

Content

Title :	Regulations Governing the Procedures for Banking Institutions to Evaluate Assets and Deal with Non-performing/Non-accrual Loans Ch
Date :	2014.01.28
Legislative :	<ol style="list-style-type: none">1. Full text promulgated by the Ministry of Finance on 18 March 1970.2. Amended by Ministry of Finance Order Tai-Tsai-kuai (61) 15394 on 28 June 1972.3. Amended by Ministry of Finance Order Tai-Tsai-chian (67) 21716 on 1 November 1978.4. Amended by Ministry of Finance Order Tai-Tsai-Rong 19395 on 6 August 1981.5. Amended by Ministry of Finance Order Tai-Tsai-Rong 7502116 on 10 January 1986.6. Article 3 and 8 Amended by Ministry of Finance Order Tai-Tsai-Rong (81) 811222364 on 8 December 1992.7. Article 1, 6-8 and 11 Amended by Ministry of Finance Order Tai-Tsai-Rong (88) 88733168 on 30 June 1999.8. Full text Amended by Ministry of Finance Order Tai-Tsai-Rong (91) (I) 0901000026 on 20 January 2002.9. Article 8 and 13 Amended by Ministry of Finance Order (I) Tai-Tsai-Rong Zi 0911000589 on 10 September 2002.10. Promulgated by the Ministry of Finance As last amended on 11 February 200911. The full text of 18 articles amended and promulgated by the Ministry of Finance Order Tai-Tsai-Rong (1) Zi-0928011826 on 6 January 200412. Article 5, and 18 are promulgated and 17-1 are added by the Financial Supervisory Commission on November 18, 2010 Amendment Order Ref. No. : Jin-Guan-Yin-(Fa)-zi NO.09900428780 ; the Regulations shall become effective on January 1, 2011.13. Article 5,7,17-1, and 18 are promulgated by the Financial Supervisory Commission on January 28, 2014 Amendment Order Ref. No. : Jin-Guan-Yin-(Fa)-zi NO.10310000410 ; the Regulations shall take effective on January 1, 2014.
Content :	<p>Article 1</p> <p>These Regulations are enacted in accordance with Article 45-1, Paragraph 2, of the Banking Act.</p> <p>Article 2</p> <p>In evaluating non-credit assets on or off balance sheet, the bank shall evaluate possible losses based on the characteristics of the assets, generally accepted accounting principles, relevant regulations, and conservatism principles, and shall allocate sufficient reserves for such losses.</p> <p>Article 3</p> <p>A bank shall classify credit assets on and off balance sheet. Normal credit assets shall be classified as "Category One." The remaining unsound credit assets shall be evaluated based on the status of the loan collaterals and the length of time overdue. Assets that require special mention shall be classified as "Category Two," assets that are substandard shall be classified as "Category Three," assets that are doubtful shall be classified</p>

as "Category Four," and assets for which there is loss shall be classified as "Category Five."

Article 4

The various types of unsound credit assets in the preceding article are defined as follows:

1. Those require "Special Mention" shall refer to those credit assets that have been evaluated as having sufficient collateral and on which the borrower's principal or interest payments have been in arrears for one (1) month to twelve (12) months; or those credit assets evaluated as unsecured and on which the borrower's principal or interest payments have been in arrears for one (1) month to three (3) months; or those credit assets that have not yet come due or reached their maturity date, but the borrower of which has other instances of poor creditworthiness.
2. Those are "Substandard" shall refer to those credit assets that have been evaluated as having sufficient collateral and on which the borrower's principal or interest payments have been in arrears for twelve (12) months or more; or those credit assets evaluated as unsecured and on which the borrower's principal or interest payments have been in arrears for three (3) months to six (6) months.
3. Those are "Doubtful" shall refer to those credit assets evaluated as unsecured and on which the borrower's principal or interest payments have been in arrears for six (6) months to twelve (12) months.
4. Those are "Losses" shall refer to those credit assets evaluated as unsecured and on which the borrower's principal or interest payments have been in arrears for twelve (12) months or more; or those credit assets evaluated as impossible to obtain repayment.

With regard to those credit assets to be repaid in installments by agreement in accordance with Article 7, Paragraph 2, the bank may evaluate the assets in accordance with the borrower's solvency and the status of the collateral within six (6) months after the establishment of a separate contract; these assets may not be classified as Category One, however, and relevant corroborating evidence must be provided.

Article 5

A bank shall evaluate credit assets on and off balance sheet in accordance with Articles 3 and 4, and shall allocate sufficient loan loss provision as well as reserves against liability on guarantees. The minimum loan loss provision and guarantee reserve shall be the sum of 1% of the outstanding balance of Category One credit asset's claim (excluding assets that represent claims against the central and local government in Taiwan), 2% of the balance of Category Two credit assets, 10% of the balance of Category Three credit assets, 50% of the balance of Category Four credit assets, and the full balance of Category Five credit assets.

