

Content

Title :	Directions Concerning the Establishment of Foreign Branches by Domestic Banks 
Date :	2014.07.31
Legislative :	<ol style="list-style-type: none">1. Full articles promulgated by the Ministry of Finance Order Tai-Tsai-Rong Zi-(83)831999446 on 19 January 1994.2. Article 2 amended by the Ministry of Finance Order Tai Tsai-Rong Zi (84) 84751258 on 23 August 1995.3. Article 8 amended and issued by the Ministry of Finance Order Tai Tsai Rong Zi (88) 8803908 on 12 October 1999.4. 11 Full Articles amended by the Ministry of Finance Order Tai Tsai Rong Zi (89) 89732478 on 19 May 2000, and became effective immediately.5. 13 Full Articles amended by the Ministry of Finance Order Tai Tsai Rong (II) 0918011876 on 22 October 2002, and became effective immediately.6. Full 13 points amended and promulgated on 7 November 2005 per Order No. Jin-Kuan-Yin-(II)-0942000903 of the Financial Supervisory Commission; for immediate implementation.7. Article 4 are amended by the Financial Supervisory Commission, Executive Yuan, per the Order NO. Jin Guan Yin Fa Zi Number 09910005360 on 8 October 2010 and becomes effective on April 8, 2011.8. Amended on January 14,20139. Amended on December 3, 201310. Amended on July 31, 2014
Content :	<ol style="list-style-type: none">1. These Directions are adopted for the purposes of reviewing applications by domestic banks to establish foreign branches in accordance with Article 27 of the Banking Act (the "Act").2. "Foreign branch" in these Directions means a foreign representative office, branch office, subsidiary bank, or joint venture bank of a domestic bank.3. A domestic bank shall obtain the approval of the Competent Authority in consultation with the Central Bank of China (CBC) prior to establishing a foreign branch. The domestic bank that applied for establishment of the foreign branch, if the competent authority did not reject within thirty (30) working days from the filing day, will count as approved. The country (or area) that the bank plan to established a foreign branch has already have other domestic bank's branch, if the competent authority did not reject within twenty (20) working days from the filing day, will count as approved. The domestic bank that applied for establishment of Representative Offices, if the competent authority did not reject within twenty (20) working days from the filing day, will count as approved.4. A domestic bank at which any of the following situations exists may not apply to establish a foreign branch: (1) An applicant to establish a representative office whose international banking department has been established for less than 1 year; an applicant to establish a branch office, subsidiary bank, or joint venture bank whose

international banking department has been established for less than 2 years.

(2) The ratio of capital to risk-weighted assets at the end of the previous half year is less than the provisions of Article 5 of Regulations Governing the Capital Adequacy Ratio and Capital Category of Banks plus two percentage points. (where the most recent financial examination or Competent Authority review shows an increase in accumulated deficit or inadequate allocation of allowance for bad debt, the bank shall recalculate the aforesaid ratio).

(3) Inadequate allocation of allowance for bad debt (based on the data in the most recent financial examination and the financial statement of the most recent fiscal year audited and certified by a Certified Public Accountant).

5. A domestic bank applying to establish a foreign branch shall submit the following documents to the Competent Authority:

(1) Application to establish a foreign branch (as attached).

(2) Feasibility study: specify the selection criteria for the country (or region) in which the bank intends to establish the branch including the local political, trade, and financial circumstances; the bilateral trade and mutual investment situation between the ROC and the country (or region) in which the branch is to be established; an explanation of the local financial laws and regulations that apply to foreign banks (including the application process and the review and approval standards for a foreign bank to establish a branch, and business and operational restrictions hereupon; whether the competent financial authority of Taiwan may gather and review data regarding the financial and operational status of the branch; regulations concerning equity contribution ratios for branches established as joint ventures), tax laws and regulations and a self-evaluation statement explaining the compliance of the establishment plan with local laws and regulations; an analysis of the status and operations of any branches already established in that place by domestic [Taiwan] banks; an operational risk assessment and benefit analysis for the branch to be established.

(3) Operational status of previously established foreign branches: include the number of branches and an operational analysis of those branches; a statement of the findings of the most recent audits of those branches by the parent bank and the local competent financial authority.

(4) Business plan: specify the intended scope of business operations, market positioning, and future development plan, and provide a name list of staff who already possess professional knowledge and experience in international financial business and strong foreign language capabilities (listing the academic and professional experience of each staff member in detail); the internal organization and division of labor, chart of affiliation relationships within the overall bank organization, personnel deployment, and recruitment and training plan of the foreign branch under application for establishment; projected balance sheets, income statements, and a table of funding sources and use for the coming 3 years, explaining the basis for those projections.

