

TRANSLATED VERSION

As of June 2, 2014

Readers should be aware that only the original Thai text has legal force and that this English translation is strictly for reference.

Notification of the Office of the Securities and Exchange Commission

No. SorOr. 6/2557

**Re: Verification of Foreign Collective Investment Scheme
and Announcement of Qualifying Scheme**

By virtue of section 19(3) of the *Securities and Exchange Act B.E. 2535 (1992)* as amended by the *Securities and Exchange Act (No. 4) B.E. 2551 (2008)*, and in order to facilitate those who wish to offer units of foreign collective investment schemes for sale in Thailand and request the SEC Office to verify whether units of foreign collective investment schemes have the characteristics under the *Notification of the Securities and Exchange Commission concerning Rules on Units of Foreign Collective Investment Scheme Exempted from the Provisions of Public Offering for Sale of Securities*, the SEC Office hereby issues the following regulations:

Clause 1 This Notification shall come into force as from 1 July 2014.

Clause 2 The *Notification of the Office of the Securities and Exchange Commission No. SorOr. 18/2555 Re: Verification of Foreign Collective Investment Scheme and Announcement of Qualifying Scheme dated 17 August 2012* shall be repealed.

Chapter 1

General Provisions

Division 1

Scope of the provisions

Clause 3 This Notification shall be applicable to the following cases:

- (1) submitting application for verification as prescribed in Chapter 2
- (2) notifying result of verification of *foreign collective investment scheme*

and announcement of qualifying scheme as prescribed in Chapter 3

Division 2 Definitions

Clause 4 In this Notification:

“**general investor**” means any investor other than *institutional* or *high net worth investor*.

“**institutional investor**” means an institutional investor under the *Notification of the Securities and Exchange Commission concerning Determination regarding Definition of Institutional Investor and High Net Worth Investor*.

“**high net worth investor**” means a high net worth investor under the *Notification of the Securities and Exchange Commission concerning Determination regarding Definition of Institutional Investor and High Net Worth Investor*.

“**foreign collective investment scheme**” means any collective investment scheme which is established in an *ASEAN country*. In this regard, such scheme shall be [i] granted an approval from, [ii] registered with or [iii] permitted for any undertaking in a similar manner of such approval or register from *home regulator*.

“**ASEAN country**” means any ASEAN country which is both a member of the International Organization of Securities Commissions (IOSCO) and a signatory A to the *Multilateral Memorandum of Understanding concerning Consultation and Cooperation and the Exchange of Information*.

“**unit**” means securities in the category of shares of investment company or trust certificates of unit trust. In this regard, either investment company or unit trust shall have objective to invest in securities or financial instruments.

“**CIS operator**” means any person responsible for management of *foreign collective investment scheme*.

“**home regulator**” means a supervisory agency of an *ASEAN country* which has the authority to supervise a *foreign collective investment scheme* or *CIS operator*.

“**brokerage firm**” means a securities company having obtained securities brokerage license [under the *Securities and Exchange Act B.E. 2535 (1992)*].

“**Notification of the SEC**” means the *Notification of the Securities and Exchange Commission concerning Rules on Units of Foreign Collective Investment Scheme Exempted from the Provisions of Public Offering for Sale of Securities*.

Chapter 2

Submitting Application for Verification

Clause 5 Either *CIS operator* or its local representative who wishes to request a verification of characteristics of a *foreign collective investment scheme* according to the *Notification of the SEC* shall submit an application to the SEC Office in writing together with the following evidentiary documentation:

(1) regardless of offering for sale of *units* to any type of investors, the following evidentiary documentation shall be proposed:

(a) the evidence demonstrating that the scheme legally established under the law of *home regulator*'s jurisdiction;

(b) letter certifying [prepared by *CIS operator*] that units of the scheme have been or would be offered for sale in *home regulator*'s jurisdiction, and have not been under the banning order of sale;

(c) affirmative letter that the *CIS operator* shall disclose and deliver the information of the scheme to investors in Thailand as the same period as when such information is disclosed and delivered to investors in the jurisdiction of *home regulator*;

(d) evidence of appointing [i] a *brokerage firm* to perform duty as a local representative responsible for selling, repurchasing and redeeming *units* of the scheme in Thailand and [ii] a local representative in Thailand as the agent of *CIS operator* to perform duty as specified by the *Notification of the SEC*;

(e) draft of the fact sheet which is prepared by the appointed *brokerage firm* [as stated above in sub clause (d)]. In this regard, the preparation of the fact sheet shall specify the information according to the form "Fact Sheet – ASEAN CIS" and have substances as specified in the explanation of the detailed information provided on the website of the SEC Office.

(2) in case of offering for sale of *units* to *general investor*, the following additional documentation shall be proposed:

(a) the verifying application letter which specifies the information according to the arrangement prepared on the website of the SEC Office;

(b) confirmative letter as for [i] the correctness of the information which is in accordance with *Part I : Qualifications of the CIS operator, Trustee/Fund Supervisor, and requirements relating to Approval, Valuation, and Operational Matters* and *Part II : The Product Restrictions of Qualifying CIS* as prescribed in *Appendix C : Standards of Qualifying CIS of the Memorandum of Understanding on Streamlined Authorisation Framework for Cross-border Public Offers of ASEAN Collective Investment Schemes* and [ii] obtaining an approval from the **home regulator** for offering for sale of the scheme's units to the **general investor** in the country where such scheme is established. In this regard, such letter shall be specified the information according to the arrangement prepared on the website of the SEC Office;

(c) prospectus of the scheme.

