

Unofficial Translation
Courtesy of the Foreign Banks' Association
This translation is for the convenience of those unfamiliar with the Thai language.
Please refer to the Thai text for the official version.

The Bank of Thailand

5 October 2005

To Managers
All Commercial Banks *

No.: ForNorSor. (21) Wor. 1/2548 Re: Dispatch of the Notification of the Bank of Thailand Re: Conducting Securities Business Categorized as Securities Brokerage, Securities Dealing or Securities Underwriting of Investment Units

1. Rationale

To dispatch the Notification of the Bank of Thailand Re: Conducting Securities Business Categorized as Securities Brokerage, Securities Dealing or Securities Underwriting of Investment Units dated 19 September 2005.

2. Royal Gazette Issue

General Issue, No. 122, Special Section 107 Ngor., dated 28 September 2005

3. Scope of Application

Applicable to all commercial banks under the law governing commercial banking except international banking facilities

4. Essence of the Notification

4.1 To revoke the Notification of the Bank of Thailand Re: Conducting Securities Business Categorized as Securities Brokerage, Securities Dealing or Securities Underwriting of Investment Units dated 25 March 2005.

4.2 To add stipulation related to investment in investment units of commercial banks. Commercial banks conducting limited brokerage, dealing and underwriting (LBDU) shall comply with criteria and procedures for investing in investment units as stipulated by the Bank of Thailand.

5. Effective Date

This Notification shall be effective on the day following the date published in the Royal Gazette onward.

* Exclude international banking facilities

Yours sincerely,

(Mrs. Tongurai Limpiti)
Senior Director, Financial Institutions Policy Group
Governor^{For}

Enclosed: Notification of the Bank of Thailand Re: Conducting Securities Business
Categorized as Securities Brokerage, Securities Dealing or Securities
Underwriting of Investment Units dated 19 September 2005

Financial Institutions Strategy Department
General inquiry related to the Notification Tel: 0-2283-6939, 0-2283-5834
Inquiry on Clause 4.4 Tel: 0-2283-5304, 0-2283-5303

Note: ☐ The BOT will arrange a clarification meeting on ... at ...
 ☒ No clarification meeting will be arranged.

Notification of the Bank of Thailand
Re: Conducting Securities Business Categorized as Securities Brokerage, Securities
Dealing or Securities Underwriting of Investment Units

1. Rationale

This Notification was issued with the objective of broadening the scope of the business of commercial banks related investment units and to enable commercial banks which are selling-buying agents of investment units to continue as well as to observe the criteria for approval and supervisory of the Office of the Securities and Exchange Commission (the Office of the SEC) in accordance with the Ministerial Regulation Re: Permission to Conduct Securities Business Categorized as Securities Brokerage, Securities Dealing or Securities Underwriting of Investment Units B.E. 2547.

The addition at this time ensues Clause 4.2.8 of the Notification of the Bank of Thailand dated 25 March 2005 stipulated that commercial banks conducting securities business categorized as securities brokerage, securities dealing or securities underwriting of investment units (Limited Brokerage Dealing and Underwriting: LBDU) shall continue to comply with the criteria and procedures for investing in investment units as prescribed by the Bank of Thailand. At present it is deemed appropriate to stipulate the said rules and procedures to enable the commercial banks conducting limited brokerage, dealing and underwriting to consider investment in common shares, preferred shares and investment units thoroughly and to invest within suitable ratio. However, for convenience, the original Notification of the Bank of Thailand dated 25 March 2005 is revoked and consolidated in the new Notification.

2. Statutory Power

By virtue of the provision under Section 9 bis of the Commercial Banking Act B.E. 2505 as amended by the Commercial Banking Act (No. 2) B.E. 2522, the Bank of Thailand hereby grants permission to commercial banks to conduct limited brokerage, dealing and underwriting in accordance to the prescribed provision herein.

3. Scope of Application

This Notification shall be applicable to all commercial banks under the law governing commercial banking except the international banking facilities.

