

UNOFFICIAL TRANSLATION

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

**Notification of the Capital Market Supervisory Board
No. Tor Jor. 61/2561
Re: Offer for Sale of Debt Securities of Thai Government Agencies**

By virtue of Section 16/6 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 35, Section 40(11), Section 41(3), Section 42(10) and Section 43(3) of the *Securities and Exchange Act, B.E. 2535 (1992)*, the Capital Market Supervisory Board hereby issues the following regulations:

Clause 1 This Notification shall come into force as from 1 April 2019.

Clause 2 The following notifications shall be repealed:

(1) *Notification of the Capital Market Supervisory Board No. Tor Jor. 64/2558*
Re: Offer for Sale of Debt Securities of Thai Government Agencies, dated 27 October 2015;

(2) *Notification of the Capital Market Supervisory Board No. Tor Jor. 17/2559*
Re: Offer for Sale of Debt Securities of Thai Government Agencies (No.2), dated 4 May 2016;
and

(3) *Notification of the Capital Market Supervisory Board No. Tor Jor. 28/2560*
Re: Offer for Sale of Debt Securities of Thai Government Agencies (No. 3), dated 6 March 2017.

Clause 3 In this Notification:

“*debt securities*” means the following debt securities that are newly issued:

- (1) bond;
- (2) corporate bond;
- (3) bill;

“*Thai government agencies*” means the following Thai government agencies:

- (1) public organisation;
- (2) provincial administrative organisation;
- (3) municipality;
- (4) Bangkok Metropolitan Administration;
- (5) Pattaya City;
- (6) such other local administrative organisations designated under the law as special local administrative organisation;
- (7) juristic person incorporated under specific law.

“*subordinated bond*” means an unsecured bond where the rights of the bondholders are prescribed to be subordinate to those of the ordinary creditors;

“*terms and conditions*” means the provisions governing the rights and obligations

of issuers and holders of corporate bonds and shall include the provisions governing the rights and obligations of issuers and holders of bonds;

“**bondholders’ representative**” means a bondholder’s representative whose name appears on the list of the persons who are qualified as **bondholders’ representative** under the *Notification of the Capital Market Supervisory Board Re: Qualifications of Bondholders’ Representatives and Authorized Actions of Bondholders’ Representatives*;

“**financial advisor**” means a financial advisor on the approved list of the SEC Office;

“**director**” means any director on the board of directors of an organisation;

“**executive**” means the following persons:

- (1) person holding the highest executive position of the organisation;
- (2) the first four persons holding the executive position in the immediate lower position from the person in the highest executive position and shall include persons holding positions that are equivalent to that held by all persons in the fourth executive position;
- (3) persons holding the position of manager or equivalent in accounting or finance departments.

“**registered debt securities**” means **debt securities** registered with the **Thai Bond Market Association**;

“**Thai Bond Market Association**” means the Thai Bond Market Association licensed by and registered with the SEC Office.

The terms, “**credit rating**”, “**registration statement**”, “**bill**”, “**short-term bill**”, “**high net worth investor**”, “**institutional investor**”, “**short-term bond**” and “**structured note**” shall have the same definition given to them under the *Notification of the Securities and Exchange Commission concerning Determination of Definitions in Notifications relating to the Issuance and Offer for Sale of All Types of Debt Securities*.

Part 1 General Provisions

Chapter 1 Scope of the Notification and General Requirements

Clause 4 This Notification provides criteria relating to the offering of **debt securities** by **Thai government agencies** in the following manners:

- (1) the following offering of **debt securities** denominated in Thai Baht in Thailand:
 - (a) public offering shall be in accordance with criteria under Part 2;
 - (b) private placement shall be in accordance with criteria under Part 3.
- (2) the following offering of **debt securities** denominated in foreign currencies:
 - (a) offering made to investors in Thailand shall be in accordance with criteria under Chapter 1 of Part 4;

(b) an offering of the whole amount of *debt securities* to investors abroad shall be in accordance with criteria under Chapter 2 of Part 4.

Clause 5 In offering *structured notes*, the *Thai government agencies* shall comply with the following criteria:

(1) for offering of *structured notes* the issuer of which has callable option, or the holder has puttable option with rates of return being fixed or made floating according to the interest rates of financial institution or other interest rates, and the distribution conditions not being relied on other additional underlying, the *Thai government agencies* shall only comply with this Notification;

(2) for offering of *structured notes* in other manners than (1) by the *Thai government agencies* that are juristic persons incorporated under a specific law as financial institution pursuant to the law on loan of the financial institutions, the *Thai government agencies* shall comply with this Notification and the *Notification of the Capital Market Supervisory Board concerning Application and Approval for Offer for Sale of Structured Notes*.

Clause 6 Submission of documents or evidence to the SEC Office under this Notification, either before or after the approval, shall be in accordance with the criteria, conditions, and methods prescribed by the SEC Office.

Clause 7 In selling bonds or corporate bonds to the general public pursuant to Part 2, the *Thai government agencies* that have received the approval shall have the duty to also comply with the *Notification of the Capital Market Supervisory Board concerning the Selling of Newly Issued Debt Securities and Derivative Warrants of a Securities Issuer*.

Chapter 2 Authority of the SEC Office

Clause 8 In the cases it appears to the SEC Office a fact causing any of the following suspicious grounds, the SEC Office may not grant approval for the offer for sale of the *debt securities*:

(1) the *Thai government agencies* filing the application or the offer for sale of the *debt securities* has the characteristics or structure in compliance with the rules or conditions for approval under this Notification, but certain facts lead to the consideration that the true intention or the substance of the offer for sale of the *debt securities* constitutes an avoidance of the provisions of the *Securities and Exchange Act* or this Notification;

(2) the offer for sale of the *debt securities* may contradict a public or government policy;

(3) the offer for sale of the *debt securities* may have a negative impact on credibility of the Thai capital market;

(4) the offer for sale of the *debt securities* may cause damage or unfairness to

investors in general, or the investors may not have received correct or sufficient information to support their investment decision making.

