for preventing and managing conflicts of interest as prescribed in sub clause (2).

Additionally, in case there is an occurrence affecting the preventing and managing conflicts of interest, the policy shall determine for the promptly reviewing as to adequacy

of the measure and system as well as for the reporting such review to the *intermediary*'s board of directors or a committee appointed by the board of directors;

(5) setting out the following execution in case directors, executives or other personnel are failure to perform pursuant to the operating system or other measures:

(a) punishing directors, executives or other personnel who were involved in the breaching;

(b) reimbursing damages or compensating deficient interests to the *client* (if any);

(c) reviewing the system or measures and providing a plan for improvement of such system or measures in order to prevent recurrent failure of their performance;

(d) reporting the operations as prescribed in sub clause (a) to (c) to the SEC Office immediately.

### **Division 3**

#### **Prohibiting an Intermediary to Enter into a Transaction Constituting Conflicts of Interest**

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**Clause 19** An *intermediary* shall not do any operation constituting conflict of interest as prescribed in Clause 16 unless it is permitted as prescribed in Division 4 of this Chapter.

**Clause 20** An *intermediary* shall not do any operation which may cause detriment to or is exploiting a *client* or investors by using information or a chance arising from its services in the following characteristics:

(1) entering into a transaction for its own benefit or for other person's benefit before the benefit of its *client* by using information concerning [i] *client*'s [pending] order for trading or engaging in a contract of *capital market products* or [ii] the decision for investment on behalf of the *client* (front running);

(2) using investment analysis data, prepared by itself or received for distribution, in favor of trading *capital market products* for the benefit of itself or other persons before the data has been disseminated;

(3) trading or entering into a transaction of *capital market products* by using *inside information* in the manner of exploiting other investors, or revealing such information for the benefit of other persons.

For the purpose of sub clause (3) of the first paragraph, the term "*inside information*" means any information or fact materially affect to change in the prices of *capital market products* which has not yet been disclosed to the general public.

**Clause 21** An *intermediary* shall not use trading account or other account belonging to its *client* for making a contract of *capital market products* for its own benefit or for the benefit of other persons.

**Division 4**  
**Transactions relating to Conflicts of Interest in Which**  
**an Intermediary Is Allowed to Get Involved**

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**Clause 22** In case an *intermediary* has a reasonable ground to enter into a transaction being conflicts of interest as prescribed in Clause 16(6), the *intermediary* would be able to do so only when it complies with the following additional rules:

- (1) considering prudently that the transaction will entail the best interest for a *client* or is necessary and useful for the *client* in the situation at that time;
- (2) dealing the transaction similarly to arm's length transaction basis;
- (3) conforming to additional conditions (if any), as specified by the SEC Office's Notification, which the *intermediary* shall fulfill before entering into the transaction for the purpose of transparency or fairness to the *client*.

**Clause 23** When an *intermediary* has already entered into the transaction as prescribed in Clause 22, it shall disclose adequately and appropriately such transaction to a *client* or a representative of the *client*.

**Clause 24** In case a securities company licensed to undertake securities business in the category of mutual fund management or private fund management wishes to enter into a conflict of interest transaction between or amongst *funds* or *clients* under its management (cross trade), the transaction shall:

- (1) be proper for character, investment policy and the necessity for investment of the *funds* or *clients*, which the securities company shall regard those conditions both or all sides of counterparties;
- (2)<sup>7</sup> *repealed*.
- (3) be according to conditions as prescribed in Clause 22.

**Clause 25** An *intermediary* shall trade or invest in *capital market products* for its own account (proprietary trading) prudently and by taking into account the interests of its *client* before its own interest where such trading or investment may constitute a conflict of interest with its client.

**Chapter 5**  
**Communication with and Providing Services to a Client**

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**Clause 25/1**<sup>6</sup> In communicating with and providing services to clients, an *intermediary* shall have a system to support such said activities and ensure that the communication channel, disclosure, supervision and the personnel assigned by the

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<sup>7</sup> Repealed by the *Notification of the Capital Market Supervisory Board No. TorThor. 9/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 8)* dated 14 February 2017 (effective on 1 March 2017).

<sup>6</sup> Added by the *Notification of the Capital Market Supervisory Board No. TorThor. 6/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 7)* dated 9 February 2017 (effective on 16 February 2017).

*intermediary* are consistent and suitable for the risks and complexity of each type of capital market product by taking into consideration the best interest of clients. In addition, such communication and provision of services to clients shall be supervised in accordance with the work system laid out by the *intermediary*.

