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## **Regulation of the Stock Exchange of Thailand**

### **Re: Listing and Delisting of Investment Units and Disclosure of Information of Infrastructure Fund, 2011**

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By virtue of the second paragraph (1) (7) and (17) of Section 170 of the Securities and Exchange Act B.E.2535 (A.D.1992), the Board of Governors of the Stock Exchange of Thailand, with the approval of the Securities and Exchange Commission, hereby issues the following regulations:

1. These Regulations shall come into force on August 1, 2011.
2. In these Regulations:

“Exchange” means the Stock Exchange of Thailand;

“Board” means the Board of Governors of the Exchange, provided that if the president of the Exchange is assigned to perform duties on behalf of the Board of Governors of the Exchange under this Regulation, this term shall mean to include the president of the Exchange so assigned except for in the provisions of Clauses 9, 13, 16, and Clause 18;

“Office” means the Office of the Securities and Exchange Commission;

\*\*“the Notifications of the SEC” means the notifications of the Securities and Exchange Commission, the notifications of the Capital Market Supervisory Board, or the notifications of the Office of the Securities and Exchange Commission relating to an infrastructure fund or the Thailand Future Fund as the case may be.;

*(\*\*Definition of “the Notifications of the SEC” was amended on 27 April 2018, came into force on 1 July 2018.)*

“listed securities” means the securities listed or required an approval to trade on the Exchange;

\*\*“investment units” means investment units of an infrastructure fund or the Thailand Future Fund as the case may be;

*(\*\*Definition of “investment units” was amended on 27 April 2018, came into force on 1 July 2018.)*

\*\*“fund” means an infrastructure fund or the Thailand Future Fund as the case may be;

*(\*\*Definition of “fund” was amended on 27 April 2018, came into force on 1 July 2018.)*

\*\*“person participating in the management” means the person with the power to control the infrastructure business, which shall include the holders of investment units who are the following persons:

(1) the management companies, infrastructure fund managers and the owner of assets of the infrastructure project who under the circumstances can control the person responsible for determining policies, management or operation of the infrastructure business to comply with its instructions regarding the determination of policies, management or operation of the infrastructure business.

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This shall include directors, managers, or persons holding the first four executive positions next below the managers, and all persons whose positions are equivalent to the fourth executive rank of the persons in the foregoing paragraph, including all related persons and persons related by blood, marriage or registration under law to the aforementioned persons, namely father, mother, spouse, child or other close relatives;

(2) holders of investment units exceeding 5 percent of the registered capital, except where such holders are securities companies, life insurers, insurers, mutual funds, provident funds, social security funds, pension funds, or investment projects approved under law.

*(\*Definition of "person participating in the management" was amended on 15 March 2013, came into force on 18 March 2013.)*

"person with controlling power" means a holder of investment units or another person who, according to the circumstances, has a significant influence over the establishment of policies, the management, or the operations of infrastructure business, whether in consequence of his holding of the investment units, the delegation of authority under an agreement, or otherwise, particularly a person under any of the following descriptions:

\**(1) a person whose direct or indirect voting right represents more than 25 percent of the total investment units of the fund;*

*(\**(1) of Definition of "person with controlling power" was amended on 15 March 2013, came into force on 18 March 2013.*)*

(2) a person who, according to the circumstances, can control the appointment or removal of directors of that infrastructure business;

(3) a person who, according to the circumstances, can direct the persons in charge of the establishment of policies, the management, or the operations of a infrastructure business, to comply with his orders, in the establishment of policies, the management, or the operations of such infrastructure business; or

(4) a person who, according to the circumstances, operates, or is in charge of the operations of a infrastructure business as if he were an executive officer, including the person holding a position with the same powers and duties as that person in that company;

"minor holders of investment units" means the unitholders who are not person participating in the management;

\*"infrastructure business" means an infrastructure business as prescribed in the Notification of the Securities and Exchange Commission only with respect to the portion in which investment is made by the fund."

*(\*Definition of "infrastructure business" was added on 15 March 2013, came into force on 18 March 2013.)*

"management companies" "asset of infrastructure business" \*"- "fund supervisor" and "registered capital" means such definition according to the Notification of the Securities and Exchange Commission.