Clause 9 If any one of the following characteristics is met, the SEC Office may exempt the regulations under this Notification from the consideration of application, or may not enforce the conditions under this Notification to an offer for sale of *debt securities* that has already been approved:

(1) there is a clear fact leading to the consideration that the rules or conditions to be exempted are insignificant to the case and the costs outweigh the benefits derived from compliance with such rules or conditions;

(2) the *Thai government agencies* are subject to restrictions under other laws resulting in their inability to comply with the rules or conditions to be exempted;

(3) the *Thai government agencies* adopt other measures that are sufficient and a substitute for their non-compliance with the rules or conditions to be exempted.

In granting an exemption under Paragraph 1, consideration shall be given to the appropriateness and adequacy of the information to support investment decision making and the measures for investor protection. In this regard, the SEC Office may prescribe conditions with which the *Thai government agencies* shall comply.

Clause 10 In cases where additional facts appear to the SEC Office after the approval for an offer for sale of *debt securities*, indicating that the facts and circumstances that the SEC Office used in its consideration of the approval of the offer for sale of the *debt securities* have changed, and if such facts and circumstances had been known to the SEC Office prior to the approval of the offer for sale, the SEC Office may not have granted an approval for such offer for sale. The SEC Office shall have the authority to:

(1) order the *Thai government agencies* or their *directors* or *executives* to clarify or disclose additional information within a specified period and suspend the approval of the offering of the *debt securities*, or suspend the offer for sale of the *debt securities* until clarification has been given or correction has been made, and if the *Thai government agencies* or their *directors* or *executives* fail to give clarification or make correction within the specified period, the SEC Office may revoke the approval under (2); and

(2) revoke the approval of the offer for sale of the portion of *debt securities* that has not yet been offered for sale or not yet been subscribed for.

In giving an order under Paragraph 1, the SEC Office shall take the following factors into its consideration:

(1) the seriousness of the fact or circumstances that have changed;

(2) the effect upon the investors who have subscribed for the *debt securities*.

Clause 11 In cases where any of the following grounds for suspicion appears to the SEC Office, the SEC Office shall not approve, suspend or revoke a private placement of *debt securities*, as the case may be:

(1) the *Thai government agencies* that are offering the *debt securities* lack the qualifications, or their compliance with the conditions after approval is inappropriate, or they will be unable to comply with this Notification;

(2) the offer for sale of *debt securities* may constitute an avoidance of the rules issued under the *Securities and Exchange Act and the Trust for Transactions in Capital Market Act*;

(3) the offer for sale of *debt securities* may cause damage or unfairness to investors, or the investors may not have received material information to support their investment decision making.

Clause 12 If, during the term of the program pursuant to Clause 23 or Clause 55, certain facts appear to the SEC Office showing that the *Thai government agencies* have failed to maintain the qualifications in accordance with the approval rules, or have failed to meet the conditions after approval, or has failed to disclose a complete, correct and sufficient material information for investor decision making, the SEC Office may suspend or revoke the approval for offer for sale of the *debt securities* in the program.

Part 2

Public Offering of Debt Securities Denominated in Thai Baht in Thailand

Clause 13 The application and approval for an offer for sale of *debt securities* under this Part shall have the arrangement for payment of *debt securities* and repayment in respect of the *debt securities* in Thai baht.

Chapter 1

Approval Rules

Clause 14 The *Thai government agencies* may only offer bonds or corporate bonds to the public in accordance with the criteria provided under this Chapter.

Clause 15 The *Thai government agencies* that offer bonds or corporate bonds shall have the following qualifications:

(1) being capable of lawfully offering the bonds or corporate bonds in accordance with the law governing such *Thai government agencies*;

(2) the financial statements and the consolidated financial statements of the *Thai government agencies* for the most recent year and the financial statements for the most recent quarter prior to filing the application shall meet the following criteria:

(a) the financial statements shall be prepared in accordance with the financial reporting standards in compliance with other criteria related to preparing financial statements under the *Notification of the Capital Market Supervisory Board concerning Rules, Conditions and Procedures for Reporting the Disclosure of Financial and Non-financial Information of Securities Issuers*;

- (b) the auditor's report shall not express any of the following meanings:
1. a disclaimer of opinion on the **Thai government agencies'** financial statements and the consolidated financial statements or an adverse opinion;
 2. a qualified opinion on any material transaction as non-compliance with the financial reporting standards;
 3. an expression of opinion that the auditor's scope of audit is limited by any act or omission to act of the **Thai government agencies**, their **directors** or **executives**.
- (3) the **Thai government agencies** shall not be in any following process unless the exemption is granted by the SEC Office:
- (a) being failed to file financial statements or related reports required under Section 56;
 - (b) being failed to file reports required by the SEC Office under Section 57;
 - (c) being in process of rectify their financial statements or reports required to be prepared under Section 56 or Section 57 as ordered by the SEC Office;
 - (d) having an ongoing obligation to comply with the order of the SEC Office under Section 58.
- (4) the **Thai government agencies** shall have their **directors** or **directors** whose name are listed on the database of **directors** and **executives** of the securities issuing companies under the *Notification of the Capital Market Supervisory Board concerning Rules for Listing Names of Persons on the Database of Directors and Executives of Securities Issuing Companies*;
- (5) the **Thai government agencies** shall not have a record of contravening a regulation or condition related to securities offering in a significant matter within a period of five years prior to the filing date of the application for an offer for sale of **debt securities**;
- (6) the **Thai government agencies** shall not have offered any type of **debt securities** or Sukuk for sale in violation of the criteria for offer for sale in a private placement to **institutional investors** or **high net worth investors** within a period of two years prior to the filing of the application, unless an exemption is granted by the SEC Office on the ground that the offering is necessary, reasonable and adequate measures have been adopted to prevent such non-compliance;
- (7) there are no grounds to suspect that the material information disclosed to the general public is incomplete or inadequate to support the investment decision making, or misleading;
- (8) the **Thai government agencies** do not default on a principal or interest payment of **debt securities** or default on a loan payment of a commercial bank, finance company, credit foncier company or financial institution established under specific law;
- (9) the **Thai government agencies** are not in breach of any condition in complying with the **terms and conditions**.