(3) in case of offering for sale of **units** to **institutional** or **high net worth investor**, the following additional documentation shall be proposed:

(a) affirmative letter that **units** would be specifically offered for sale to **institutional** or **high net worth investors** in Thailand;

(b) confirmative letter that the investment policy of the scheme would invest in eligible asset type with investment limit in similar to mutual funds according to the Notification concerning establishment of mutual funds issued by virtue of section 117 [of the *Securities and Exchange Act B.E. 2535 (1992)*]. In case the scheme has a policy to invest in feeder fund, such letter shall certify that the investment policy would particularly invest in **units** of the feeder fund established in **ASEAN country**.

(c) document exhibiting the comparison between the rules on management of the scheme under the law or regulation of the **home regulator**'s jurisdiction and the rules relating to management of mutual funds issued by virtue of section 117 [of the *Securities and Exchange Act B.E. 2535 (1992)*].

(d) document used for offering for sale of the scheme's **units** under the law of the **home regulator**'s jurisdiction;

(e) evidence demonstrating that the **CIS operator** is subject to supervision of the **home regulator**, and letter certifying that the **home regulator** has the authority to impose a sanction, or to order the **CIS operator** to act or refrain from acting in case there is an action which may cause damages to the interest of investors;

(f) letter certifying that the *CIS operator* is not subject to the order of business suspension or revocation issued by the *home regulator*. In this regard, such letter shall be affixed with the signature of the *CIS operator* or the authorized person in case the responsible person is a juristic person;

(g) letter certifying that the *CIS operator* has not had record of violating the laws or regulations under the responsibility of the home regulator in the matters relating to disclosure of material information to investors or the *home regulator*, or has not failed to submit such information to investors or the *home regulator*. In this regard, the certifying letter shall be affixed with the signature of the *CIS operator* or the authorized person in case the responsible person is a juristic person.

Clause 6 A person who wishes to submit an application for verification of *units* of a *foreign collective investment scheme* as prescribed in Clause 5 shall submit the application to the SEC Office by using the form as arranged by the SEC Office, and pay the application fee of Bath 100,000 per an application to the SEC Office on the date of submitting such application.

Clause 7 Evidentiary documentation [together with the application] submitted to the SEC Office under Clause 6 would be able to be prepared in either Thai or English language except only fact sheet shall be prepared in Thai language. In case of the evidentiary documentation as prescribed in Clause 5(1)(e), Clause 5(2)(c) and Clause 5(3) (a) (b) (c) and (d), the applicant shall arrange the appointed *brokerage firm* to affix signature so as to certify the correctness of such evidentiary documentation.

In case such information or documentation have been translated from any other language, the following actions shall also be performed:

- (1) proceed the translator to certify that the translation is accurate and consistent with the substance of the original information and documentation;
- (2) the applicant shall certify that the substances of the translated information or documentation is actual or truly exist and do not conceal any facts that should have been disclosed.

The first used language in the documentation submitted to the SEC Office under the first paragraph shall be used for the subsequent documentation submitted to the SEC Office thereafter, unless an exception is necessary and appropriate by obtaining a waiver from the SEC Office.

Chapter 3
**Notifying Result of Verification of Foreign Collective Investment Scheme
and Announcement of Qualifying Scheme**

Clause 8 The SEC Office shall notify the result of verifying characteristics of a *foreign collective investment scheme* within the following period:

(1) 10 business days as from the date when the SEC Office has received the complete application and the evidentiary documentation, in case of offering for sale [of the scheme's *units*] to *institutional and high net worth investor*;

(2) 30 days as from the date when the SEC Office has received the complete application and the evidentiary documentation, in case of offering for sale [of the scheme's *units*] to *general investor*.

While verifying the characteristics of the *foreign collective investment scheme*, the SEC Office may require the applicant to clarify or submit additional evidentiary documentation as deemed appropriate within the period specified by the SEC Office.

In this regard, in case the applicant fails to act or proceed as required, it shall be deemed that the applicant no longer wishes to apply for such verification.

Clause 9 The SEC Office shall announce the qualifying *foreign collective investment schemes* in accordance with the *Notification of the SEC* on the website of the SEC Office in order to be accessed by investors.

Clause 10 The result of verifying characteristics of a *foreign collective investment scheme* as prescribed in Clause 8 is derived from the consideration based only on the information that appears on the application and the evidentiary documentation which have been submitted to the SEC Office. In this regard, the SEC Office does not certify that such scheme would qualify under the *Notification of the SEC* throughout the appearance on the announcement.

Clause 11 In case it appears to the SEC Office afterward that a *foreign collective investment scheme* no longer has the characteristics under the *Notification of the SEC*, the SEC Office would remove the scheme from the announcement as prescribed in Clause 9.

Notified this 2nd day of June 2014.

- Signature -

(Vorapol Socratyanurak)

Secretary-General

Office of the Securities and Exchange Commission

Note: please note that the contents added in brackets [...] have only been provided in the English version for clearer understanding.