*(\*Definition of "infrastructure business" was repealed on 15 March 2013, came into force on 18 March 2013.)*

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## CHAPTER 1

### Qualifications of Investment Units

3. The investment units for which an application for listing may be filed with the Exchange shall have the following qualifications:

- (1) have been fully paid-up;
- (2) specifying the name of the bearer;
- (3) are not subject to restrictions on transfer of investment units, unless the restrictions are in accordance with laws and are included in the fund management project.

## CHAPTER 2

### Qualifications of the Fund

4. The fund for which the management company will apply for registration of its investment units shall have the following specifications:

- (1) being a fund of which such management project has been approved by the Office;
- (2) having a fund manager approved by the Office; and
- \* (3) having the minor holders of investment units in an aggregate number of no less than 20 percent of the number of each tranche of investment units registered with the Exchange.

*(\*(3) of Clause 4 was amended on 15 March 2013, came into force on 18 March 2013.)*

\*\*A management company of the fund under the first paragraph shall be established and shall manage the fund as prescribed by the Notifications of the SEC.

*(\*\*Paragraph 2 of Clause 4 was amended on 27 April 2018, came into force on 1 July 2018.)*

## CHAPTER 3

### **\*Filing of Applications, Listing of Investment Units and Maintenance of Qualifications of Funds**

*(\*Title of Chapter 3 was amended on 15 March 2013, came into force on 18 March 2013.)*

5. The management company shall apply for the registration of all issued investment units which have been offered in a public offering to investors.

\*6. The management company shall file an application to the Exchange and other documents required by the Exchange.

*(\*Clause 6 was amended on 13 May 2022, came into force on 27 May 2022.)*

7. During consideration of the application, if the management company wishes to amend any information or documents which have been filed with the Exchange according to Clause 6, the management company must submit a request for amendment stating clearly the differences and reasons. Unless the Board determines that the proposed amendments are material, the Board may consider such amendments to be a new application.

8. In considering the application, the Exchange may instruct the management company to make any additional statements and submit any additional documents or evidence as considered appropriate within the prescribed period of time.

9. In considering the application and approval of securities, the Board may designate the President of the Exchange to consider the qualifications of the securities and fund. If President of

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the Exchange finds that such securities have the qualifications in accordance with the rules, conditions and procedures set forth in these Regulations, the President of the Exchange shall order the approval of the securities submitted for registration as listed securities.

10. The Board shall complete its consideration of the application within 7 days from the date on which the Exchange receives correct and complete documents and evidence from the management company.

In calculation of time under the first paragraph, the period of time between the date on which the management company submits a request to amend information or documents under Clause 7 or the date on which the Exchange gives instruction under Clause 8 and the date on which the Exchange receives correct and complete information or documents shall not be counted.

11. After consideration of the application by the Board, if the Board finds that the investment units applied for registration have correct qualifications in accordance with the rules and conditions under these Regulations, the Board shall order the approval of such investment units as listed securities and may also prescribe any condition as it considers appropriate.

The trading of listed securities under the first paragraph on the Exchange shall commence within 2 days from the date on which the Board approves such securities as listed securities, except that where there is any necessity which makes it inappropriate to trade those listed securities on the Exchange within such period of time, the President may otherwise prescribe the commencement date of trading.

12. The management company must file an application for the registration of an increase in the fund's registered capital with the Exchange within 30 days from the closing date of the subscription and payment for the capital-increase investment units.

The President of the Exchange or the person acting on his/her behalf or the person designated by the President of the Exchange shall order the approval of additional investment units as listed securities and may also stipulate any conditions therefore.

The provisions under clause 7, 8, 10 and the first paragraph of clause 11 shall be applied to the consideration of registering the registered capital increase of the fund under paragraph one, *mutatis mutandis*.

The listed securities shall commence trading on the Exchange within five business days from the date of the approval order under the second paragraph.

\*13. The management company shall pay the fee for the listing of securities at the rate as prescribed by the Board whereby the payment shall be made in accordance with the procedures and within the period of time as prescribed by the Exchange.

