

Content

Title :	Regulations Governing the Issuance of Call (Put) Warrants by Issuers <b>Ch</b>
Date :	2014.05.29
Legislative :	<p>1. Full text of 14 articles issued per 3 January 2000 Order No. (89)-Taiwan-Finance-Securities-(II) 82828 of the Securities and Futures Commission, for implementation from the date of promulgation.</p> <p>2. Articles 3, 4, 6, 7, and 9 amended and issued per 19 September 2001 Order No. (90)-Taiwan-Finance-Securities-(II) 155697 of the Securities and Futures Commission, for implementation from the date of promulgation.</p> <p>3. Articles 2, 4, 6, 7, 8, 10, 11, 12, and 13 amended and issued per 25 February 2003 Order No. (92)-Taiwan-Finance-Securities-II-0920000754 of the Securities and Futures Commission, for implementation from the date of promulgation.</p> <p>4. Articles 7 and 8 amended and issued and Article 9 was deleted per 31 December 2003 Order No. Taiwan-Finance-Securities-II-0920005374 of the Securities and Futures Commission, Ministry of Finance</p> <p>5. Article 2 amended and issued per 26 May 2004 Order No. Taiwan-Finance-Securities-II-0930002252 of the Securities and Futures Commission, Ministry of Finance</p> <p>6. Article 2 amended and issued per 29 August 2006 Order No. Financial-Supervisory-Securities-II-0950004045 of the Financial Supervisory Commission, Executive Yuan</p> <p>7. Full text of 24 articles amended and titles of Chapters 1 to 4 added, with said changes issued per 28 December 2007 Order No. Financial-Supervisory-Securities-II-0960070907 of the Financial Supervisory Commission, Executive Yuan; for implementation from the date of issuance</p> <p>8. Articles 8, 16, and 22 amended and issued per 29 December 2008 Order No. Financial-Supervisory-Securities-II-0970068927 of the Financial Supervisory Commission, Executive Yuan</p> <p>9. Article 8 amended and issued per 22 July 2009 Order No. Financial-Supervisory-Securities-SITC-0980036050 of the Financial Supervisory Commission, Executive Yuan</p> <p>10. Articles 8 and 15 to 17 amended and issued per 7 April 2010 Order No. Financial-Supervisory-Securities-Firms-0990014380 of the Financial Supervisory Commission, Executive Yuan</p> <p>11. Title and Articles 1, 5 to 8, 10, 13, and 16 amended and issued, Article 9-1 added, and Articles 11 and 12 deleted per 10 July 2012 Order No. Financial-Supervisory-Securities-Firms-1010030243 of the Financial Supervisory Commission (Original title: Regulations Governing Applications for Issuance of Call (Put) Warrants by Issuers)</p> <p>12. Article 8 amended per 25 April 2014 Order No. Financial-Supervisory-Securities-Futures-1030012154 of the Financial Supervisory Commission</p> <p>13. Articles 5, 9 and 23, and Appendix to Article 5 amended and issued per 29 May 2014 Order No. Financial-Supervisory-Securities-Firms-10300133222 of the Financial Supervisory Commission</p>
Content :	<p>Chapter I General Principles</p> <p>Article 1</p> <p>These Regulations are adopted pursuant to Article 22, paragraph 4 of the Securities and Exchange Act (the "Act").</p> <p>Article 2</p> <p>The issuance of call (put) warrants, except for where otherwise provided for by law or regulation, shall be governed by these Regulations.</p> <p>The term "call (put) warrant" as used in these Regulations means a security which is issued by a third party other than the company issuing the</p>

underlying security, and which represents that the holder is entitled to buy from or sell to such third party the underlying security at the exercise price during the option period or on a specified maturity date, or to collect a spread by settlement in cash.

#### Article 3

The term "issuer" as used in these Regulations means a third party, other than the issuing company of the underlying security, that is concurrently engaged in the following three businesses: securities underwriting, proprietary dealing, and brokerage or intermediary services.

An issuer that is a foreign institution shall submit an approval letter or a performance undertaking from its board of directors, after which a branch unit within the territory of the Republic of China (ROC) or a branch unit established in ROC territory by a directly or indirectly wholly-owned subsidiary shall submit an application in the name of the foreign entity. The business operated by the aforementioned subsidiary or ROC-based branch unit shall comply with the provisions of the preceding paragraph.

If a foreign institution as referred to in the preceding paragraph has established a branch office within ROC territory through its directly or indirectly wholly owned subsidiary, the branch office shall be designated to be responsible for carrying out matters related to the issuance and exercise of the warrants and disclosure of relevant information.

