

*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. 33/2551**

**Re: Application and Approval for Offering of Newly Issued Underlying Shares  
for Transferable Subscription Rights**

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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 of *the Securities and Exchange Act B.E. 2535 (1992)* which contain certain provisions relating to 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 acting as the Capital Market Supervisory Board under Section 60 of *the Securities and Exchange Act (No.4) B.E. 2551 (2008)* hereby issues the following regulations:

**Clause 1** In this Notification:

“*listed company*” means a listed company under the *Notification of the Securities and Exchange Commission concerning Determination of the Definitions in the Notifications on Securities Offering*;

“*TSR*” means transferable subscription right.

**Clause 2** A *listed company* shall be deemed to have received an approval [by the SEC Office] to offer for sale of the underlying shares of *TSRs*. In this regard, the approved company shall comply with the conditions after approval as follows:

(1) to issue the *TSRs* with a maturity period of no longer than two months and to determine a period for notifying the intention to exercise the *TSRs* to be no later than fifteen days before the exercise date, unless otherwise specified by the SEC Office;

(2)<sup>1</sup> to complete the allocation of the *TSRs* within one year as from the date on which the shareholders’ meeting approves the capital increase, whereby the shareholders may transfer the right to purchase the newly issued shares to other persons. The offering of newly issued underlying shares shall be made within the maturity period of the *TSRs*;

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<sup>1</sup> Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 23/2559 Re: Application and Approval for Offering of Newly Issued Underlying Shares for Transferable Subscription Rights (No.2)* dated 13 June 2016 (effective on 16 July 2016).

(3) to explicitly provide a written term regarding the *listed company*'s obligation to compensate the *TSRs* holders who notify their intention to exercise the *TSRs* but the company is unable to provide a sufficient amount of capital increased shares to accommodate such exercise. The compensation shall not be less than the difference between the market price of the company's shares, which are the same type as the shares reserved for the exercise, and the exercise price;

(4) to submit a copy of the resolution of the shareholders' meeting to approve a capital increase in (2), a copy of the document in (3) and other evidentiary documentation to the SEC Office together with the report on the results of the sale of the newly issued shares in accordance with the prescribed guidelines provided in the electronic work system of the SEC Office.

**Clause 3** In case of an offer for sale of underlying shares of the *TSRs* under a rehabilitation plan in compliance with the *Bankruptcy Law* which has been approved by the court, the approved company shall be exempted from the requirements in relation to the resolutions of the shareholders' meeting. In this regard, the company shall complete the offer for sale of the underlying shares of the *TSRs* within a period of time specified in the rehabilitation plan.

The approved company under Clause 2 may request a waiver of the conditions after approval from the SEC Office and if the approved company can demonstrate that it has one of the following characteristics, the SEC Office may grant a waiver of the conditions after approval under Clause 2 to the said company. In this regard, the SEC Office may determine a condition whereby the approved company shall act or refrain from acting in certain way:

(1) the benefits to be derived from compliance with the rules or conditions to be waived are not worth the compliance cost and there is a clear fact leading to the consideration that the said conditions are not significant to the at-issue securities offering;

(2) the approved company is restricted by other laws and unable to comply with the conditions to be waived;

(3) the approved company has other adequate measures that may replace compliance with the conditions to be waived.

**Clause 4<sup>2</sup>** For an offer for sale of newly issued underlying shares for the *TSRs* under this Notification, if any of the following reasonable, suspicious grounds occurs, the SEC Office may suspend the offer or revoke the approval in the part that has

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<sup>2</sup> Amended by the *Notification of the Capital Market Supervisory Board No. Tor Jor. 23/2559 Re: Application and Approval for Offering of Newly Issued Underlying Shares for Transferable Subscription Rights (No.2)* dated 13 June 2016 (effective on 16 July 2016).

not been registered as paid-up capital:

(1) the *listed company* or the offering of shares has a nature or form in accordance with the conditions after approval under this Notification, but a fact can be considered that the intention or substance of the said share offering falls under a nature of avoiding the provisions of *the Securities and Exchange Act B.E. 2535 (1992)* or the notifications enacted under such Act;

(2) the share offering may be contrary to a public policy or state policy;

(3) the share offering may affect the reliability of the overall Thai capital market;

(4) the share offering may cause unfairness or damage to the overall shareholders of the *listed company*;

(5) the shareholders of the *listed company* do not receive significant information sufficiently for voting in an agenda whereby the *listed company* requests the shareholders' meeting to approve an issuance of new shares under this Notification;

(6) the offering of newly issued shares has a nature that may fall under the scope of avoiding other regulations enacted under *the Securities and Exchange Act B.E. 2535 (1992)*;

(7) a cause concerning the legitimacy of the meeting resolution which approves an issuance of shares for the offering under this Notification in a nature that causes unfairness to shareholders, or limits the rights to attend the meeting or the voting rights of the shareholders significantly;

(8) the *listed company* is defective or improper regarding compliance with the conditions after approval for an offering of newly issued shares or fails to comply with the conditions after approval.

**Clause 5<sup>3</sup>** *Repealed.*

**Clause 6** The approved company under *the Notification of the Securities and Exchange Commission No. Kor Jor.62/2547 Re: Application and Approval for Offering of Newly Issued Underlying Shares for Transferable Subscription Rights* dated 29 November 2004 shall remain subject to the said Notification and other related notifications.

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<sup>3</sup> Repealed by the *Notification of the Capital Market Supervisory Board No. Tor Jor.23/2559 Re: Application and Approval for Offering of Newly Issued Underlying Shares for Transferable Subscription Rights (No.2)* dated 13 June 2016 (effective on 16 July 2016).

**Clause 7** This Notification shall come into force from 15 December 2008.

Notified this 15<sup>th</sup> day of December 2008.

(Mr. Vijit Supinit))  
Chairman  
Securities and Exchange Commission

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*Remark:* The reason for the issuance of this Notification is to determine the criteria for approval for offering of newly issued underlying shares for the TSRs whereby a company shall be deemed to have obtained an approval for such offering from the SEC Office, provided that the company shall disclose sufficient information and obtain an approval from the company's shareholders.