**Clause 26** For the communication with or providing services to a new *client*, an *intermediary* shall disclose at least the following information so that the *client* enable to consider [i] the information before making a decision to use the services and [ii] possible risks arising from using the services:

- (1) general information of the *intermediary*;
- (2) characteristic, scope and condition of a service proposed to the *client*;
- (3) channel for providing [or accessing to] the service and for communication;
- (4) rights, duties, liabilities and conditions in part of the *client*, or an obligation binding the *client* to perform whenever using the services;
- (5) conflicts of interest (if any);
- (6) practicality between the *intermediary* and the *client* in accordance with laws, relevant Notifications and procedure set by the *intermediary* itself.

**Clause 27** An *intermediary* shall arrange the evidence of [i] communication with or providing services to a *client*, [ii] any warning or [iii] signing acknowledgement or acceptance of the service or risks arising from the service, which is in form of document or other verifiable storage.

**Clause 28** An *intermediary* shall arrange the appropriate channel and monitoring system for communication with a *client*. In addition, the *intermediary* shall communicate at the right time, with clear and reliable information, and without misleading information.

**Clause 29** In case an *intermediary* has other businesses apart from services relating to investment in and transaction of *capital market products*, the *intermediary* shall control the services in compliance with the following rules:

- (1) separating area for communication with or providing services to a *client* from other business area particularly, and identifying such services area with obvious signboard or symbol;
- (2) conducting personnel, who have duty to communicate with or provide services to the *client*, to display themselves, by ways and means as determined by the *intermediary*, that they are assigned by the *intermediary* to provide services relating to *capital market products*.

### **Division 1**

#### **Compilation and Assessment of Client Information**

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**Clause 30** An *intermediary* shall compile and assess a *client*'s information for the following purposes prior to providing services:

- (1) knowing the *client*;
- (2) categorizing type of the *client*;
- (3) assessing suitability for investment in or entering into a transaction of

**capital market products;**

(4) considering ability of the **client** to perform in respect of servicing agreement.

In case of provident fund as the **client**, the **intermediary** only assesses suitability as prescribed in sub clause (3) of the first paragraph for any member of the provident fund in order that the member is able to select investment policy properly.

**Clause 31** For the purpose of compilation and assessment according to Clause 30, an **intermediary** shall obtain at least the following a **client**'s information:

(1) personal information of the **client** or beneficial owner and information of their representative (if any);

(2) information pertaining to ability to repayment and the source of income used for repayment as well as collateral in case of any service required property for assurance;

(3) other information which include the following information:

(a)<sup>8</sup> financial status and asset profile in case of any service requiring data for processing;

(b) experience on investment or entering into any transaction;

(c) knowledge relating to investment or entering into any transaction;

(d) purpose of investment or entering into any transaction;

(e) risk tolerance.

**Clause 32** For the purpose of knowing a **client**, an **intermediary** shall consider received information as prescribed in Clause 31 in order to identify the real **client** or beneficial owner.

In case the **client** refused to give personal information or the information are substantially insufficient or not current, or there is reasonably suspicious circumstance not to identify the real **client** or beneficial owner, the **intermediary** shall deny providing any service.

**Clause 33**<sup>8</sup> For the purpose of categorizing a client, an **intermediary** shall consider the received information as prescribed in Clause 31 in order to provide services in consistent with the category, investment objectives and risk tolerance of the client. The **intermediary** shall also provide information and a warning statement suitable for each type of clients.

In case the **client** refused to give personal information or the information are substantially insufficient or not current, or there is reasonably suspicious circumstance not to identify the real **client** or beneficial owner, the **intermediary** shall provide services to the **client** as if such person is retail investor.

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<sup>8</sup> Amended by the *Notification of the Capital Market Supervisory Board No. TorThor. 18/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 9)* dated 20 February 2017 (effective on 1 March 2017).

<sup>8</sup> Amended by the *Notification of the Capital Market Supervisory Board No. TorThor. 18/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 9)* dated 20 February 2017 (effective on 1 March 2017).

When the *intermediary* has already categorized type of the *client*, the *intermediary* shall notify the *client* to acknowledge the result of the *client*'s categorization, rights, restrictions and risk level, including right to request for changing categorization to be treated as retail investor.

**Clause 34<sup>6</sup>** For the purpose of assessing suitability for investment in or entering into a transaction of capital market products, an *intermediary* shall consider the received information as prescribed in Clause 31 in order to provide services involving investment or transaction in consistent with the risk tolerance of clients unless the provision of services to the following clients, in which case the *intermediary* may bypass the suitability assessment of clients' investment or transactions:

- (1) an *institutional investor*;
- (2) an *ultra-high net worth investor* or a *high net worth investor* who is a juristic person and expresses its intention in writing not to participate in the suitability assessment of investment or transaction;
- (3) a client who wishes to invest in capital market products which are shares or share warrants of a company wherein the client is an existing shareholder as of the investment date or the date of obtaining the shareholders' rights;
- (4) a client who wishes to invest in capital market products by exercising the subscription right as a shareholder of a listed company on the Stock Exchange of Thailand in concurrent compliance with the following criteria:
  - (a) the risk level of the capital market product to be invested is not higher than the investment risk of capital market products in the category of share;
  - (b) the capital market product is offered by a company to be listed on the Stock Exchange whose initial public offering has been approved by the SEC Office and the registration statement and draft prospectus have become effective, or is offered by other listed company;
  - (c) the listed company wherein the client is a shareholder holds shares of the company under (b);
  - (d) the client wishes to invest in the capital market product to preserve the rights offering obtained from being a shareholder of such listed company. In this regard, the rights offeror may be either the listed company wherein the client is a shareholder or the issuer of capital market product under (b).
- (5) the client wishes to invest by subscribing to an IPO of capital market products in the categories of share, share warrant, debenture, bill or bond. In this regard, the client has signed on the subscription documents to certify that the client has passed a suitability assessment of investment or transaction conducted by another *intermediary* for no longer than two years prior to the investment date.

In case the *intermediary* has already assessed such suitability for the client as specified in Paragraph 1, the *intermediary* shall notify the client to

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<sup>6</sup> Amended by the *Notification of the Capital Market Supervisory Board No. TorThor. 6/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 7)* dated 9 February 2017 (effective on 16 February 2017).

acknowledge the result of such suitability. It shall also provide basic advice to the client in order to raise the client's awareness on the importance of asset allocation and determine investment proportion or enter into a transaction of capital market products appropriately (basic asset allocation) based on the result of such suitability.

The provision of basic advice on basic asset allocation as specified in Paragraph 2 shall be done by professionals and based on recognized academic principles.

**Clause 35** In case a *client*'s suitability to invest in or enter into a transaction of *capital market products* is unable to be assessed, the *intermediary* shall refuse to provide any service. However, in case the *client* is the member of provident fund, the *intermediary* shall comply with the provisions as prescribed in the law on provident fund<sup>2</sup> and perform as necessary for the members of the provident fund realizing the usefulness and necessity of assessment relating to suitability for investment in order that the member would be able to select proper investment policy.

In case of the result of assessment showing that the *client* is inappropriate to invest in or enter into a transaction of *capital market products*, the *intermediary* shall perform the following conducts:

- (1) notifying the *client*;
- (2) providing additional consultation involving feature, risk and return of the investment or transaction for the *client*'s reviewing or reconsidering if the *client* insists to invest. After giving additional consultation, if the *client* has still insisted, the *intermediary* shall arrange the *client* to sign for confirmation that the *client* accepts risks arising from such investment or transaction.

**Clause 35/1<sup>6</sup>** The *intermediary* shall supervise its clients to invest or enter into transactions according to the results of suitability or advice on basic asset allocation as prescribed in Clause 34.

In the case that the clients wish to invest or enter into transactions which do not comply with the results of the suitability or advice on basic asset allocation, the *intermediary* shall make any arrangement to ensure that the clients recognize the risks of such investment or transactions.

**Clause 36** For the purpose of considering ability of a *client* to perform in respect of servicing agreement, an *intermediary* shall consider received information as prescribed in Clause 31 in order to provide corresponding services with such ability of the *client*.

In case the *client*'s ability to perform servicing agreement is unable to be assessed or it appears at any time that the *client* has restriction to perform servicing agreement, the *intermediary* shall refuse to provide any service or limit scope of providing services.

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<sup>6</sup> Added by the *Notification of the Capital Market Supervisory Board No. TorThor. 6/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 7)* dated 9 February 2017 (effective on 16 February 2017).

**Clause 37** An *intermediary* shall review or adjust received information as prescribed in Clause 31 to be current at reasonable time or when it appears that the possessed information is incorrect or erroneous. In addition, the *intermediary* shall have a system for keeping such received information in the manner of being able to reuse in conjunction with providing services to a *client* immediately.

**Division 2**  
**Investment Analysis and Providing**  
**Consultation to a Client**

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**Clause 38** In case an *intermediary* wishes to analyze and provide consultation relating to the investment to its *client*, the *intermediary* shall comply with the following rules:

(1) [i] arrange a person who have obtained an approval from the SEC Office as prescribed in Clause 13 responsible for such analysis and providing consultation whether the person is its personnel or a personnel of other *intermediaries* outsourced such services or [ii] provide the channel for the *client* to contact such person;

(2) consider suitability for investment in or entering into a transaction of *capital market products* of the *client* from the result of the *client*'s categorization and assessing suitability as prescribed in Clause 33 and Clause 34;

(3) disclose sufficient information relating to *capital market products* proposed to its *client* or investor who is interested in the products, at least according to Clause 42. In this regard, such information shall not be distorted and misled;

(4) distribute prospectus or information relating to offering for sale of *capital market products* including the summary of material information of *capital market products* (fact sheet) to the *client* as prescribed in other regulations which stipulate that it is the duty of the *intermediary* to do as such;

(5) ensure that its providing services are consistent with the intention of the *client* and perform at least as follows:

(a) provide consultation of services or *capital market products* to the *client* correctly, thoroughly, reasonably and without being misleading;

(b) arrange the process ensuring that the *client* acknowledges characteristic, risk and return of services or *capital market products* entirely before making a decision to use the services;

(6) not urge the *client* to make a decision to invest [in *capital market products*], but shall offer adequate time to the *client* for considering and making a decision for investment.