To strengthen the ability of banks to bear the loss of specific credit assets, the Competent Authority may, if necessary, require banks to raise loan loss provision and guarantee reserve of specific credit assets.

Article 6

In the event that loan loss provision and reserves against liability on

guarantees set aside by a bank in accordance with Article 2 and the preceding article are assessed as insufficient by the Competent Authority or a financial examination agency (organization), the bank shall immediately supplement such reserves in accordance with the request of the Competent Authority or comments of the financial examination agency (organization).

Article 7

"Non-Performing Loans" as referred to in the Regulations shall refer to those loans for which the principal or interest has been in arrears for three (3) months or more, and those loans which the principal or interest has not yet been in arrears for more than three (3) months, but with regard to which the bank has sought payment from primary/subordinate debtors or has disposed of collateral.

If a restructured loan meets certain conditions, the negotiated interest rate is not lower than the original loan or the rates of new loans in the same risk category, and the negotiated terms have been performed for over six (6) months, the loan may be exempted from reporting as a non-performing loan. However, if the negotiated installment payments are in arrears for three (3) months or more during the period of exemption as non-performing loans, the loan shall still be reported as such.

The "certain conditions" referred to in the preceding paragraph shall include the following circumstances:

1. Those were originally short-term loans with annual payment of principal and interest generally over 10%. However, the maximum loan period shall be five (5) years.
2. Those were originally mid-/long-term loans with an installment payment period limited to twice the original remaining number of years. However, the maximum loan period shall be thirty (30) years. The installments paid within the original remaining number of years may not be less than 30% of the owed principal and interest. If a mid-/long-term has no remaining number of years, or twice the remaining number of years is less than five (5) years, the installment payment period may be extended to five (5) years, and the annual payment of principal and interest shall generally be over 10%.

The so-called "payment period" in the first paragraph shall be the agreed-upon date for restructured loans and other extensions of credit. However, if the bank requests earlier repayment in accordance with contract, the repayment period of which the bank notifies the debtor shall be the payment period.

Article 8

"Non-accrual loans" as used in these Regulations shall refer to loans and other extensions of credit transferred to the non-accrual loans account item.

All non-performing loans shall be transferred to non-accrual loans account item within six (6) months after the end of the payment period. However, those restructured loans to be performed in accordance with the agreement shall not be subject to this restriction.

Article 9

Banks shall actively clear up non-performing loans and non-accrual loans in

accordance with the following regulations:

1. After an evaluation of the debtor's financial and business conditions, if a bank determines that the business may continue to operate as a viable entity, the repayment terms of the original loan agreement may be amended within the amount standards authorized by the board of directors; the amended terms shall be approved by an authorized person.

2. Banks shall actively clear up loans in accordance with the Code of Civil Procedure, the Compulsory Execution Law, and other relevant laws and regulations. However, those restructured loans shall not be subject to this restriction.

3. If a bank feels that primary/subordinate debtors are unable to repay loan principal, the bank may establish a settlement with the debtor(s) reflecting the actual circumstances, based on the amount standards authorized by the board of directors, and approved by an authorized person; then the settlement shall be reported to the board of executive directors for acknowledgement.

4. If a bank cannot obtain timely repayment of foreign debts because a foreign government has amended foreign exchange laws or regulations, the bank may take appropriate action after reporting the case to the board of executive directors for approval.

Article 10

Interest shall not be accrued to non-performing loans that are transferred to non-accrual loans account item. However, loan collection shall continue as per the terms of the relevant agreement, and accrued interest shall continue to be posted to the interest column of the non-accrual loans account for each borrower, or a notation of such shall be made. Any unpaid interest due on a non-performing loan prior to its transfer to a non-accrual loan shall be transferred to the non-accrual loans item together with principal.

Article 11

Any non-performing loans or non-accrual loans, after subtracting the estimated recoverable portion, that have one of the following characteristics shall be written off:

1. The loan cannot be recovered in full or in part because the debtor has dissolved, gone into hiding, reached a settlement, declared bankruptcy, or for other reasons.

2. The collateral and property of the primary/subordinate debtor have been appraised at a very low value or become insufficient to repay the loan after the subtraction of senior mortgages; or the execution cost approaches or possibly exceeds the amount that the bank might collect [from the debtor(s)] where there is no financial benefit in execution.

3. The primary/subordinate debtor's collateral has failed to sell at successive auctions where the price of such collateral has been successively lowered, and there is no financial benefit to be derived from the bank's taking possession of such collateral.