#### Article 4

The fact that it has received accreditation as a qualified issuer of call (put) warrants may not be cited by an issuer in its publicity either as proof of the veracity of its application particulars, or as guarantee of the value of its call (put) warrants.

### Chapter II Issuance of Domestic Call (Put) Warrants by Domestic and Foreign Issuers

#### Article 5

To issue call (put) warrants, an issuer shall first apply to the Financial Supervisory Commission (FSC) for accreditation as a qualified issuer of call (put) warrants.

When a domestic issuer applies to the FSC for accreditation as a qualified issuer of call (put) warrants, its financial report for the most recent period shall show no accumulated deficit, and its financial condition also shall meet the provisions of Articles 13, 14, 16, 18, 18-1 and 19 of the Regulations Governing Securities Firms; a foreign issuer may submit application on the basis of a credit rating of a certain grade issued by a credit rating institution recognized by the competent authority.

If an issuer engages a foreign institution to act as a risk management institution, or if an issuer is a foreign institution, it shall first obtain a consent letter from the competent authority in charge of foreign exchange.

In order to apply to the FSC for accreditation as a qualified issuer of call (put) warrants, an issuer shall submit an Application for Accreditation as a Qualified Call (Put) Warrants Issuer (see appendix) furnishing all required particulars, together with duplicate copies of all other required documents, to the Taiwan Stock Exchange Corporation (TWSE) or the GreTai Securities Market (GTSM). After the TWSE or GTSM examines and approves the application, the applicant shall file the examination opinion

with the FSC for final review and approval.

In carrying out final review and approval of an application for accreditation of qualifications to issue call (put) warrants as referred to in the first paragraph of this article, the FSC shall act on the basis of a financial report duly audited and attested by a certified public accountant (CPA), a licensed attorney's opinion regarding legal and regulatory compliance, credit rating information, related documents, and an examination opinion issued by the TWSE or the GTSM.

#### Article 6

If, at any time on or after the date on which an issuer applies to the FSC for accreditation as a qualified issuer of call (put) warrants, an event occurs which has a material impact on shareholders' equity or securities prices as contemplated in Article 36, paragraph 3, subparagraph 2 of the Act, in addition to duly making a public announcement and filing with the TWSE or GTSM within two days of the date of the occurrence of the fact, the issuer shall also provide the CPA who attested to its financial report with a professional opinion from an appropriate expert, as dictated by the nature of the event, and retain the CPA to provide an opinion regarding the effect of the event upon the financial report, and shall then file the opinion with the TWSE or GTSM. The TWSE or GTSM shall then provide an opinion on how to handle the matter and file it with the FSC.

#### Article 7

When any one of the following circumstances applies to an issuer that has applied for accreditation as a qualified issuer of call (put) warrants, the FSC may deny accreditation:

- 1.It has made incomplete submission of required application documents, and has failed to supplement those documents by the deadline prescribed by the FSC.
- 2.Particulars of the application do not conform to laws and regulations, or the application contains misrepresentations or nondisclosures.
- 3.There is a major loss of creditworthiness which has yet to be settled, or four years have not elapsed since settlement.
- 4.The issuer fails to meet any of the requirements in the subparagraphs of Article 38, paragraph 1, subparagraphs 2 to 5 of the Standards Governing the Establishment of Securities Firms; or, if the issuer is a foreign institution, a similar failure exists on the part of its head office.
- 5.The issuer's regulatory capital adequacy ratio for the half year preceding the application date is lower than 200 percent; or, if the issuer is a foreign institution, a similar circumstance applies to its head office.
- 6.The issuer lacks appropriate risk management measures.
- 7.The issuer has been incapable of meeting obligations in connection with a previous issue of call (put) warrants.
- 8.In the most recent year the issuer has failed to comply with TWSE or GTSM regulations applicable to call (put) warrants, and improvement within a specified time period was not possible.
- 9.The issuer fails to prepare financial reports in accordance with generally accepted accounting principles, or effective enforcement of its internal control system is not possible.
- 10.The issuer violates Article 6, or an assessment shows that its filed

particulars might have material impact on its financial status.

11. There is a major dispute or violation with respect to rights and interests that could influence the issuer's finances or business, and there is no resolution or improvement.

12. There is factual evidence of material irregularities with the issuer's finances or business.

13. The FSC otherwise considers it necessary to deny accreditation in order to protect the public interest.

#### Article 8

The underlyings to which call (put) warrants issued by an issuer are linked are limited to the following:

1. Stocks, baskets of stocks, exchange-traded securities investment trust funds, futures exchange-traded funds, offshore exchange-traded funds, and Taiwan depositary receipts that are listed on the TWSE or GTSM and meet conditions prescribed by the TWSE or the GTSM.

