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**Notification of the Securities and Exchange Commission
No. KorChor. 18/2551
Re: Exemption from Filing of Registration Statement for the
Offer for Sale of Securities**

By virtue of Section 14 of the Securities and Exchange Act B.E. 2535 (1992) as amended by the Securities and Exchange Act (No. 4) B.E. 2551 (2008) and Section 63 (5) and Section 64 (2) and (3) of the Securities and Exchange Act B.E. 2535 (1992) which contains certain provisions relating to the restriction of rights and liberties of persons, which Section 29 in conjunction with Section 33, Section 34, Section 41, Section 43, Section 44 and Section 64 of the Constitution of the Kingdom of Thailand so permit by virtue of law, the Securities and Exchange Commission hereby issues the following regulations:

Clause 1. This Notification shall come into force as from 15 December 2008.

Clause 2. Chapter 1 of the Notification of the Securities and Exchange Commission No. KorChor. 32/2549 Re: Filing and Exemption from Filing of Registration Statement for the Offer for Sale of Securities dated 15 November 2006 shall be repealed.

Clause 3. Unless otherwise specified, the definitions in the Notification of the Securities and Exchange Commission concerning the definitions under the notifications relating to issuance and offering of securities shall apply to this Notification.

Clause 4. The securities offeror shall be exempted from filing the registration statement and the draft prospectus with the Office before making an offer for sale of securities to the public or any persons under this Notification.

The person who is not exempted from filing the registration statement and the draft prospectus under the first paragraph shall comply with the Notification of the Capital Market Supervisory Board concerning filing of registration statement for the offer for sale of securities.

Clause 5. The exemption from filing of the registration statement and the draft prospectus for the offer for sale of warrants shall also include the exemption from filing of the registration statement and the draft prospectus for shares or other securities issued for the exercise of the warrants.

**Chapter 1
Securities under Exemption**

Clause 6. The provisions under Chapter 3 of the Securities and Exchange Act B.E. 2535 (1992) concerning public offering of securities shall not apply to the following securities:

(1) Investment units offered for sale by securities holders, provided that such investment units are issued by securities companies licensed to undertake securities business in the category of mutual fund management;

(2) Investment unit warrants with either one of the following characteristics:

(a) newly issued and offered for sale together with the newly issued investment units of a securities company licensed to undertake securities business in the category of mutual fund management; or

(b) offered for sale by a securities holder for the first time together with the newly issued investment units of a securities company licensed to undertake securities business in the category of mutual fund management;

(3) Securities offered for sale by a securities company licensed to undertake securities business in the category of securities dealing and having previously been offered to the public with either one of the following characteristics:

(a) the securities issuer is a limited company or a public limited company having a duty to prepare and submit financial statements and report on the financial position as well as business operation under the rules specified in the Notification of the Capital Market Supervisory Board issued by virtue of Section 56; or

(b) the securities issuer is a juristic person under specific law which enters into an agreement with the Office to:

1. prepare and submit the financial statements and report on the financial position as well as the business operation under the rules specified in the Notification of the Capital Market Supervisory Board issued by virtue of Section 56;

2. report to the Office without delay any occurrence of the events under Section 57.

Chapter 2

Characteristics of the Offer for Sale of Securities under Exemption

Clause 7. The exemption from filing of the registration statement and draft prospectus with the Office under this Chapter shall be granted under the following conditions:

(1) The securities offeror shall not advertise the offer for sale of securities to the general public;

(2) If the securities offeror wishes to distribute the documents relating to the securities to be offered for sale or during their offering, they shall be distributed specifically to investors only.

The provision under the first paragraph shall not apply to the offer for sale of securities which meet the conditions under Clause 8 and Clause 11 (2) (b).

Clause 8. An offer for sale of securities made in the following manners shall be exempt from filing of the registration statement and draft prospectus with the Office:

(1) being opened for public price bidding;

(2) having an explicit condition that the person chosen to purchase the securities issued by each company must be a single person or a single group of persons;

(3) if a single group of persons is chosen, the group shall consist of no more than 10 persons.

Clause 9. An offer for sale of shares made in one of the following manners shall be exempt from filing of the registration statement and draft prospectus with the Office:

- (1) A private placement of shares made to no more than fifty investors within the period of twelve months;
- (2) An offer for sale of shares in an aggregate value of not exceeding twenty million Baht within the period of twelve months, provided that the calculation of the aggregate value of such offered shares shall be based on the offering price of the shares;
- (3) An offer for sale of shares to institutional investors;
- (4) An offer for sale of shares where the seller and the purchaser are shareholders of the company who issues the shares and it is not an offer for sale in general case;
- (5) An offer for sale of newly issued shares to creditors of the company under the business reorganization plan sanctioned by the court pursuant to the law governing bankruptcy provided that the business reorganization plan requires the creditors to accept newly issued shares as repayment of debt;
- (6) An offer for sale of newly issued shares for the exercise of the transferable subscription rights.