Clause 16 In the case of an offer for sale of corporate bonds to the public, the **Thai government agencies** shall arrange the appointment of a **bondholders' representative**.

Chapter 2
Application and Approval Procedure
on Issue and Program Basis

Clause 17 The *Thai government agencies* applying for an offer for sale of bonds or corporate bonds shall file the application together with the registration statement to the SEC Office under the procedure specified in Clause 6. In this regard, the application shall be filed in any of the following manners:

- (1) application on an issue basis;
- (2) application on a program basis.

In applying for the approval for an offer for sale of *subordinated bonds*, perpetual bonds, and *structured notes*, which shall comply with the *Notification of the Capital Market Supervisory Board concerning Application and Approval for Offer for Sale of Structured Notes*, the application shall be filed on an issue basis only.

Clause 18 In filing the application of offer for sale of corporate bonds under Clause 17, the *Thai government agencies* shall file an application of the person who will act as the *bondholders' representative*, together with the application. In this regard, the *Thai government agencies* shall be deemed approved from the SEC Office on the same date as the approval date.

Clause 19 The *Thai government agencies* shall pay the application fee to the SEC Office when the application form and the complete set of supporting evidentiary documentation are accurate and complete in accordance with the Licensing Manual for the Public at the rates prescribed in the *Notification of the Securities and Exchange Commission concerning Determination of Fees for the Application for Offer for Sale of Newly Issued Securities and the Application for Approval of Securitization Projects*.

Clause 20 The *Thai government agencies* shall have the application jointly prepared with the *financial advisor*.

Clause 21 If the SEC Office deems it necessary to visit the place of business or other premises of the *Thai government agencies* located outside Bangkok Metropolitan Area, the *Thai government agencies* shall bear actual and reasonable accommodation and transportation expenses arising therefrom and the SEC Office may prescribe clear criteria on this matter.

Clause 22 After the SEC Office receives the application for approval of the offer for sale of bonds or corporate bonds and a complete set of supporting evidentiary documentation in accordance with the Licensing Manual for the Public, the SEC Office shall conduct due diligence of the facts in accordance with the steps and procedures specified in the Licensing Manual for the Public and shall inform the *Thai government agencies* of any observation from the due diligence in order for the *Thai government agencies* to clarify such observation within

ninety days after the date the SEC Office receives a complete set of documents in accordance with the Licensing Manual for the Public.

The SEC Office shall notify the result of its consideration within thirty days after the date the SEC Office receives the clarification upon observation from the due diligence from the *Thai government agencies*.

If the *Thai government agencies* intends to apply for a waiver of the rules under this Notification, the *Thai government agencies* shall apply for a waiver and file any supporting evidentiary documentation with the SEC Office before the SEC Office commences the consideration of the application in accordance with the steps and procedures specified in the Licensing Manual for the Public. The SEC Office shall complete the consideration of the application for a waiver within the same period as the consideration of the application.

Clause 23 The approved *Thai government agencies* to offer for sale of bonds or corporate bonds on a program basis may offer bonds or corporate bonds for sale in all manners with unlimited value and number of offer from the date of approval is granted by the SEC Office under Clause 22 until the end of the program, and they shall be deemed approved to offer bonds or corporate bonds for sale in a private placement to high net worth investors on a program basis. In this regard, the term for the approval for the offer for sale of bonds or corporate bonds on a program basis shall be two years after the date of approval from the SEC Office.

If the approved *Thai government agencies* under Paragraph 1 is a financial institution pursuant to the law on loan of the financial institutions, they shall be deemed approved for the offer for sale of *bills* in a *private placement to high net worth investors* on a program basis.

Clause 24 If, within the period specified in Clause 23, it appears that the approved *Thai government agencies* for the offer of *debt securities* for sale on a program basis is unable to maintain its qualifications in accordance with Chapter 1, the approved *Thai government agencies* may not offer debt securities for sale under Clause 23 until they have rectified the qualification prior to the end of the period in Clause 23. If the approved *Thai government agencies* offer *debt securities* for sale prior to rectification of their qualifications, the offer for sale is made without approval under this Notification. In this regard, the approved *Thai government agencies* shall also have the duty to comply with Clause 29 or Clause 42, as the case may be.

Chapter 3

Conditions after Approval for Offer for Sale

Clause 25 The approved *Thai government agencies* for the offer of *debt securities* denominated in Thai Baht for sale in a public offering in accordance with Chapter 2 shall comply with the following conditions:

(1) for the offering of bonds, the conditions provided under Division 1 shall be complied with;

(2) for the offering of corporate bonds, the conditions provided under Division 2 shall be complied with.

Division 1
An Offer for Sale of Bonds

Clause 26 The approved *Thai government agencies* for the offer of bonds for sale shall ensure that the bonds offered to the public have the following characteristics:

- (1) a specific title shall be assigned to the bonds and the maturity date shall be clearly indicated;
- (2) the interest rate is fixed or floating rate according to the interest rates of the financial institution or at a particular interest rate;
- (3) the total redemption value is equivalent to the par value of the bonds, either with single or multiple redemptions;
- (4) there shall be no terms that result in the bonds having similar characteristics as those of *structured notes* except in case of callable bonds or puttable bonds with fixed yield or yields that are floating according to the interest rates of a financial institution or any other interest rates and the return shall not be relied on any other underlying.