While checking accuracy of information affecting the decision of the *client*, the *intermediary* shall control and prevent not to circulate the information which have not been yet confirmed correctness by concerned persons. Meanwhile, the *intermediary* shall remind its *client* to be cautiously in making a decision to invest in or enter into transaction of *capital market products* of which information have not been confirmed yet.



**Clause 39<sup>5</sup>** In the case where an *intermediary* arranges for foreign personnel to give investment advice to clients, the *intermediary* shall comply with the *Notification of the Capital Market Supervisory Board Re: Provision of Services to Clients regarding Investment in Capital Market Products Denominated in Foreign Currency* in the part concerning the assignment of foreign personnel to give information or advice on investment in the capital market products denominated in foreign currency to the clients, *mutatis mutandis*.

**Clause 39/1<sup>5</sup>** In the case where an *intermediary* provides translations of advice or investment analysis by foreign personnel to its clients, the *intermediary* shall also comply with guidelines on translation of analysis issued by the Association of Thai Securities Companies.

**Clause 40** An *intermediary* shall propose only suitable services relating to investment or transactions of *capital market products* to a *client*. In this regard, it shall take into account the following factors as well:

- (1) the result of the *client* categorization;
- (2) the result of assessing suitability;
- (3) fundamental recommendation in order that the *client* would realize the importance of asset allocation and suitable investment or transaction;
- (4) investment analysis article conducted by the *intermediary*;
- (5) informative disclosure or relevant services provided to the client after investment or entering into transaction.

The *intermediary* shall not support to or collaborate with its *client* for investment or entering into a transaction which is unsuitable with the *client*'s financial status, or the *client*'s ability to repayment which may affect clearing and settlement system for *capital market products*.

### Division 3

#### Product Due Diligence Exercised by an Intermediary

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**Clause 41** An *intermediary* shall study information relating to *capital market products* proposed to a *client*, and shall have the process to ensure that a person responsible for introducing services acknowledges and comprehends such information well and would be able to instruct them to the *client*.

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<sup>5</sup> Amended by the *Notification of the Capital Market Supervisory Board No. TorThor. 2/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 6)* dated 17 January 2017 (effective on 16 February 2017).

<sup>5</sup> Added by the *Notification of the Capital Market Supervisory Board No. TorThor. 2/2560 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 6)* dated 17 January 2017 (effective on 16 February 2017).

**Clause 42** The information relating to *capital market products* as prescribed in Clause 41 shall be at least as follows:

- (1) characteristic, structure, conditions and returns of *capital market products*;
- (2) risks affecting investment in or entering into a transaction of *capital market products*;
- (3) liquidity of *capital market products*;
- (4) information [i] relating to issuers who issue *capital market products* or [ii] of counterparties who is entering into transaction of *capital market products* (if any);
- (5) information relating to service providers concerning *capital market products*;
- (6) commission and other relating servicing fees (if any);
- (7) information relating to conflicts of interest arising from providing services (if any);
- (8) information relating to performance of a mutual fund, proposed to a *client*, compared with other mutual funds in the same investment policy. In this regard, the information of other mutual funds shall present highest, lowest and average performance and be compared with the performance benchmark of the proposed mutual fund (if any);
- (9) other information which are necessary to make a decision for investment or entering into a transaction (if any).

#### **Division 4** **Operation after a Client's Decision to Use Service**

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**Clause 43** When a *client* has decided to use a service, an *intermediary* shall provide the service as the *client's* demand and shall conform to the following standards:

- (1) provide service to the *client* as soon as possible and review for ensuring that the service meets requirement of the *client*;
- (2) execute the *client's* requirements through the market mechanisms and with best execution according to market conditions;
- (3) report or inform the results of the performance, with adequate details and within proper time, to the *client*.