Clause 10. An offer for sale of securities to directors or employees made in one of the following manners shall be exempt from filing of the registration statement and draft prospectus with the Office:

- (1) An offer for sale to directors or employees under the Notification of the Capital Market Supervisory Board concerning offer for sale of newly issued shares to directors or employees, either made directly or through sub-purchaser;
- (2) An offer for sale to directors or employees under the Notification of the Capital Market Supervisory Board concerning offer for sale of securities issued by foreign company to directors or employees of such foreign company or affiliate in Thailand.

Clause 11. An offer for sale of securities other than those specified in Clause 9 and Clause 10 made in one of the following manners shall be exempt from filing of the registration statement and draft prospectus with the Office:

- (1) An offer for sale of securities to institutional investors;
- (2) An offer for sale of securities in any succeeding step made in one of the following manners:
 - (a) An offer for sale of securities with transfer restriction where the offering is made without breaching of such restriction;
 - (b) An offer for sale of securities without any transfer restriction and for which the registration statement and draft prospectus have been filed when the securities are offered for sale for the first time and where the securities issuer still has a duty to prepare and submit financial statements and report on the financial position as well as business operation as specified in the Notification of the Capital Market Supervisory Board issued by virtue of Section 56, or where the securities issuer has complied with the agreement made with the Office pursuant to Clause 6 (3) (b) of Chapter 1, *mutatis mutandis*, as the case may be;
- (3) A private placement of derivative warrants to investors, where the aggregate number of holders of all series of derivative warrants issued by that issuer not exceeding thirty five holders at any specific time;

(4) A private placement of warrants for newly issued shares and underlying shares to investors, where the aggregate number of holders of all series of warrants issued by that issuer not exceeding thirty five holders at any specific time;

(5) An offer for sale of warrants for newly issued shares and underlying shares to investors in an aggregate value of not exceeding twenty million Baht within the period of twelve months, provided that the calculation of the aggregate value of such offered warrants shall be based on the offering price of the warrants plus the exercise price of such warrants;

(6) A right offering of warrants for newly issued shares to existing shareholders in proportion to their shareholding, where the persons who exercise such warrants may not be the shareholders.

Clause 12. The calculation of the offering value or the counting of the number of investors under Clause 9 and Clause 11 shall be made as follows:

(1) The calculation of the value of an offer for sale of shares under Clause 9 (2) shall not include the value of shares offered to institutional investors pursuant to Clause 9 (3) and those offered to shareholders under Clause 9 (4);

(2) The calculation of the value of an offer for sale of warrants under Clause 11 (5) shall not include the value of warrants offered to institutional investors pursuant to Clause 11 (1);

(3) The calculation of the number of the shareholders under Clause 9 (1) or the holder of securities under Clause 11 (3) or Clause 11 (4) shall not include the number of securities offered to institutional investors pursuant to Clause 9 (3) or Clause 11 (1), as the case may be.

The calculation of the offering value or the number of investors under (1), (2) or (3) shall be made regardless of whether any relevant offering is made at the same time or not.

Clause 13. For the purpose of calculating the offering value or counting the number of investors pursuant to Clause 9 and 11, the following conditions shall be complied:

(1) In respect of the offer for sale of securities by an underwriter or selling agent of the securities issuer or the securities holder, all offering made by such underwriter or selling agent shall be deemed as the offering made by the securities issuer or the securities holder, as the case may be, regardless of whether the said underwriter or selling agent purchases the offered securities for its own account prior to the offering or not;

(2) Where several securities holders, in conjunction or at about the same time, offer for sale of the same class of securities issued by the same company, all offering by the securities holders shall be deemed as the offering of a single securities holder. The following events shall be considered as the offering in conjunction:

(a) Each securities holder makes the offer for sale of the securities at or about the same price and time; and

(b) One of the following facts applies:

1. Each securities holder is closely related;
2. Most of the securities holders are executives or major shareholders of the securities issuer or its subsidiaries, or related persons of the foregoing persons;
3. The proceeds from the offering obtained by each securities holder are eventually received by the same person;
4. The offer for sale of securities where each securities holder uses the same subscription form or the same subscription agent, whereby there is a circumstance

indicating that securities subscribers do not pay attention to whichever securities holders from which they subscribe for securities.

(3) Where subscribers are securities depository centre, securities custodian, securities broker, securities dealer or any other persons who hold securities on behalf of other persons, the number of investors or class of investors shall be calculated from the number of actual holders of the securities.

Clause 14. In respect of an offer for sale of securities to the public or any person, where the securities holder is, on a necessary and reasonable ground, unable to comply with rules concerning the filing of the registration statement and draft prospectus with the Office and such securities holder holds the offered securities for the purpose of complying with the government policy of assisting financial institutions or maintaining stability of the financial institution system or for the purpose of other similar cases, the securities holder shall be exempt from filing the registration statement and draft prospectus with the Office upon being granted an approval from the Office and upon satisfying the following conditions:

- (1) Investors to which the offering is made know or should be informed of the information regarding the financial position or business operation of the securities issuer;
- (2) Information regarding the securities and securities issuer has been sufficiently disclosed.