Clause 27 The approved *Thai government agencies* shall provide for *credit rating* by a *credit rating* agency approved by the SEC Office prior to the offer for sale of the bonds and for continuous *credit rating* throughout the maturity date.

The provision under Paragraph 1 shall not apply in the following cases:

- (1) In cases where the *credit rating* agency approved by the SEC Office has notified the SEC Office in writing of its inability to provide credit rating arrangement of those bonds due to reasonable ground which is not caused by the *Thai government agencies* that issue the bonds, the SEC Office may grant an exemption for such *credit rating* arrangement to be provided by other *credit rating* agency prescribed by the SEC Office;
- (2) In cases where an exemption has been granted by the SEC Office based on necessary and reasonable ground or in cases where it can be considered that *credit rating* arrangement is not needed.

Clause 28 The approved *Thai government agencies* shall file an application with the *Thai Bond Market Association* for registration of the issued and offered bonds within thirty days after the issuing date.

Clause 29 If the approved *Thai government agencies* for the offer of bonds for sale on a program basis is unable to maintain its qualifications in accordance with Clause 15(2), they shall inform their failure to maintain the qualifications to the SEC Office within seven days after the date on which the approved *Thai government agencies* becomes aware or should have been aware of such situation.

Clause 30 The approved *Thai government agencies* shall submit the following documents to the SEC Office in accordance with the procedure specified in Clause 6:

- (1) report of early redemption of bonds;

(2) report of the key financial ratios of the *Thai government agencies* on a yearly basis.

Clause 31 Criteria about particulars and substance of the *terms and conditions* for the corporate bonds pursuant to Clause 37 and the criteria about amendments to the *terms and conditions* for the corporate bonds pursuant to Clause 38 shall apply *mutatis mutandis* to the offering of bonds.

Division 2

An offering of Corporate Bonds

Clause 32 The approved *Thai government agencies* for the offer of corporate bonds for sale shall ensure that the corporate bonds offered to the public have the following characteristics:

- (1) a specific title shall be assigned to the corporate bonds for the purpose of reference to the corporate bonds offered to sale in each issue. The title of the corporate bonds shall clearly indicate the maturity date and special features of the corporate bonds (if any);
- (2) the interest rate is fixed or floating rate according to the interest rates of the financial institution or at a particular interest rate;
- (3) the total redemption value is equivalent to the par value of the corporate bonds, either with single or multiple redemptions;
- (4) the corporate bonds shall not have the features of securitized bonds or *structured notes* that have the features of convertible bonds;
- (5) the *bondholders' representative* appointment agreement shall comply with the rules in Clause 39.

Clause 33 In the case where the corporate bonds offered for sale are *subordinated bonds*, the right of the bondholders shall be subordinate to the right of the ordinary creditors only in relation to the acceptance of debt repayment under the corporate bonds upon any occurrence of the following events:

- (1) the *Thai government agencies* are subject to the court's receiving order or declared by the court as insolvent entity;
- (2) the *Thai government agencies* are under a liquidation process for dissolution;
- (3) any other case approved by the SEC Office.

Clause 34 In the case of perpetual bonds where the maturity date is upon the dissolution of the *Thai government agencies*, the rights of the bondholders shall be clearly specified in any of the following manners:

- (1) the bondholders have no right to redeem such bonds prior to the dissolution of the *Thai government agencies*;
- (2) the bondholders have right to redeem such bonds prior to the dissolution of

the *Thai government agencies* under the specific conditions and period of time.

Clause 35 In the case of secured corporate bonds, whether the collateral of such bonds is provided at the time of making an offer for sale of such bonds or thereafter, the collateral of such bonds shall have the following characteristics:

(1) being assets or pledge taken into legal force and considered the condition of each category of collateral. The collateral shall have an ability to surpass the maturity date and being monitored by the *bondholders' representative*;

(2) in the case where the collateral is immovable property or a long-term lease agreement, a valuation of such collateral by a valuation company listed in the SEC Office's approved list is required. The valuation or calculation of the collateral value shall take into account any rights and liabilities incurred, whether by legal provisions or by agreement over such collateral and shall be made no longer than one year from the issuing date of those bonds. Except where the price or value of the collateral has changed significantly during such period, the issuer shall make a re-valuation of the collateral.

Clause 36 In the case of secured corporate bonds where the collateral is immovable property or movable property which shall be registered under the law, the approved *Thai government agencies* shall assure that the *bondholders' representative* is a legally assignee of the collateral.

Clause 37 Prior to the offer for sale of corporate bonds, the approved *Thai government agencies* shall submit a letter to the SEC Office certifying that it has prepared the *terms and conditions* of corporate bonds which are clear and free from any provisions unfairly taking advantage of the counterparty and signed by the authorized person of the bond issuer. In this regard, the particulars and material information of the *terms and conditions* of the corporate bonds approved under this Chapter shall comply with the guidelines of the *terms and conditions* as prescribed and notified by the SEC Office.

Clause 38 Any amendment to the rights, duties, or liabilities of the corporate bonds after the issuance shall only be made if such amendment is not inconsistent with nor contrary to the provision of this Notification and such amendment is made rightfully according to the *terms and conditions*. The approved *Thai government agencies* shall notify the SEC Office and the *Thai Bond Market Association* of such amendment and submit a copy of the related documents to the SEC Office and the *Thai Bond Market Association* within fifteen days from the effective date of such amendment.

In the case where the amendment under the first paragraph is an amendment to the *terms and conditions* that requires a resolution of the bondholders' meeting, the notice calling the bondholder's meeting shall clearly indicate the reason of such amendment and the effect which occurs or may occur to the bondholders for their decision making.

