

Content

Title :	Rules Governing Offshore Banking Branches Ch
Date :	2009.12.11
Legislative :	1.Date : 1999.03.19 (Announced) 2.Amended on July,7, 2005 3.Amended on Dec,11, 2009
Content :	<p>Article 1</p> <p>The Rules are enacted pursuant to Article 5, Paragraph 2, of the “Offshore Banking Act” (the “Act”).</p> <p>Article 2</p> <p>Credit extensions to a customer made by an offshore banking branch of a bank shall be aggregated with the total credit extensions to the said customer by all business units of the said bank, and the balance thereof shall not exceed the following ceilings:</p> <p>(1)For domestic banks, the credit extension to a natural person shall not exceed 3% of the said bank’ s net worth, and the unsecured portion thereof shall not exceed 1% of the said bank’ s net worth. The credit extension to a juridical person shall not exceed 15% of the said bank’ s net worth and the unsecured portion thereof shall not exceed 5% of the said bank’ s net worth.</p> <p>(2)For foreign banks, the credit extension to a person, natural or juridical, shall not exceed 25% of the whole bank’ s net worth.</p> <p>(3)Where a credit extension by an offshore banking branch has been approved by the competent authority, or the credit is extended to government agencies or public enterprises, the limits stipulated in the preceding paragraph shall not apply; provided, that the balance of such credit extension shall not exceed its head office’ s net worth.</p> <p>Article 3</p> <p>The competent authority may at any time appoint officer(s) or entrust other appropriate institutions to examine the business operations, financial conditions and other relevant matters of an offshore banking branch of a bank, or require such bank to submit, within a specified period, financial statements, property statement or other relevant information/reports of its offshore banking branch.</p> <p>The competent authority may, if necessary, appoint a professional(s) and/or technician(s) to audit relevant matters, statements, information or records submitted by a bank pursuant to the preceding paragraph. The appointed professional(s) and/or technician(s) shall prepare and submit an audit report to the competent authority. The expenses incurred shall be borne by the bank.</p> <p>Article 4</p> <p>The balance sheets and the income statements submitted by an offshore banking branch pursuant to the Article 20 of the Act shall be audited by a certified public accountant and shall be reported to the competent authority within four (4) months after the end of each fiscal year.</p>

Offshore banking branches shall submit balance sheets, income statements, and the statements of contingent assets and liabilities to the competent authority within one (1) month after the end of each fiscal quarter. At the end of the fourth quarter, offshore banking branches shall also submit annual business operation reports.

Offshore banking branches shall, within ten (10) days after the end of each month and quarter, respectively, submit relevant quarterly reports/statements, monthly balance sheets and other relevant reports/statements to the Central Bank of China ("CBC").

The form and contents of the reports/statements referred to in Paragraphs 2 of this Article shall be prescribed by the Ministry of Finance ("MOF") in consultation with the CBC; matters relating to Paragraph 3 shall be prescribed by the CBC.

Article 5

If any of the followings occurs, offshore banking branches shall report to the MOF and notify the CBC:

- (1) commencement of business;
- (2) material change of business policies;
- (3) material losses which have incurred or are expected;
- (4) material litigation; and
- (5) any violation of the Act or any rules enacted by the competent authority pursuant to the Act.

The events mentioned in Item 1 and 2 of the preceding paragraph shall be reported in advance, and the events mentioned in Item 3 through 5 of the preceding paragraph shall be reported within five (5) days after their occurrences.

Article 6

Offshore banking branches shall establish rules for business operations, including, at least the followings:

- (1) organizational structure and responsibility of each department;
- (2) staffing, personnel management, and training;
- (3) internal control systems;
- (4) business principals and policies;
- (5) operational handbook and division of responsibility; and
- (6) rules for risk management.

The business of offshore banking branches shall be operated in accordance with applicable laws and regulations and the rules established pursuant to the preceding paragraph.

Article 7

An offshore banking branch of a foreign bank may file application with the Financial Supervisory Commission of the Executive Yuan for the outward remittances of earnings once the amount of earnings of such offshore banking branch stated in the relevant audited financial statement has been added to the total earnings of all other branches within the ROC of such foreign bank.

Article 8

The manager of an offshore banking branch shall meet the qualification requirements as provided in Article 3, Paragraph 1, and Article 5, Paragraph 1 of the Standard of the Fit and Proper Tests for the Responsible Persons of Banks enacted by the MOF pursuant to Article 35-2 of the Banking

Law. For a manager appointed pursuant to Article 5, Paragraph 1, Item 4 of the above-mentioned Standard, such manager must possess professional knowledge of international financial markets or sufficient experience in the foreign exchange business.

Article 9

An offshore banking branch may not invest in stocks.

An offshore banking branch of a bank may not invest in securities issued, accepted or guaranteed by a company of which the responsible person(s) of the said bank acts as a director, supervisor or manager.

The total amount of securities invested in by a bank's offshore banking branch, calculated in combination with all other units of the said bank, shall not exceed the investment ceilings set by the MOF for the said bank.

An offshore banking branch of a bank shall submit its internal rules governing the permissible types of and aggregate and single issuer investment ceilings for its investments in foreign currency denominated securities to the MOF for approval and comply therewith. The said rules shall be consented by the board of directors for domestic banks and officers authorized by the head office for foreign banks respectively. Any amendment to such rules shall be handled in accordance with the above-mentioned procedures.

Where the rules governing the types and the ceilings of securities investment as set by an offshore banking branch pursuant to the preceding paragraph is approved by the MOF, the said types of the ceilings for securities investment shall be interpreted as having been set by the competent authority for purposes of Article 22-1, Item 3 of the Act.

Article 10

The Rules shall become effective as of the date of its promulgation.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System