(\*Clause 13 was amended on 13 May 2022, came into force on 27 May 2022.)

\*13/1. The fund shall maintain the qualification with respect to having minor holders of investment units by having minor holders of investment units in an aggregate number of no less than 15 percent of number of each tranche of investment units registered with the Exchange.

If the fund is unable to maintain the number of minor holders of investment units as required under the first paragraph, the Exchange may take any other actions prescribed by it.

(\*Clause 13/1 was added on 15 March 2013, came into force on 18 March 2013.)

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## **CHAPTER 4**

### **Miscellaneous**

14. The management company shall designate the Exchange or a third person approved by the Exchange to act as its listed securities registrar.

15. The management company shall strictly comply with the law relating to securities and exchange, regulations of the Exchange as well as circulars of the Exchange.

16. The Board shall be empowered to prescribe guidelines to accomplish the objects of these Regulations.

## **CHAPTER 5**

### **Delisting**

\*17. Upon occurrence of any of the following events, the investment units may potentially be delisted:

- (1) The management company requests the investment units to be delisted;
- (2) The investment units or the fund do not possess all the qualifications under Clauses 3 and 4 (1) and (2);
- (3) The management company violates or fails to comply with the law governing securities and exchange, any regulations, rules, notifications, orders, resolutions of the Board, listing agreement executed with the Exchange, and circulars required by the Exchange for compliance, which may severely affect the rights and benefits of the holders of investment units or decision making of the investors or the change in the price of investment units;
- (4) The management company discloses false information or information which may give rise to mistaken belief in the application, financial statements or report of the fund which is filed with the Exchange or disclosed to the general investors, which may severely affect the rights and benefits of the holders of investment units or decision making of the investors or the change in the price of investment units;
- (5) The management company fails to disclose material information of the fund or there is any material error in the disclosure of information of the fund, which may severely affect the rights and benefits of the holders of investment units or decision making of the investors or the change in the price of investment units;
- (6) Trading in the investment units are temporarily suspended by the Exchange pursuant to the Regulation of the Exchange governing temporary suspension of securities trading for more than a consecutive period of 2 years because the management company violates or fails to comply with the laws governing securities and exchange, regulations, rules, notifications, orders, resolutions of the Board, listing agreement executed with the Exchange as well as any circulars required by the Exchange for compliance or the management company is unable to report, clarify or disclose material information to the Exchange promptly;
- (7) The auditor issues disclaimer of opinion on the audited annual financial statements or consolidated annual financial statements for a consecutive period of 3 years;

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(8) Upon the maturity date of the fund management project or other causes for which the dissolution of the fund has been scheduled in advance;

(9) Upon the occurrence of an event where the Office may revoke the approval for the establishment of the fund or a cause for the dissolution of the fund as prescribed under the Notifications of the SEC;

(10) The management company takes action in a manner which may severely affect the rights and benefits of the holders of investment units or decision making of the investors or the change in the price of investment units;

(11) The management company is unable to comply with the Notification of the Board of the Exchange governing procedures for action for the elimination of the grounds for delisting of ordinary shares.

*(\*Clause 17 was amended on 5 October 2021, came into force on 1 November 2021.)*

\*18. Upon the order of the Board to delist the investment units, the management company shall carry out the following:

(1) Dissolve the fund in accordance with the rules prescribed in the Notifications of the SEC in case where the fund is dissolved, and in accordance with the stipulations of the fund management project; or

(2) In case of the delisting of investment units under Clause 17 (1), the management company shall provide reasonable exit for holders of investment units who conduct trading in Thailand such as providing mechanism to accommodate the sale of investment units by the holders of investment units in the Exchange etc.

The Board may authorize the President of the Exchange to consider and order delisting the investment units in the following events:

(1) In case of the delisting of investment units under Clause 17 (1);

(2) Upon the occurrence of events specified in the fund management project or the dissolution of the fund by the management company in accordance with the rules prescribed in the Notifications of the SEC.