Clause 39 The approved *Thai government agencies* shall prepare an agreement appointing the *bondholders' representative* in accordance with the *terms and conditions* containing at least the following particulars and material information:

- (1) named and addresses of the counterparty;
- (2) effective date of the agreement;
- (3) power, duties, and liabilities of the counterparty with a provision indicating that the approved *Thai government agencies* and the *bondholders' representative* have fully power, duties, and liabilities as stipulated in the *terms and conditions*;
- (4) pre-determined rate and method for payment of compensation or remuneration for duty performance of the *bondholders' representative*, including rate and method for repayment of money paid in advance by the *bondholders' representative* during the course of its duty;
- (5) termination clause.

Clause 40 The approved *Thai government agencies* shall provide for *credit rating* by a *credit rating* agency approved by the SEC Office prior to the offer for sale of the corporate bonds and for continuous *credit rating* throughout the maturity date. The *credit rating* shall be done in any of the following manners, unless for short-term corporate bonds that are not *subordinated bonds*, the *credit rating* of the *Thai government agencies* may be used instead:

- (1) issue rating for each of the corporate bonds being offered for sale;
- (2) guarantor rating only in the case where the corporate bond is fully guaranteed and the guarantor is obliged to liabilities jointly with the debtor without revocability before the maturity date.

The provisions under Paragraph 1 shall not apply to the following cases:

- (1) In cases where the *credit rating* agency approved by the SEC Office has notified the SEC Office in writing of its inability to provide credit rating arrangement of those corporate bonds due to reasonable ground which is not caused by the *Thai government agencies* that issue the corporate bonds, the SEC Office may grant an exemption for such *credit rating* arrangement to be provided by other *credit rating* agency prescribed by the SEC Office;
- (2) In cases where an exemption has been granted by the SEC Office based on necessary and reasonable ground or in cases where it can be considered that *credit rating* arrangement is not needed.

Clause 41 The approved *Thai government agencies* shall file an application with the *Thai Bond Market Association* for registration of the issued and offered corporate bonds within thirty days after the issuing date except for short-term corporate bonds.

Clause 42 If the approved *Thai government agencies* for the offer of corporate bonds for sale on a program basis is unable to maintain its qualifications in accordance with Clause 15(2), they shall inform their failure to maintain the qualifications to the SEC Office within seven days after the date on which the approved *Thai government agencies* becomes aware or should have been aware of such situation.

Clause 43 The approved *Thai government agencies* shall submit the following documents to the SEC Office in accordance with the procedure specified in Clause 6:

(1) report of replacement of the *bondholders' representative* after the issuance of corporate bonds. When the approved *Thai government agencies* have submitted a complete set of documents to the SEC Office, the approved *Thai government agencies* shall be deemed granted approval from the SEC Office to replace the *bondholders' representative*;

(2) report of early redemption of bonds;

(3) report of the key financial ratios of the *Thai government agencies* on a yearly basis.

Part 3

Private Placement of Debt Securities Denominated in Thai Baht in Thailand

Clause 44 The application and approval for an offer for sale of *debt securities* under this Part shall have the arrangement for payment of *debt securities* and repayment in respect of the *debt securities* in Thai baht.

Clause 45 The provisions under this Part shall apply to the Private Placement of *debt securities* denominated in Thai Baht having characteristics provided under Chapter 1.

Clause 46 The approval for the Private Placement of *debt securities* denominated in Thai Baht by the *Thai government agencies* shall be in accordance with the following requirements:

(1) an offer for sale to *high net worth investors* may only be made upon approval from the SEC Office in accordance with the criteria for the approval and the submission of the application under Division 1 and Division 2 of Chapter 2. The approved *Thai government agencies* shall also comply with the conditions under Division 3 of Chapter 2;

(2) an offer for sale in other manners than to *high net worth investors* pursuant to (1) shall be deemed to have been approved once it is in accordance with the requirements under Division 1 of Chapter 3. The approved *Thai government agencies* shall also comply with the conditions under Division 2 of Chapter 3.

Chapter 1

Offer for Sale of Debt Securities Denominated in Thai Baht in a Private Placement

Clause 47 An offering of bonds or corporate bonds with any of the following features shall be considered an offer for sale in a private placement:

(1) an offer for sale to no more than ten specific investors within any four-month

period;

- (2) an offer for sale to *institutional investors*;
- (3) an offer for sale to *high net worth investors*;
- (4) an offer for sale to any waiver which is granted by the SEC Office whereby

the waiver can prove that such offering:

- (a) is necessary and reasonable;
- (b) shall have no broadly impact to the investors;
- (c) has adopted adequate measures for investor protection.

Clause 48 The consideration of the offer for sale of bonds or corporate bonds in a private placement pursuant to Clause 47 shall be in accordance with the following requirements:

(1) for the offer for sale in a private placement under Clause 47(1), if the Thailand Securities Depository, custodian, securities broker, securities dealer or any person holds *debt securities* on behalf of other persons, the number of investors shall be counted based on the actual owners of those bonds or corporate bonds;

(2) an offer for sale to *institutional investors* pursuant to Clause 47(2) or to *high net worth investors* pursuant to Clause 47(3) shall not include an offer for sale to such investors for which restrictions on transfer have been registered for no more than ten specific investors within any four-month period. This shall be considered an offer for sale in a private placement for the purpose of Clause 47(1);

(3) an offer for sale to *high net worth investors* pursuant to Clause 47(3) shall include an offer for sale to *high net worth investors* in which an offer for sale is also made to *institutional investors*.

Clause 49 The bills issued in any of the following categories shall be considered an issuance of bills in a private placement:

(1) the *short-term bills* offered for sale to *institutional investors* with a face value no less than ten million baht;

(2) *short-term bills* offered for sale to *high net worth investors* and have the following characteristics:

(a) having a face value no less than ten million baht; and

(b) the offeror shall be a financial institution pursuant to the law on loan of the financial institutions.