Clause 15. An offer for sale of securities to any mutual fund which is established or whose investment is made for the purpose of avoiding the compliance with the rules concerning the filing of the registration statement and draft prospectus under the Notification of the Capital Market Supervisory Board concerning the filing of the registration statement and draft prospectus shall not be exempt from filing of the registration statement and draft prospectus being granted under this Chapter.

Unless an approval is granted by the Office under the third paragraph, an offer for sale of securities to any mutual fund made in the following manners shall not be exempt from filing of the registration statement and draft prospectus under this Chapter.

- (1) Such mutual fund does not exclusively offer for sale of investment units to institutional investors;
- (2) An offer for sale of securities to such mutual fund which is made under an agreement or a contract between an offeror and a fund management company where a decision to invest in the offered securities does not require the same level of discretion as generally required for the management of a mutual fund; and
- (3) Such mutual fund invests in the offered securities which are either:
 - (a) issued by a company and the value of each investment exceeds fifty percent of the net asset value of such mutual fund; or
 - (b) newly issued by a company and the value of each investment exceeds fifty percent of the total value of each offering.

Where a securities offeror wishes to offer for sale of securities to a mutual fund in the manners under the second paragraph with an intention to offer for sale to institutional investors, such securities offeror shall submit an application for approval from the Office together with explanation and supporting documents. In this regard, the Office is authorized to grant approval for the securities offeror to offer for sale of securities to the mutual fund as institutional investors for the requested offering.

For the purpose of the provisions under this Clause:

"mutual fund" means any mutual fund established under the Securities and Exchange Act B.E. 2535 (1992), or any investment scheme which is approved by virtue

of the law governing the undertaking of finance business, securities business and credit foncier business, and managed by a securities company licensed to undertake securities business under the category of mutual fund management.

"management company" means a securities company licensed to undertake securities business under the category of mutual fund management.

Clause 16. A securities offeror under this Chapter shall report the result of securities sale in compliance with the following rules:

(1) In respect of the offer for sale of securities made in the manners under Clause 8, Clause 9 (6), Clause 10 and Clause 11 (2) (b) and (6), the securities offeror shall report the result of securities sale in compliance with the rules, conditions and procedures prescribed by the Office by virtue of the provision under Section 81 which applies to the report of sale of securities offering to the public for such class of securities *mutatis mutandis*;

(2) In respect of cases other than (1), the securities offeror shall report the result of securities sale to the Office within fifteen days from the closing date of the offering period by indicating the following details:

- (a) Date of the offer for sale of securities;
- (b) Class, nature and specific name of the securities (if any);
- (c) Number of the securities being offered and number of the securities which have been sold;
- (d) Offering price, exercise price and exercise ratio (in case of offering of warrants) and where the offered securities or their underlying shares are listed for trading in the Stock Exchange of Thailand, the market price and the date on which the market price is used as reference price and a method of calculation of such market price;
- (e) Name and address of securities purchasers and number of securities being allotted to each purchaser;
- (f) Name, contact address and telephone number of the person who reports the result of securities sale.

In respect of reporting the result of securities sale to directors or employees under Clause 10, the closing date of the offering period shall include the following date:

(1) Where the exercise of right to purchase securities is allowed during the pre-specified periods, the last date of such periods shall be deemed as the closing date of the offering period;

(2) Where the exercise of right to purchase securities is allowed everyday in any calendar year, the last date of such calendar year shall be deemed as the closing date of the offering period.

Clause 17. Securities issuers shall report the result of sale of securities underlying the exercise of warrants offered under an exemption from filing of the registration statement and draft prospectus being granted under this Chapter. Such report shall contain the details as set out under Clause 16 *mutatis mutandis* and be submitted within fifteen days from the expiry date of each exercise period of the warrants.

Where holders may exercise their warrants in a continuous manner from the first date of an exercise period, the issuer of warrants shall submit the report under the first paragraph to the Office within fifteen days from the last date of each month in which warrants are exercised.

Clause 18. The exemption from filing of registration statement and draft prospectus prescribed in this Notification shall not apply to an offer for sale of securities

for which the offeror has already filed a registration statement and draft prospectus with the Office prior to the date on which this Notification comes into force, except where the offeror has shown his intention in writing to withdraw or cancel the filing of such registration statement or draft prospectus.

Notified this 15th Day of December 2008.

- Signature -
(Vijit Supinit)
Chairman
The Securities and Exchange Commission

Remark: The rationale for issuing this Notification is to specify the rules on the exemption from filing of registration statement and draft prospectus and to additionally specify the rules on the exemption from filing of registration statement and draft prospectus in respect of private placement to specific persons, right offering to existing investors or offering to directors and employees to be in accordance with the relaxation of rules on the offer for sale of securities in this respect which is deemed to be granted an approval from the Office.