*(\*Clause 18 was amended on 5 October 2021, came into force on 1 November 2021.)*

\*19. The provisions in the regulation of the Exchange regarding the delisting of securities and any other rules issued thereunder shall apply to the delisting of the investment units under this Chapter, mutatis mutandis, to the extent that those provisions are not contrary or inconsistent with this Regulation.

*(\*Clause 19 was amended on 5 October 2021, came into force on 1 November 2021.)*

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**\*CHAPTER 6**

**Disclosure of Information**

20. The management company shall disclose information to the Stock Exchange upon the occurrence of any of the following events:

(1) The fund determines the date for a meeting of holders of investment units. In such a disclosure, the fund shall also disclose the agenda of the meeting.

Where the fund seeks approval from the holders of investment units by giving them written notice to seek a resolution, the last day for the acknowledgement of such notice shall also be disclosed;

(2) The fund passes a resolution on the register book closing date or record date for attending the meeting of the holders of investment units or conferring of any rights to the holders of investment units;

(3) The fund pays or does not pay a dividend;

(4) The fund passes a resolution on a registered capital increase, or the allocation of investment units or a registered capital decrease;

(5) The fund issues a new tranche of investment units;

(6) The fund changes the structure of the shareholding of the holders of investment units exceeding 10 percent of each tranche of investment units;

(7) The fund acquires or loses any significant commercial contracts;

(8) The fund acquires or disposes of the assets of the infrastructure business in accordance with the rules prescribed under the Notifications of the SEC;

(9) The fund conducts transactions with related persons in accordance with the rules prescribed under the Notifications of SEC;

(10) The fund has issued new significant products, significant development in relation to resources, technology, products and markets, or significant discoveries in relation to natural resources;

(11) The management company takes out any loan on behalf of the fund or creates material encumbrances on the property of the fund;

(12) The fund has any significant dispute which affects the operation of the fund, such as a dispute in relation to labor, sub-contractors or persons selling products to the fund;

(13) The fund has significant legal disputes;

(14) The fund changes its significant accounting policies;

(15) The fund announces its dissolution or the infrastructure business is dissolved and liquidated;

(16) The fund, by an appraiser, appraises the value of the significant assets of the infrastructure business for the purpose of the disclosure to the holders of investment units or public.

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When an event requiring disclosure under paragraph one occurs, the management company shall submit the appraisal report to the Exchange upon the Exchange's request;

\*(17) -

\*\* (18) There is a default in debt repayment or the inability to fulfill any obligations under any of the following juristic acts:

(a) The fund is in default of debt payment to a financial institution;

(b) The fund is in default of debt payment other than debt owed to a financial institution or is unable to perform any obligations under a juristic act in relation to acceptance of financial assistance in an amount equal to or more than 5 percent of its net asset value as shown in its latest financial statements or consolidated financial statements.

When an event requiring disclosure by the management company under paragraph one occurs, the management company shall also disclose the direction for resolving such issue. In addition, the management company shall disclose the progress in relation to the event under paragraph one on the same date as the due date for the submission of its financial statements for each quarter or when there is such progress, whichever occurs first; or

(19) Any event which affects or will affect the investor's interests or decision to invest or any change in the price of investment units.

The management company shall disclose the information in paragraph one to the Exchange without delay on the date of the occurrence of such event at least 1 hour before the trading hours of each session or after the trading hours. Where the management company is unable to disclose the information within such period due to force majeure, it shall disclose the information at least 1 hour before the trading hours of the first session on the following business day.

*\*(17) of Clause 20 was repealed on 21 March 2019, came into force on 1 April 2019.)*

*\*\* (18) of Clause 20 was amended on 5 October 2021, came into force on 1 November 2021.)*

21. When the management company has sent a notice calling a general meeting of the holders of investment units or seeking approval from the holders of investment units together with supporting documents to the holders of investment units, the management company shall concurrently submit the notice calling a general meeting or seeking approval and supporting documents to the Exchange.

Where the fund has foreign holders of investment units, the management company shall send the notice translated into English to those foreign holders.

22. The management company shall disclose information to the Exchange within 3 business days from the date of occurrence of any of the following events:

(1) relocation of the head office of the management company;

(2) change of the fund manager or fund supervisor;

(3) change of the auditor of the fund; or

(4) change of the securities registrar or change of the location of the securities registrar of the fund.