**Clause 44** In case it is necessary to engage in agreement before beginning any service, an *intermediary* shall prepare covenant with the following qualifications:

- (1) using proper language and size of font in order to be legible, explicit and consist with document format, including making emphasis alphabets in case of important statement, for instance, caution of risks;
- (2) using statement without being misleading or distortion;
- (3) not having exploitative terms and conditions, or not being unfair agreement;
- (4) covering characteristics, scopes, and conditions of the services including channels to contact for the services;
- (5) having terms and conditions relating to rights, duties and liabilities of

both the *intermediary* and *client*;

(6) having any information, caution, restriction, prohibition or risk in relation to the services;

(7) arranging for the acknowledgement and acceptance of the *client* about conditions or limitation of providing services as specified by the *intermediary*, for instance, requiring the *client* to deliver additional information or suspension of service for the purpose of preventing or inhibiting the action of market abuses or improper investment or transaction;

(8) having information relating to the process for resolution of dispute arising from providing services.

## Chapter 6 Advertisement and Sale Promotion

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### Division 1 Advertisement

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**Clause 45** The provisions in this Division shall not be applicable to the following *advertisement*:

- (1) the *advertisement* for the purpose of sharing knowledge, making understanding or notifying facts relating to capital market, investment, manufacturing and service sectors, or overview regarding each or overall *capital market products*;
- (2) the circulation of prospectus for solicitation to buy securities.

**Clause 46** An *intermediary* who wishes to arrange for an *advertisement* shall manage the *advertisement* in the appropriate manner of content, proportion of content and form of presentation in order that a *client* would be able to receive necessary and useful information for using the *intermediary*'s service or for making a decision of investment in *capital market products*. Additionally, the *intermediary* shall arrange the *advertisement* in accordance with the following rules:

(1) the *advertisement* shall not be in the manner of false statement, being overstated, distortion, or concealed or substantive misleading information;

(2) the *advertisement* shall not urge the *client* to make a decision to use its services or invest in *capital market products*;

(3) the *advertisement* shall not imply or guarantee returns earned from investment in *capital market products*, unless the SEC Office has rendered a waiver or it is appropriate reference of the past performance or estimated future returns with reference to the following information:

(a) reasonable information used for a factor of estimation;

(b) risk factors arising from each condition of estimation; and

(c) information according to sub clause (a) and (b) arranged in form which the *client* would be able to understand correctly and without being mistaken;

(4) the *advertisement* shall have appropriate caution regarding risks of investment in *capital market products* and shall notify a place for enquiring additional information about services or investment in *capital market products*;

(5) in case it is the *advertisement* for offering or being going to offering for sale securities prior to effective date of registration statement and draft prospectus,

the information in the *advertisement* shall be legally referred and shall have statement denoted that it is the *advertisement* in between ineffective of registration statement and draft prospectus;

(6) in case of using or referring other information provided by other persons, such information shall be credible sources and current, and shall identify such sources obviously;

(7) in case it is the *advertisement* for a *sale promotion*, the main information in the *advertisement* shall be the information relating to *capital market products* whilst the information relating to *sale promotion* is minor substance;

(8) in case of the advertisement of the offering for sale of investment units, it could be advertised when an application for establishment and management of mutual fund has been submitted to the SEC Office. If the application has not been approved, the *advertisement* shall be denoted that the SEC Office has been deliberating the application;

(9) in case of the *advertisement* of offering for sale of investment units, a securities company licensed to undertake mutual fund management would be able to charge advertising expenses from a mutual fund only when the *advertisement* has been acted on behalf of or is useful for the mutual fund. In this regard, if such *advertisement* acted on behalf of many mutual funds, there shall be the criteria for dividing the expenses to be burden of each mutual fund fairly;

(10) in case the advertisement is arranged by an advertiser together with the *intermediary* or representative of the *intermediary*, the *intermediary* shall supervise the advertiser to conform to the rules as specified in sub clause (1) to (8).

**Clause 47** An *intermediary* shall arrange any statement, caution or information for an *advertisement* clearly heard or obviously seen, and suitable for presented form. In addition, the *intermediary* shall attend the importance of expressing any caution in the same manner of mostly other statements or information in the *advertisement*.

## Division 2 Sale Promotion

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**Clause 48** An *intermediary* may arrange *sale promotion* by complying with the following rules:

(1) shall not entice or urge a *client* by using *sale promotion* in order that the *client* will decide to use the *intermediary*'s services or invest in *capital market products* without awareness of necessarily fundamental information for investment;

(2) shall not make such promotion to be a lucky draw or a manner of drawing lots for finding the *client* who gets a gift, a right or any benefit;

(3) shall have explicit rules and conditions for allowing a gift, a right or any benefit which is easy to understand, not misleading, proper and fair;

(4) shall notify publicly about *sale promotion* in advance within appropriate period;

(5) in case of *sale promotion* of offering for sale of investment units, a securities company licensed to undertake *mutual fund management* shall not charge expenses of such promotion from the mutual fund.