(5) Documents verifying that the proposed responsible person meets the

requirements in Point 8 herein.

(6) Internal control and audit systems, operations management, and performance evaluation methods for the foreign branch. Those applying to establish a representative office may omit submitting the documents required in subparagraphs 4 and 6 of the preceding paragraph.

6. Where a domestic bank at which any of the following situations exists applies to establish a foreign branch, the Competent Authority may deny approval:

(1) Any of the circumstances listed in the subparagraphs of point 4 exists.

(2) The submitted documentation is incomplete or its content is lacking in thoroughness or feasibility, and supplementation has been requested, but has not been submitted.

(3) Other facts exist indicating that the business cannot be operated prudently, or is financially unsound.

7. A domestic bank that has obtained approval to establish a foreign branch shall proceed in accordance with the provisions of Points 8 through 10 without fail. After granting approval, if the Competent Authority discovers that the application contains any misrepresentations or false statements, or the existence of a circumstance set out in Point 6, subparagraph 1 or 3, it may revoke the original disposition.

8. In these Directions "responsible person" means a representative of a foreign representative office of a domestic bank, a manager of a foreign branch, and all personnel at the deputy general manager (vice president) level and above that a domestic bank assigns to a subsidiary bank or joint venture bank in which it is invested; such personnel shall possess excellent language skills, morals and integrity, and professional leadership capabilities, and are not disqualified by any of the circumstances listed in the subparagraphs of Article 3, paragraph 1, of Regulations Governing Qualification Requirements for Responsible Persons of Banks; the manager of a foreign branch or personnel at the deputy general manager level and above that the domestic bank assigns to work at a subsidiary bank or joint venture bank in which the domestic bank is invested shall also comply with the requirements of Article 6 of the aforementioned Regulations.

9. A domestic bank may apply to a foreign government to establish a foreign branch office only after obtaining prior approval. A domestic bank that has received such permission from the foreign competent financial authority shall submit the following information to the Competent Authority for recordation prior to commencing business operations:

(1) Approval letter from the foreign competent financial authority (along with a photocopy of the business license for those who require a business license issued by the foreign competent financial authority).

(2) Business items approved for operation by the foreign competent financial authority.

(3) Date of establishment and full address.

(4) Name of the responsible person; if the responsible person is not the

originally reported proposed responsible person, documentation verifying that the responsible person is in compliance with the provisions of Point 8 shall be submitted.

(5) A statement issued by the compliance officer of the parent bank affirming that the current establishment case is in compliance with acts and regulations.

10. After a foreign branch is established (including those established previously), the head office shall comply with the following provisions:

(1) Bank business conducted by a foreign branch bank that complies with local financial regulations and business practices but does not comply with Taiwan financial regulations shall first be reported to the Competent Authority for approval.

(2) A major emergency or incident of fraud at a foreign branch shall be handled and reported in accordance with the regulations of the Competent Authority.

(3) The head office shall input all relevant information concerning the foreign branch into the Internet reporting system of the Competent Authority; any changes shall be faithfully updated in that system.

(4) All foreign branches, except a foreign representative office, shall also fulfill the following requirements: (i) Shall conduct internal audits in accordance with the bank's internal control and audit system methods. Inspection report data from the business audit report, audit report of a certified public accountant, and local government financial inspection authority shall be sent to the Competent Authority and the Central Bank of China for recordation.(ii) Shall input the basic data concerning their operations situation into the Internet reporting system of the Competent Authority every six months.(iii) Shall prepare a consolidated financial statement including its foreign branches each fiscal year, and submit it to the Competent Authority for recordation in accordance with Article 49 of the Act.

(5) A domestic bank that closes a foreign branch shall first notify the Competent Authority and obtain approval. After a foreign branch is established, any change in the business address or business items may be reported to the Competent Authority for recordation after such changes are effected.

11. A domestic bank that establishes any additional new branch in a country in which it has already established a foreign branch shall likewise still do so in accordance with these Directions. Where a foreign subsidiary bank in which a domestic bank has a shareholding ratio exceeding 50 percent invests in another bank or establishes any new branch, the parent [domestic] bank shall submit the documents in Point 5, paragraph 1, subparagraph 4 to the Competent Authority for recordation.

12. A domestic bank that intends to dispatch personnel to take up residence in a location in order to gather business information and make preparations, but has not yet obtained permission from the Competent Authority to establish a foreign branch in that location, shall first submit information concerning the stationed personnel and the location to

the Competent Authority for approval prior to posting.

13. A domestic bank that intends to merge with or acquire a foreign bank shall submit the relevant data and file for special approval from the Competent Authority.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System