4. More than two (2) years have elapsed since the maturity date of the non-performing loans or non-accrual loans, and the efforts of collection have failed.

Article 12

The write-off of non-performing loans and non-accrual loans shall be authorized by a resolution passed by the board of directors, and the supervisors shall be notified. However, when requested by the Competent Authority or a financial examination agency (organization), loans must be immediately written off, a report must be made to the subsequent board meeting, and the supervisors must be notified for acknowledgement. When the board of directors is in recess, the board of executive directors may exercise its authority on [the board of directors'] behalf, and shall notify the supervisors and make a report to the board of directors for acknowledgement.

With regard to the stipulations of the preceding paragraph, if any loan cases exceed the limits prescribed in Article 33 of the Banking Act when a bank is conferring credit or writing off loans, at least two-thirds of all directors must be present, and at least three-fourths of the present directors must give their consent [to pass a resolution].

The Taiwan branch of a foreign bank shall handle the authorizations described above in accordance with the authorization procedures of its head office.

Article 13

With regard to the write-off of non-performing loans and non-accrual loans, the amount provided under the loan loss provision or the reserve against liability on guarantees shall be used to offset [the write off], and, if such amount(s) is insufficient, the deficiency shall be recognized as a loss in the current year.

Article 14

A bank shall establish an internal management control system and procedures for the evaluation of asset quality, allocation of loss reserves, clearance of non-performing loans/non-accrual loans, and the write off loans, and such management control system and procedures shall be reported to, and approved by, the board of directors and submitted to the Competent Authority for acknowledgement. The internal management control system and procedures, shall, at a minimum, include the following items:

1. The evaluation and classification of assets.
2. A policy of loan loss provision.
3. Measures to be taken when a credit extension becomes past due.
4. Regulations governing relevant collection procedures.
5. Regulations governing procedures for amending original credit repayment agreements of non-performing/non-accrual loans and establishing settlement, as well as authorization standards.
6. Accounting treatment of non-accrual loans and writing off loans.
7. Accounting treatment of the pursuit of creditor rights and debt collections, and the documentation needed to evidence the same.
8. Key points to be used by the [internal] auditors when conducting an audit.
9. Internal responsibilities and disciplinary/award measures.

The Taiwan branch of a foreign bank shall establish its internal management control system and procedures in accordance with the authorization

procedures of its head office, and submit the same to the Competent Authority for acknowledgement.

Article 15

When writing off non-performing loans and non-accrual loans, a bank shall investigate whether at the time of the credit extension, such extension was made in accordance with [applicable] laws, regulations, and bank rules. If such investigation determines that the credit extension was made in accordance with procedures, and, the appropriate follow up reviews were conducted and no laws were violated or responsibilities neglected, then no administrative measures need be taken. If such investigation reveals a violation or omission with regard to applicable laws, regulations, or bank rules, the bank shall punish [the responsible persons] based on their degree of responsibility and the circumstances of the credit authorization. If such violations or omissions are criminal in nature, the bank shall report the matter to the proper prosecutorial authority for investigation.

Article 16

When a loan is written off in accordance with relevant regulations and procedures, the creditor's rights shall still be posted in the accounts and registry books for acknowledgement. The relevant business department shall monitor the activities of the primary/subordinate debtor. If it is discovered that the primary/subordinate debtor has property that may be executed against the same shall be pursued in accordance with relevant laws.

If an evaluation determines that there is no benefit to be gained from the collection activities described in the preceding paragraph, such shall be reported to, and approved by the board of executive directors, and the debt shall no longer be posted in the accounts and no longer be subject to control; however, but shall continue to be recorded in registry books for acknowledgement.

Article 17

A bank shall report its non-performing loans and non-performing assets as required by the Competent Authority on a monthly basis in accordance with the format and content required by the Competent Authority.

Article 17-1

The minimum loan loss provision and reserves against liability on guarantees of Category One for a bank that is calculated based on Paragraph 1 of Article 5 amended on January 28, 2014, shall be allocated sufficiently within one year of the execution of the amendment. As long as a bank possesses the legitimate reasons and acquires the concurrence of a board of directors meeting, prior to the expiry date, the bank may apply to the Competent Authority for extension no longer than one year.

For a foreign bank branch in Taiwan, the duties of the board of directors prescribed in the proviso of the preceding paragraph, will be fulfilled by an officer authorized by its head office.

Article 18

These Regulations shall take effect on July 1, 2005.

These Regulations amended and promulgated on November 18, 2010 shall take effect on January 1, 2011.

These Regulations amended and promulgated on January 28, 2014 shall take effect on January 1, 2014.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System