**Chapter 7**  
**Additional Provisions for Specialty of Services**

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**Division 1**  
**Investment Analysis of the Capital Market Products**

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**Clause 49** An *intermediary* who provides investment analysis of *capital market products* to a *client* shall arrange additional system and measure, apart from the requirements as specified in Clause 12, as follows:

- (1) the measure for preventing an investment analyst to bring the important and non-publicly available information for exploitation or revelation to others;
- (2) the measure for preventing an investment analyst to receive a reward from other person who has interested with investment analysis;
- (3) the system for monitoring independence of an investment analyst in order that the analyst would be able to perform his or her duty without controlled or dominated by the issuer of *capital market products* or by other person having interest in investment analysis;
- (4) the system for controlling an investment analyst to perform his or her duty in accordance with type or scope of the assigned investment analysis.

**Clause 50** An *intermediary* shall comply with the following criteria in case of using information referred from other sources for investment analysis:

- (1) select considerably credible and current information;
- (2) verify and identify the sources of referred information in order for further exploration;
- (3) ensure that the use of such referred information is legally and does not infringe rights of the information owner.

**Clause 51** An investment analysis made in form of article or any other written form shall be met the following requirements:

- (1) entirely identifying types of risk and suitability of investment;
- (2) clearly specifying information used for analysis. In this regard, such information shall be current, not misleading and from credible sources;
- (3) not referring information [i] without sources or [ii] denied by relevant person that it is incorrect information;
- (4) not being the manner of [i] urging or inciting a *client* to frequently use its services for investment or entering into transaction or [ii] pressing the *client* to use such services;
- (5) preparing the analysis based on generally accepted academic theory;
- (6) explicitly specifying statement in the analysis that it is the result of interpretation, estimation, evaluation or opinion, and describing rationale of such action.

For the investment analysis under the first paragraph, the *intermediary* shall comply with the guideline of [i] an organization or any institution, accepted by the SEC Office, determining standards relating to preparing analysis or [ii] the guideline as stipulated by the *association*.

**Clause 52** For dissemination of investment analysis made in form of article or any other written form, an *intermediary* shall proceed the following requirements:

(1) verify the correctness and appropriateness of investment analysis before dissemination;

(2) arrange any personnel who provides the consulting of investment to acknowledge and comprehend the analysis in order that he [or she] would be able to use the analysis for supporting his [or her] appropriate consultation to a *client*;

(3) propose an investment analysis in consistency with the type of the *client*, by considering *client*'s information received from the process of knowing the *client* as prescribed in Division 1 of Chapter 5;

(4) continuously propose investment analysis after the [first] proposing under sub clause (3), which is in consonance with investment conditions or demands of the *client*.

**Clause 53** An *intermediary* shall clearly assign personnel responsible for investment analysis through media. In this regard, such personnel shall have sufficient knowledge, skillfulness and experience for conducting investment analysis.

The *intermediary* shall mandate the personnel under the first paragraph to introduce himself [or herself] and inform his [or her] permitted analyst-type prior to analyzing investment through media.

**Clause 54** An *intermediary* licensed to undertake securities business in category of brokerage, which is not limited license only on debt instruments or investment units, shall prepare fundamental analysis of shares and propose the analysis to a *client*. In this regard, the preparation and proposal shall be in accordance with the *association*'s standards concerning preparation of article analysis, approved by the SEC Office.

## Division 2 Services for Buying and Selling Investment Units

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**Clause 55** Prior to selling investment units, an *intermediary* shall provide correct and appropriate consultation in consistency with investment purpose or demand of a *client* by considering the result of suitability assessment as prescribed in Clause 34.

**Clause 56** An *intermediary* shall conform to the following additional rules when it provides services for selling or buying investment units:

(1) perform as to selling or buying the investment units according to mutual fund management schemes, otherwise it is necessary to differ in details from the terms as stated in the scheme and such difference shall not broaden the scheme, as well as the difference shall be disclosed to a *client* entirely and clearly;

(1/1)<sup>4</sup> In the case that any mutual fund has restrictions on transfer or pledge of investment units which are specified in the obligation between investment unit holders and a securities company, the *intermediary* shall specify such restrictions in the application for opening an investment unit trading account;

(2) allocate the investment units to a person or a group of person in compliance with the regulations of relevant Notifications;

(3) continuously disclose information pursuant to the purchased investment units to the *client*;

(4) properly segregate and keep *client*'s money for payment of subscribed investment units from the asset of the *intermediary* in order to prevent commingling those assets;

(5) refund the subscription to the *client* immediately, in case of not being allocated investment units, for the benefit of the *client* to use money as soon as possible.

**Clause 57** In case an *intermediary* provides services for selling and buying investment units through omnibus account, the *intermediary* shall have operating system served such account for the benefit of its *clients* who have interests in the account efficiently. In addition, the *intermediary* shall inform the *clients* about the different treatments between directly holding investment units and holding investment units through omnibus account, and shall acquire evidence from the *clients* which demonstrate that they have acknowledged and accepted such difference.