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Upon the occurrence of the events for which the management company shall disclose information under (3), the management company shall submit the resignation letter of the auditor to the Exchange upon the Exchange's request.

23. A management company shall submit the following documents to the Exchange:

(1) minutes of the meeting of holders of the investment units, which shall be submitted within 14 days from the date of such meeting;

(2) a report on the number of minority holders of investment units as of the registered book closing date or the record date for dividend or conferring of any rights, which shall be submitted within 120 days from the end of accounting period of the fund.

Where the management company announces payment or non-payment of dividends or conferring of any rights to the holders of investment units, the management company shall disclose the number of the holders of investment units to the Exchange within the period specified in paragraph one.

24. The management company shall disclose the investment units register closing date or the record date for attending the meeting of the holders of investment units or conferring of any rights to the holders of investment units, to the Exchange at least 14 days prior to such investment units register closing date or record date.

Where the management company changes the investment units register closing date or the record date for attending the meeting of the holders of investment units or conferring of any rights to the holders of investment units from the dates which have been disclosed to the Exchange under paragraph one, the management company shall disclose to the Exchange of the change at least 7 days prior to the investment units register closing date or the record date attending the meeting of the holders of investment units or conferring of any rights to the holders of investment units which has been disclosed in paragraph one.

25. The management company shall prepare and disclose the following information to the Exchange together with the disclosure of such information to the Office in accordance with the notifications of the SEC:

(1) the asset value, the net asset value and the value of the investment units of the fund;

(2) the financial statements and consolidated financial statements of the fund;

(3) the report on the progress of the project, in the case the fund invested in or has assets of an unfinished project; and

(4) the annual report of the fund.

\* (5) annual updated information statements; and

\* (6) any other reports prescribed in the Notifications of the SEC

*(\* (5) and (6) of Clause 25 was added on 27 April 2018, came into force on 1 July 2018.)*

26. The management company shall prepare a report summarizing its operating results in a form prescribed by the Exchange and disclose such report to the Exchange together with the disclosure of information under clause 25(2)

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27. Where the operating results in accordance to the income statement of the fund varied over 20 percent from the same quarter of the previous year, the management company shall disclose the causes for such variation to the Exchange together with the disclosure of information under clause 25(2).

28. Where the management company disposed of the assets of the infrastructure business of the fund and thereby causing the total value of the assets of the infrastructure business in which the fund invests to be less than the value pursuant to the Notifications of the SEC for which the management company must cause the aggregate value of the assets of the infrastructure business in which the fund invests to be no less than such value, the management company shall disclose the progress of the project to the Exchange every quarter together with the disclosure of information under clause 25(2).

\*29. The procedure for the disclosure of information and submission of documents or copy of documents to the Exchange under this Regulation shall be carried out by a management company through the electronic system pursuant to the regulation of the Exchange regarding procedure for the disclosure of information and submission of documents of listed companies through the electronic system mutatis mutandis.

*(\*Clause 29 was amended on 5 October 2021, came into force on 1 November 2021.)*

\*30. The provisions in the regulation of the Exchange regarding the disclosure of information and other acts of listed companies and any other rules issued thereunder shall apply to the disclosure of information and other acts of the fund, mutatis mutandis, to the extent that those provisions are not contrary or inconsistent with this Regulation.

*(\*Clause 30 was amended on 5 October 2021, came into force on 1 November 2021.)*

*(\*Chapter 6 was amended on 2 October 2017, came into force on 9 October 2017.)*

Notified on August 1, 2011.

*(Signed) Sompol Kiatphaibool*

(Mr. Sompol Kiatphaibool)

Chairman of the Board  
The Stock Exchange of Thailand

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Reason for Promulgation: The Stock Exchange deems it appropriate to prescribe rules in relation to infrastructure fund by stipulating specific rules for the approval and delisting of investment units including information disclosure of infrastructure funds to accommodate the issue and offer of investment units of new types of funds. It is therefore expedient to issue this Regulation.