(3) *bills* issued at any time, when combined with *bills* issued earlier and have not reached maturity, shall not exceed ten bills. In this regard, it is not included *bills* issued under (1) and (2) in the counting.

Bills under Paragraph 1 shall not have the same characteristics as those of *structured notes* nor any conditions which would impose more debts or obligations on the holders of such *bills* than those of holders of normal *bills*.

Chapter 2
**Offer for Sale of Debt Securities Denominated in Thai Baht in a Private Placement
to High Net Worth Investors**

Clause 50 The provision under this Chapter shall apply to the offer for sale of bonds or corporate bonds in a private placement to *high net worth investors* pursuant to Clause 47(3) and the offering of *bills* in a private placement to *high net worth investors* pursuant to Clause 49(2).

Division 1
Approval Rules

Clause 51 The *Thai government agencies* will be approved to offer for sale of *debt securities* in a private placement to *high net worth investors* only when the following requirements have been complied with:

- (1) the *Thai government agencies* have the characteristics provided under Clause 15(1) – (6);
- (2) a full and complete disclosure of information has been made in the *registration statement*. For an application on a program basis, the *registration statement* shall only mean the *registration statement* that has been submitted along with the application.

Clause 52 If the *debt securities* that are offered for sale to *high net worth investors* are in the type of corporate bonds, the *Thai government agencies* shall arrange to have a *bondholders' representative*.

Division 2
Submission of the Application

Clause 53 The *Thai government agencies* intending to offer for sale of *debt securities* in a private placement to *high net worth investors* shall submit an application to the SEC Office and register the transfer restriction (if any) with the SEC Office.

The provisions under Clause 17, Clause 18 and Clause 19 shall apply *mutatis mutandis* to the submission of the application pursuant to Paragraph 1.

Clause 54 The SEC Office shall notify its consideration result within fifteen days after the date the SEC Office receives the application and a complete set of supporting evidentiary documentation in accordance with the Licensing Manual for the Public.

In cases where the *Thai government agencies* intend to apply for an exemption of the rules under this Notification, the *Thai government agencies* shall submit an exemption form and any supporting evidentiary documentation to the SEC Office together with the application in accordance with the steps and procedures specified in the Licensing Manual for the Public. The SEC Office shall complete the consideration of the application for an exemption within the same period as the application for approval under Paragraph 1.

Clause 55 The approved *Thai government agencies* to offer for sale of *debt securities* to *high net worth investors* on a program basis may offer *debt securities* for sale to *high net worth investors* in all manners in unlimited value and number of offer from the date the approval is granted by the SEC Office under Clause 54 until the end of the program. In this regard, the term for the approval for offer for sale of *debt securities* on a program basis shall be two years after the date of approval for the offer for sale of *debt securities* by the SEC Office.

Cause 56 If, within the period specified in Clause 55, it appears that the approved *Thai Government Agencies* for the offer for sale of *debt securities* to *high net worth investors* on a program basis have failed to maintain their qualifications in accordance with Clause 51(1), the approved *Thai Government Agencies* may not offer *debt securities* for sale under Clause 55 until they have rectified the qualification prior to the end of the period in Clause 55. If the approved *Thai Government Agencies* offer *debt securities* for sale prior to rectification of qualifications, it shall be deemed that the *debt securities* are offered for sale without approval under this Notification. In this regard, the approved *Thai Government Agencies* have the duty to comply with Clause 60(4).

Division 3

Conditions after Approval for Offer for Sale

Clause 57 The approved *Thai government agencies* to offer *debt securities* in a private placement to *high net worth investors* shall comply with the conditions under this Division.

Clause 58 The approved *Thai government agencies* shall be assured that the *debt securities* to be issued and offered for sale in a private placement to *high net worth investors* have the following characteristics:

- (1) in the case of bonds or corporate bonds:
 - (a) having the characteristics required under Clause 26 and the corporate bonds shall be in accordance with Clause 32(1), (2), (3) and (4);
 - (b) being registered securities and having a statement in the certificate of securities offered for sale each time that the *Thai government agencies* shall not accept transfer registration of securities in any level if such transfer is inconsistent with the transfer restriction as indicated and registered with the SEC Office;

(c) in the case of an offer for sale of *subordinated bonds* or perpetual bonds the offering of *subordinated bonds* or perpetual bonds, complying with the requirements under Clause 33 and Clause 34, as the case may be;

(d) offering documents shall contain a statement indicating the transfer restriction and in the case of an offer for sale of *subordinated bonds*, such subordination shall be clearly defined.

(2) in the case of *bills*, the following statements shall be included:

(a) a statement that “This *bill* is a security and approved for sale in a private placement ” shall be stated on the front of the *bills*;

(b) one of the following statements shall be made:

1. the word “non-negotiable” or another similar word shall be stated on the front of the *bills*;

2. the statement that confirms the assignment without recourse at each level unless otherwise expressed shall be stated on the back of the *bills*.

(c) in the case where the *Thai government agencies* is a financial institution under the law on loan of the financial institutions, the statement that “This bill is unprotected from the Deposit Protection Agency” shall be stated on the front of the *bills*.

Clause 59 If the approved *Thai government agencies* intended to provide a *financial advisor* in order to analyze its information and give advice on specific appropriate features, terms, conditions, and maturity date of *debt securities* being offered, the approved *Thai government agencies* shall delegate the *financial advisor* with the analysis of the following information:

(1) nature of the business operation and future business plan;

(2) important financial information as specified on the website of the SEC Office, or *credit rating* information;

(3) objective to use of proceeds;

(4) reserved financial sources for debt repayment;

(5) assets which may be used as collateral against debt repayment.