The *intermediary* shall govern the service under the first paragraph not to breach or contravene the provisions being applicable to *mutual fund management company* and shall not make the *clients* to be deprived of ownership or interests received from using its services.

**Clause 58** An *intermediary*, as an agent of dealing investment units linked with insurance policy, shall deliver subscription to or receive redemption from *mutual fund management company* without delay.

**Clause 59** An *intermediary* shall render the right to rescind order of purchasing or redeeming investment units linked with life insurance policy to the *client* who firstly uses its service for trading such investment units. In this regard, the *intermediary* shall not charge exit fees for redeeming investment units on the *client*.

**Clause 60** An *intermediary* will provide service of trading investment units in the secondary market only when the following requirements are met:

(1) both of mutual fund management scheme and obligation between investment unit holders and *mutual fund management company* shall not restrict the transferring of investment units;

(2) in case the *intermediary* has provided service for trading investment units on the same day of purchasing or redeeming units from *mutual fund management company* as stated in the scheme, the *intermediary* shall bid or offer price similar to the valued price of purchase or redemption calculated by method as stated in the scheme;

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<sup>4</sup> Added by the *Notification of the Capital Market Supervisory Board No. TorThor. 94/2558 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 5)* dated 17 December 2015 (effective on 16 January 2016).

(3) apart from the same trading day as stated in sub clause (2), the *intermediary* shall disclose the latest computed and declared net asset value and other information influencing the decision to invest in the investment units so that the *client* would be able to recognize the difference between dealing the units with the *intermediary* and purchasing or redeeming the units with *mutual fund management company*.

The sub clause (2) and (3) of the first paragraph shall not be applicable to trading investment units registered as listed securities on Stock Exchange of Thailand or trading investment units of exchange traded fund (ETF).

### **Division 3 Dealing Debt Instrument**

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**Clause 61** In case it is the service of dealing *capital market products* in category of debt instruments, an *intermediary* shall provide relevant information relating to debt instruments adequately in order to assist a *client* for making a decision of the investment. At least, the information relating to the offered price, conditions, dealing period and grounds for refusal to dealing shall be declared obviously.

**Clause 62** A debt instrument dealer shall be a member of Thai Bond Market Association for the benefit of reporting on trading information of debt instrument.

**Clause 63** A debt instrument dealer shall appoint a person responsible for trading debt instruments, whose name has been registered with either the SEC Office, Thai Bond Market Association or other institutions recognized by the SEC Office.

### **Division 4 Service relating to Derivatives**

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**Clause 64** In this Division:

“*institutional investor*” means institutional investor under Section 3 of the *Derivatives Act 2546 (2003)* and the *Notification of the Securities and Exchange Commission concerning Additional Determination of Type of Juristic Person Classified as Institutional Investors* [issued by virtue of such Act].

“*derivatives exchange*” means derivatives exchange licensed by the Securities and Exchange Commission.

**Clause 65** A derivatives broker shall provide services outside *derivatives exchange* (OTC derivatives) to a *client* in category of *institutional investor* only.

For the services under the first paragraph, the derivatives broker shall provide all counterparties of derivatives contract being *institutional investor*.

**Clause 66<sup>1</sup>** In case of services provided by a derivatives dealer, a *client* who is the counterparty of derivatives contract shall be only the following

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<sup>1</sup> Amended by the *Notification of the Capital Market Supervisory Board No. TorThor. 9/2557*  
Re: *Standard Conduct of Business, Management Arrangement, Operating Systems, and*



categories, unless such services are provided for investing in derivatives according to the *Notification of the Capital Market Supervisory Board concerning Providing Services to Clients for Investment in Capital Market Products Denominated in Foreign Currency*:

(1) an *institutional investor*;

(2) other juristic persons [aside from sub clause (1)] who engage in derivatives contract for themselves in order to hedge price or value risks of asset, liability or obligation existed or being nearly existed due to normal commercial business.

**Clause 67** For the providing services as prescribed in Clause 66(2), a derivatives dealer shall engage in a derivatives contract on the condition that [i] such dealer has risk profile opposite a *client*'s hedged risks at the moment of contracting, or [ii] the derivatives would be able to significantly decrease or constrain a *client*'s risk having incurred at the moment of contracting, and only when the derivatives will not cause additional risks [to the *client*] unless the counterparty risk arising from such derivatives itself.

For providing services under the first paragraph, the derivatives dealer shall ensure that a chief executive officer or an assigned person of the *client* has already granted consent before the *client* engages in derivatives.