4. Contents

4.1 The Notification of the Bank of Thailand Re: Conducting Securities Business Categorized as Securities Brokerage, Securities Dealing or Securities Underwriting of Investment Units dated 25 March 2005 shall be revoked.

4.2 Principle

4.2.1 The Bank of Thailand grants permission to commercial banks to conduct limited brokerage, dealing and underwriting under the regulations prescribed by the Bank of Thailand. Such permission shall include allowing commercial banks to

appoint natural persons approved by the Office of the SEC as agents to sell or buy investment units with the objective in broadening the scope of business related to investment units. Commercial banks intending to appoint individuals as selling-buying agents of investment units, should consider persons who are knowledgeable, with capability as well as having suitable qualifications and who are without any prohibited characteristics stipulated by the Office of the SEC. Furthermore, [the persons] must not cause any detriment to the appointing commercial banks.

4.2.2 Commercial banks shall have operating systems to support the investment unit brokerage, dealing and underwriting functions in accordance to the standards prescribed by the Office of the SEC, for example, system to accept selling-buying orders, risk management and internal control systems system for preventing conflict of interests, system for listing of ultimate investors, system to segregate assets of investors from those of the commercial bank, etc.

4.2.3 Commercial banks intending to conduct limited brokerage, dealing and underwriting must possess risk management systems that are enable to appropriately assess, monitor and control risks; whereby the board of directors of the commercial banks shall establish the strategy, approve policies, operational plan, regulations and criteria related to the undertaking of such business as well as having regular reviews. Senior executives of the commercial banks must also establish guidelines for risk management that are appropriate to the size, scope and complexity of the structure and investment of the commercial banks. Moreover, the board of directors and executives of the commercial banks should oversee and manage such business in accordance with this Notification such that it would not become a venue to generate business gain without regards to corporate governance or to circumvent supervision of the authorities. For example, commercial banks shall not, directly or indirectly, hold the majority portion of or the entire investment units in any mutual fund. Additionally, they shall not invest, incur contingent liabilities or grant credit to any single person through mutual fund in order to avoid [compliance with] purchasing and holding shares to capital funds ratio and the credit granted, investment and contingent liability to any person to capital funds ratio (Single Lending Limit) as prescribed by the Bank of Thailand.

4.3 Criteria for Conducting Business

4.3.1 In this Notification,

“investment unit” shall mean investment unit under the law governing securities and exchange;

“securities brokerage” shall mean acting as agent to buy/sell securities under the law governing securities and exchange;

“securities dealing” shall mean trading of securities under the law governing securities and exchange;

“securities underwriting” shall mean distributing of securities under the law governing securities and exchange;

“debt instrument mutual fund” shall mean mutual fund with a policy of investing in or maintaining of deposits, debt instruments, securities, other assets, earnings by other methods stipulated by the Office of the Securities and Exchange Commission in accordance with the Notification of the Securities and Exchange Commission Re: Criteria, Conditions and Procedures for Establishing

and Managing Mutual Fund, or mutual funds with investment policy similar to debt instrument mutual fund.

“other type of mutual fund” shall mean mutual fund with a policy of investing in or maintaining of securities or other assets or earnings by other methods different from those of debt instrument mutual funds as stipulated by the Office of the Securities and Exchange Commission.

4.3.2 The Bank of Thailand grants permission to commercial banks to conduct limited brokerage, dealing and underwriting in accordance to regulations **for conducting business** as stipulated in **4.3.3 to 4.3.7 and criteria and procedures for investing in investment units as stipulated in 4.4**; whereby they must have qualifications and must comply with the following stipulations.

1) Possessing good financial and operating standings, able to set full reserves, able to maintain ratio of capital to assets and contingent liabilities at no less than the rate prescribed by the Bank of Thailand, as well as able to maintain any financial ratio which the Bank of Thailand instructs under special circumstances.