The *Thai government agencies* pursuant to Paragraph 1 shall also have the following obligations:

(1) submitting necessary, accurate and complete information to the *financial advisor* in the interest of information analysis under Paragraph 1;

(2) providing an agreement that the *financial advisor* shall maintain the documents and evidence prepared under Paragraph 1 for at least three years.

Clause 60 The approved *Thai government agencies* to offer for sale of *debt securities* in a private placement to *high net worth investors* shall comply with the following requirements:

(1) ensure that a solicitation or any giving advice on trading *debt securities* to *high net worth investors* shall be made through securities companies that are capable of providing such services with respect to *debt securities*;

(2) shall provide factsheet to investors prior to the offer for sale of the *debt*

securities;

(3) submit reports to the SEC Office in accordance with the requirements under Clause 43, *mutatis mutandis*;

(4) for the approval for the offer for sale on a program basis, if the **Thai government agencies** fail to maintain the qualifications under Clause 15(2), they shall inform the SEC Office of their failure to maintain the qualifications within seven days after the date on which the **Thai government agencies** becomes aware or should have been aware of such situation.

Clause 61 If the debt securities that are offered for sale in private placement to **high net worth investors** are the bonds or corporate bonds, the approved **Thai government agencies** shall also comply with the following additional criteria:

(1) shall undertake any act with respect to the **terms and conditions** under Clause 37 and Clause 38 including Clause 39 in the case of an offer for sale of corporate bonds;

(2) shall arrange for **credit rating** under Clause 40 in the case of an offer for sale of **subordinated bonds** or bonds with maturity upon the dissolution of the **Thai government agencies**, *mutatis mutandis*;

(3) shall file an application to the **Thai Bond Market Association** for registration of the issued and offered bonds or corporate bonds within thirty days after the issuing date except an offer for sale of **short-term bonds**;

(4) in the case where a person expresses his or her intention to the approved **Thai government agencies** to register a transfer of bonds or corporate bonds, the approved **Thai government agencies** shall verify the proposed transfer of bonds or corporate bonds. If the approved **Thai government agencies** find that the proposed transfer is contrary to the transfer restriction registered with the SEC Office, the approved **Thai government agencies** shall not register the transfer of the bonds or corporate bonds except a transfer by inheritance.

For the purpose of Paragraph 1(4), in the case where the approved **Thai government agencies** arrange for a registrar, the approved **Thai government agencies** shall ensure that the registrar complies with the rules specified in Paragraph 1

Chapter 3

Offer for Sale of Debt Securities Denominated in Thai Baht in a Private Placement to Investors Who Are Not High Net Worth Investors

Clause 62 The provisions under this Chapter shall apply to the offer for sale of bonds or corporate bonds in a private placement under Clause 47(1), (2) and (4) and **bills** in a private placement under Clause 49(1) and (3).

Division 1 The Approval

Clause 63 The offer for sale of *debt securities* in a private placement in this Chapter shall be deemed approved by the SEC Office when the *Thai government agencies* have characteristics under Clause 15(1) and (6) and have complied with the following additional rules:

(1) the *Thai government agencies* shall report the features of the *debt securities* to be offered for sale to the SEC Office in accordance with the procedure specified in Clause 6;

(2) the *Thai government agencies* shall also comply with the followings for the offer for sale of bonds or corporate bonds:

(a) the *Thai government agencies* shall register the transfer restriction for bonds or corporate bonds to be offered for sale with the SEC Office. The transfer restriction shall contain a statement that the issuer of the bonds or corporate bonds shall not accept the registration of any transfer of bonds at any level if such transfer of bonds or corporate bonds will make such offer for sale of bonds or corporate bonds unqualified as private placement under Clause 47 except a transfer by inheritance;

(b) in the case of the offer for sale of secured bonds or bonds where a *bondholders' representative* is appointed, the *Thai government agencies* shall have proposed the draft *terms and conditions* and the draft *bondholders' representative* appointment agreement, together with the registration of the transfer restriction under (a).

Clause 64 The SEC Office shall be deemed accepted the registration of such transfer restriction pursuant to Clause 63(2)(a) on the date which the SEC Office receives the intention of registration of transfer restriction with such statement required under Clause 63(2)(a).

Division 2 Conditions after Approval for Offer for Sale

Clause 65 The approved *Thai government agencies* to offer for sale of *debt securities* in a private placement to investors who are not *high net worth investors* shall comply with the following requirements:

(1) comply with the following requirements, *mutatis mutandis*:

(a) requirements relating to characteristics of the *debt securities* pursuant to Clause 58. In the case where the *bills* to be offered for sale to *institutional investors* under Clause 49(1), the statement that “Intended to be negotiable among *institutional investors*”, or a similar statement with a similar meaning shall be stated on the front of the *bills* instead of the statement under Clause 58(2)(b);

(b) requirements relating to *financial advisors* (if any) in accordance with

Clause 59;

(c) requirements relating to submission of reports in accordance with Clause 43(1) and (2);

(d) requirements relating to the registration of transfer restrictions for bonds or corporate bonds in accordance with Clause 61(4).

(2) comply with additional requirements under Clause 66, Clause 67 and Clause 68 in cases where *debt securities* being offered for sale are bonds or corporate bonds:

(3) comply with additional requirements under Clause 69 in cases where *debt securities* being offered for sale are *bills*.

Clause 66 The approved *Thai government agencies* shall comply with the following requirements for an offering of bonds and corporate bonds in a private placement under Clause 47(1):

(1) the offer for sale shall be made to any or all of the following persons:

(a) *institutional investors*;

(b) *high net worth investors*.

(2) the offer for sale of such bonds or corporate bonds shall not be advertised. If a distribution of offering documents is made, the approved *Thai government agencies* shall distribute such documents only to the persons with the characteristics or the number specified in the private placement as specified in Clause 47(1);

(3) for the offer for sale to *high net worth investors*, the *Thai government agencies* shall ensure that a solicitation or any giving advice on trading *debt securities* to *high net worth investors* shall be made through securities companies that are capable of providing such services with respect to *debt securities*.