**Clause 67/1<sup>1</sup>** In managing derivatives investment fund, a derivatives investment management company shall appoint personnel to be a derivatives investment manager. In this regard, such person shall have sufficient knowledge, capability and understanding in business of managing derivatives investment fund and the relevant rules, including having obtained an approval from the SEC Office according to the *Notification of the Capital Market Supervisory Board concerning Rules relating to Personnel in the Capital Market Industry*.

## **Division 5 Securities Brokerage outside Securities Exchange**

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**Clause 68** A securities broker shall perform the following additional rules when it provides services outside the Stock Exchange of Thailand:

(1) the broker shall act as follows where its *client* has ordered to sell securities but has not delivered the securities yet:

(a) request the *client* to deliver the securities, evidence of transferring securities issued by securities registrar or other evidences entitled to the securities to the securities broker within the business day following the date of selling the securities;

(b) record the sale of securities completely and precisely within the business day following the date of selling the securities;

(c) deliver proceeds from the sale of securities to the *client* within the third business day from the date of selling the securities;

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*Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 2)* dated 3 June 2014 (effective on 1 July 2014).

<sup>1</sup> Amended by the *Notification of the Capital Market Supervisory Board No. TorThor. 9/2557 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 2)* dated 3 June 2014 (effective on 1 July 2014).

(2) when the *client* has assigned the securities broker to purchase any securities, the securities broker shall conduct as follows:

(a) obtain the consent of the *client* for permitting the securities broker to immediately resell the purchased securities in order for redressing damages to the securities broker, in case the *client* does not pay for purchased securities within the specified period as prescribed in sub clause (2)(c);

(b) record the purchase of securities completely and precisely as well as notify the amount and price of purchased securities to the *client* within the business day following the date of purchasing the securities;

(c) require *client*'s immediate payment or within 3 business days as from the date of purchasing the securities unless the purchasing made for the *client* inhabiting in and remittances from foreign jurisdiction, the payment shall be within 4 business days as from the date of purchasing the securities. Additionally, in case the *client* does not pay for purchased securities, the securities broker shall resell the securities within the business day following such due date;

(d) deliver purchased securities to the *client* within 4 business days as from the date of purchasing the securities regardless of the *client*'s domicile in local or foreign jurisdiction unless the securities broker has not yet received entitlement evidence of such securities from the securities issuer because it is on the process of securities registration owing to transferring or dividing securities;

(3) when the *client* has assigned the securities broker to purchase securities and to sell such securities before payment for the purchase, the securities broker shall:

(a) request the *client* to pay for the purchase before delivering the proceeds from the sale of securities to the *client*. Accordingly, the setoff is prohibited thereto;

(b) deliver proceeds from the sale of securities to the *client* by way of cheque with the statement that "account payee only".

## Chapter 8 Transitional Provisions

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**Clause 69** For the compliance with this Notification in details, [an *intermediary*] shall perform according to the Notification of Capital Market Supervisory Board repealed by the *Notification of the Capital Market Supervisory Board No. TorThor. 34/2556 Re: Cancellation of the Notification of the Capital Market Supervisory Board regarding Undertaking of Securities and Derivatives Business of Securities Company and Derivatives Intermediary dated 6 September 2013* including the Notification of the SEC Office, guidelines, orders and circular letters issued under the [repealed] Notification or being remain in full force due to the transitional provision of the [repealed] Notification to the extent that they are neither inconsistent with nor contrary to the provisions of this Notification, until the [new] Notification of the SEC Office, directives, orders and circular letters issued in virtue of this Notification come into force.

**Clause 70** Any reference made in any other Notifications to the Notification of Capital Market Supervisory Board repealed by the *Notification of the Capital Market Supervisory Board No. TorThor. 34/2556 Re: Cancellation of*

*the Notification of the Capital Market Supervisory Board regarding Undertaking of Securities and Derivatives Business of Securities Company and Derivatives Intermediary dated 6 September 2013 shall mean reference to this Notification.*

**Clause 71<sup>3</sup>** *Repealed.*

**Clause 72** In case the service agreement between an *intermediary* and a *client* is inconsistent with the provisions in this Notification, the *intermediary* shall amend the agreements in order to be in line with the provisions thereof at the earliest occasion but not later than 1 January 2015.

Notified this 6<sup>th</sup> day of September 2013.

- Signature -  
(Mr. Vorapol Socratyanurak)  
Secretary-General  
Office of the Securities and Exchange Commission  
Chairman  
Capital Market Supervisory Board

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<sup>3</sup> Repealed by the *Notification of the Capital Market Supervisory Board No. TorThor. 62/2558 Re: Standard Conduct of Business, Management Arrangement, Operating Systems, and Providing Services to Clients of Securities Companies and Derivatives Intermediaries (No. 4)* dated 13 August 2015 (effective on 16 September 2015).