2) Possessing, in writing, an operational plan and procedures to support the limited brokerage, dealing and underwriting business that are approved by the board of directors of the commercial bank to be utilized as operating guidelines and for the examination of the Bank of Thailand. Such plan shall contain, at the minimum, the followings.

(1) Policies and procedures for conducting business, whereby any addition or amendment to the policies, operational plan and procedures must receive approval from the board of directors of the commercial bank.

(2) Details of the operating system for conducting business which shall cover the systems according to the types of business the commercial bank is licensed to conduct by the Office of the SEC. For example,

(2.1) systems for analyzing and managing risk of investment units, for determining ceiling for trading book that reflects the risk that the value of the investment unit shall vary with various factors such as fluctuation of interest rates.

(2.2) systems for determining risk tolerance ceiling to safeguard against loss, for monitoring and reviewing of the risk ceiling, for examining and reporting outcomes to identify any conduct differing from the stipulated limits and ceilings, Such systems shall include approval of exceptions for temporarily exceeding the risk ceiling, systems for data collection, for preparing reports with details that are beneficial to the monitoring, analysis and evaluation of the business performance for reporting to the Bank of Thailand.

(2.3) systems for monitoring of the value changes of the investment units and to make accounting records in accordance with the accounting standards as well as for preparing reports of income or profit/loss incurred from the investment unit trading.

(2.4) systems for accepting selling-buying orders, confirmation and reconciliation of transactions, compliance systems, systems for controlling operations related to the selling or repurchase of investment units between the

customers and commercial bank, system to prepare name list of the ultimate investors and system to segregate assets of investors from those of the commercial bank.

(2.5) systems for operations related to providing services to customers and to oversee the interests of the investment customers such as customer reception, receiving and submitting information, evidential document or various reports related to the mutual fund administration, handling of complaints, advisory service, retention of customer's information, system for unit investors' rights and benefits administration, system for transparent and fair allocation of investment units and system for disclosure and effective data management, etc.

(2.6) any other systems that the Office of the SEC may stipulate to support the conduct of the limited brokerage, dealing and underwriting business.

(3) Personnel readiness in order to assume the responsibilities of limited brokerage, dealing and underwriting of investment units by having staff to handle the said specific duties including establishing office area clearly separated from the areas for accepting deposits and for other services of the commercial bank.

4.3.3 The commercial banks must administer strict compliance with the accounting standards, laws or other relevant regulations and must possess suitable internal control systems in order to assess and review to determine that their staff has complied with the prescribed policies and procedures and that the established process is actually functional.

4.3.4 Regarding the calculation of risk weight of the investment units or contingent liabilities for underwriting of the investment units for maintaining capital proportional to assets and contingent liabilities, commercial banks shall comply with the notification of the Bank of Thailand regarding capital maintenance and regulations as prescribed by the Bank of Thailand.

Capital maintained for the contingent liabilities under the underwriting for the selling of investment units agreement shall commence on the date which the commercial bank executes the underwriting agreement until the expiry date of sale offer; where such contingent liabilities shall have a credit conversion factor equivalent to that of contingent liabilities for underwriting of instruments or securities as prescribed by the Bank of Thailand.

4.3.5 Commercial banks must set reserves for the difference of the book value that is higher than the fair value or the book value derived from the net asset value in accordance with the notification of the Bank of Thailand regarding worthless or irrecoverable and doubtful assets which may be worthless or irrecoverable of commercial banks.

4.3.6 Commercial banks intending to conduct limited brokerage, dealing and underwriting business must be licensed by the Office of the SEC in accordance with the Ministerial Regulation regarding Permission to Conduct Securities Business Categorized as Securities Brokerage, Securities Dealing and Securities Underwriting of

Investment Units B.E. 2547 and as amended. The commercial banks shall conduct only the type of securities business it is licensed.

4.3.7 Commercial banks licensed to conduct limited brokerage, dealing and underwriting business may appoint natural persons approved by the Office of the SEC as agents in selling or buying investment units.