Clause 67 To offer for sale of bonds or corporate bonds in a private placement to *institutional investors* pursuant to Clause 47(2), the approved *Thai government agencies* shall comply with the following additional requirements:

(1) for an offer for sale to *institutional investors* incorporated under Thai law, the followings shall be done:

(a) ensure that the *terms and conditions* contain at least the particulars as specified in Section 42 and comply with Paragraph 1 of Clause 38, *mutatis mutandis*;

(b) shall provide factsheet to investors prior to the offer for sale of the *debt securities*.

(2) shall file an application to the *Thai Bond Market Association* for registration of the issued and offered bonds or corporate bonds within thirty days after the issuing date except an offer for sale of *short-term bonds*.

Clause 68 The offer for sale of bonds or corporate bonds where a waiver is granted by the SEC Office under Clause 47(4) shall not be advertised. If a distribution of offering documents is made, the approved *Thai government agencies* shall distribute such documents only to the persons who have been waived.

Clause 69 For an offer for sale of *bills* in a private placement, the approved *Thai government agencies* shall comply with the following requirements:

(1) for an offer for sale in a private placement to *institutional investors* pursuant to Clause 49(1), the *Thai government agencies* shall provide factsheet to investors prior to the offer for sale;

(2) for an offer for sale in a private placement pursuant to Clause 49(3), the *Thai government agencies* shall comply with the following requirements:

(a) comply with the requirements under Clause 66, *mutatis mutandis*; and

(b) in the case where the *Thai government agencies* offer for sale of *bills* having an agreement to provide additional collateral as security for debt repayment, the *Thai government agencies* shall assure that such agreement is enforceable under the law and the condition of each collateral's category.

Part 4

Offer for Sale of Bonds or Corporate Bonds Denominated in Foreign Currencies

Chapter 1

Offer for Sale of Bonds or Corporate Bonds Denominated in Foreign Currencies in Thailand

Clause 70 Bonds or corporate bonds applied for the offer for sale under this Part shall have all of the following characteristics:

(1) having the arrangement for payment of *debt securities* and repayment in respect of the *debt securities* in foreign currencies;

(2) being the bonds or corporate bonds that are offered for sale in Thailand.

Clause 71 The requirements under the *Notification of the Capital Market Supervisory Board on the Offer for Sale of Debentures Denominated in Foreign Currencies in the Kingdom of Thailand* shall apply, *mutatis mutandis*, to the application for and the approval of offer for sale of bonds and corporate bonds denominated in foreign currencies in Thailand to the extent that it is not contrary to or inconsistent with the requirements under this Part.

Chapter 2

Offer for Sale of the Total Amount of Bonds or Corporate Bonds Denominated in Foreign Currencies to Investors Abroad

Clause 72 The bonds or corporate bonds applied for the offer for sale under this

Part shall have all of the following characteristics:

- (1) having the arrangement for payment of *debt securities* and repayment in respect of the *debt securities* in foreign currencies;
- (2) being the bonds or corporate bonds that are offer for sale in total amount abroad.

Clause 73 The requirements under the *Notification of the Capital Market Supervisory Board concerning Rules, Conditions and Procedures for Application for and Approval of Offer for Sale of Newly Issued Bonds to Investors Abroad* shall apply, *mutatis mutandis*, to the application for and the approval of offer for sale of bonds and corporate bonds denominated in foreign currencies in total amount abroad to the extent that it is not contrary to or inconsistent with the requirements under this Part.

Part 5

Transitional Provisions

Clause 74 The applications for approval which have been submitted to the SEC Office, or to which approval has been granted by the SEC Office under the *Notification of the Capital Market Supervisory Board No. Tor Jor 64/2558 Re: the Offering of Debt Securities of Thai Government Agencies*, dated 27 October 2015 prior to the effective date of this Notification shall remain in full force under the aforesaid Notification and related Notifications.

Clause 75 If the *Thai government agencies* have been approved to offer short-term corporate bonds or *short-term bills* for sale in a private placement in accordance with the *Notification of the Capital Market Supervisory Board No. Tor Jor. 64/2558 Re: the Offering of Debt Securities of Thai Government Agencies*, dated 27 October 2015, and have submitted the *registration statement* for the offer for sale of short-term corporate bonds or *short-term bills* prior to the effective date of this Notification, the *Thai government agencies* may continue to offer the short-term corporate bonds or *short-term bills* according to the offering period under such *registration statement*.

Clause 76 The *debt securities* that have been approved under the *Notification of the Capital Market Supervisory Board No. Tor Jor. 64/2558 Re: the Offering of Debt Securities of Thai Government Agencies*, dated October 27, 2015 prior to the effective date of this Notification shall remain subject to such Notification and related Notifications.

Clause 77 Any reference made in any other Notifications to the *Notification of the Capital Market Supervisory Board No. Tor Jor. 64/2558 Re: the Offering of Debt Securities of Thai Government Agencies*, dated 27 October 2015 shall mean reference to this Notification.

Clause 78 All notifications of the SEC Office, orders and circulars which are issued or prescribing guidelines under the *Notification of the Capital Market Supervisory Board No. Tor Jor. 64/2558 Re: the Offering of Debt Securities of Thai Government Agencies*, dated

October 27, 2015 that have been in effect prior to the effective date of this Notification shall remain in full force to the extent that they are not inconsistent or contrary to the provisions of this Notification until new notifications, orders, and circulars which are issued or prescribing guidelines under this Notification come into force.

Notified this 5th day of October 2018.

(Mr. Rapee Sucharitakul)
Secretary-General
Office of the Securities and Exchange Commission
Chairman
Capital Market Supervisory Board