4.3.8 The Bank of Thailand is empowered to suspend or revoke the permission to conduct limited brokerage, dealing and underwriting in the following cases.

- 1) The commercial bank violates or neglects to comply with the criteria, procedures and conditions prescribed by the Bank of Thailand.
- 2) Other cases that the Bank of Thailand deems harmful to the safety or well-being of the public.

4.3.9 The Bank of Thailand may add or amend the criteria, procedures and conditions. With which commercial banks shall comply, that are related with the conduct of the limited brokerage, dealing and underwriting business as deemed appropriate.

4.4 Criteria and Procedures for Investing in Investment Units

Commercial banks conducting limited brokerage, dealing and underwriting business shall comply with the following criteria and procedures for investing in investment units.

4.4.1 Purchasing or holding investment units of each mutual fund

Commercial banks shall not purchase or hold investment units of each mutual fund regardless of purchasing or obtaining from inside or outside the Stock Exchange or the securities exchange center in excess of the following prescribed ratios.

(1) Commercial banks shall not purchase or hold investment units of debt instrument mutual fund in excess of 20 percent of all distributed investment units of such debt instrument mutual fund.

(2) Commercial banks shall not purchase or hold investment units of other types of mutual funds, with the exception of debt instrument mutual fund under (1), in excess of 10 percent of all distributed investment units of such mutual fund.

The ratio of the purchase or holding of investment units in each fund does not apply to the purchase or acquisition of mutual funds that the commercial bank invests on the date that this Notification is effective except where the mutual fund issues additional investment units subsequent to the effective date of this Notification. Then the commercial bank shall not additionally purchase or hold investment units of the debt instrument mutual fund or other type of mutual funds in excess of 20 percent or 10 percent of the distributed investment units of the debt instrument mutual fund or other type of mutual funds respectively.

4.4.2 Purchasing or holding common shares, preferred shares or investment units of mutual fund in proportion to the capital of commercial bank

Commercial banks shall not purchase or hold common shares, preferred shares or investment units of mutual funds regardless of purchasing or obtaining from inside or outside the Stock Exchange or securities exchange center in excess of 30 percent of their total capital funds.

Commercial banks, in purchasing, acquiring common shares and preferred shares, must comply with the regulations of the Bank of Thailand re: Prescription on Purchasing or Holding Shares at an Aggregate Value in proportion to Capital Funds and the letter of the Bank of Thailand Re: Amendment of the Regulations Pertaining to Purchasing or Holding of Shares of a Limited Company in Exceeding the Rate Prescribed by Law.

4.4.3 Exempted Mutual Funds that are being excluded in calculating the proportion under 4.4.1 and 4.4.2

Mutual funds established under the policy of authority or having the objective of revitalizing the economy and the financial institution system that are excluded in calculating the proportion under 4.4.1 and 4.4.2, are Vayupak Fund, Property Fund for resolving Financial Institution problems (Fund 2), Mutual Fund for resolving Financial Institution problems (Fund 3), Property and Loan Fund (Fund 4) and Asian Bond Fund (ABF).

4.4.4 Temporary relaxation

In case where the stipulation under 4.4.2 causing commercial bank to have the proportion of purchase or holding of common shares, preferred shares or investment units of mutual funds exceeding 30 percent of its capital funds, the Bank of Thailand shall consider granting temporary relaxation on a case by case basis. Commercial banks intending to request for a relaxation shall submit an action plan or procedure to reduce the said proportion such that it will comply with the prescribed proportion within 2 years from the effective date of this Notification.

Commercial bank shall submit the said action plan or procedure to the Bank of Thailand within 90 days from the effective date of this Notification.

5. Effective Date

This Notification shall be effective on the day following the date published in the Royal Gazette onward.

Given on 19 September 2005

(Mrs. Tarisa Watanagase)
Deputy Governor, Financial Institution Stability
Governor^{For}
The Bank of Thailand