2. Indexes as publicly announced by the TWSE or GTSM.

3. Any foreign security or index of a foreign securities market that meets the following requirements:

A. A foreign securities market shall meet the conditions and fall within the scope set out below:

a. It must be organized as either a securities exchange or over-the-counter market and be regulated by the local competent securities authority.

b. The sovereign rating of the country where the trading takes place shall have a rating of a certain grade or higher from a credit rating institution listed in Appendix 1.

c. The scope of foreign securities markets is listed in Appendix 2.

B. The foreign security or index of the aforementioned foreign securities market may not include any of the following items:

a. Securities of a Taiwan enterprise traded on any foreign securities market, provided that this rule shall not apply to depositary receipts issued overseas by a Taiwan enterprise.

b. Any Taiwan stock index compiled by a foreign or domestic institution, and related financial commodities, provided that this rule shall not apply if such index is compiled by the TWSE or GTSM, in cooperation with a foreign or domestic institution, with Taiwan stocks not being the major component shares.

C. Any foreign security or index that meets requirements set forth by the TWSE or the GTSM.

If a company that issued any linked underlying referred to in the preceding paragraph is involved in a merger or acquisition, the FSC may suspend further issuance by an issuer of call (put) warrants on that underlying, and shall suspend the issue of warrants that an issuer has received permission to issue but has not yet issued, provided that call (put) warrants already issued shall remain valid.

#### Article 8-1

When an issuance by the issuer of call (put) warrants linked with any foreign security or index as specified in Article 8, paragraph 1, subparagraph 3, involves inward or outward remittance of funds, permission shall be obtained from the Central Bank.

Where an issuer issues call (put) warrants as specified in the preceding

paragraph, payment at exercise shall be limited to cash settlement. When an issuer issues call (put) warrants as specified in paragraph 1 and undertakes related hedging transactions, foreign exchange settlement matters shall be carried out in accordance with the Regulations Governing the Declaration of Foreign Exchange Receipts and Disbursements or Transactions.

#### Article 9

After an issuer has been accredited by the FSC as a qualified issuer of call (put) warrants, the FSC may suspend its issuance of call (put) warrants if it is discovered (or if the TWSE or GTSM informs the issuer by letter) that the circumstances set out in any of the subparagraphs under Article 7 apply to the issuer.

After an issuer has been accredited by the FSC as a qualified issuer of call (put) warrants, the FSC shall suspend its issuance of call (put) warrants if its regulatory capital adequacy ratio remains below 200 percent for three consecutive months, and its accreditation will not be reinstated until improvement has been made. The same applies to a foreign issuer if similar circumstances obtain with respect to its head office.

When an issuer is suspended from issuance of call (put) warrants in accordance with the provisions of either of the preceding two paragraphs, it shall suspend the issue of warrants that it has received permission to issue but has not yet issued. However, call (put) warrants already issued shall remain valid.

#### Article 9-1

If an issuer that has been accredited by the FSC as a qualified issuer of call (put) warrants fails to issue any call (put) warrants for 1 year or more, or if the issuer fails to make improvements in the following 1 year or more after having been suspended from issuance of call (put) warrants by the FSC pursuant to paragraph 1 or 2 of the preceding article, the issuer may not proceed with issuance of call (put) warrants until it has once again been applied and been accredited as a qualified issuer of call (put) warrants in accordance with these Regulations.

#### Article 10

After an issuer has been accredited by the FSC as a qualified issuer of call (put) warrants, the issuer shall obtain consent from the TWSE or the GTSM for the call (put) warrants that it plans to list on an exchange or an over-the-counter market, and may not proceed with issuance and sales until the TWSE or the GTSM has consented to its issuance plan; the same shall apply to a follow-on issue by the issuer.

The issuer of the call (put) warrants referred to in the preceding paragraph shall enter into a contract with the TWSE or the GTSM for exchange listing or over-the-counter listing of call (put) warrants. The TWSE or the GTSM shall report the contract for exchange listing or over-the-counter listing to the FSC for recordation.

#### Article 11

(deleted)

#### Article 12

(deleted)

#### Article 13

An issuer issuing call (put) warrants may contract with a securities

underwriter to underwrite the call (put) warrants, or it may sell the warrants by itself. The issuer shall deliver a prospectus to subscribers. Matters to be stated in the prospectus referred to in the preceding paragraph shall be formulated by the TWSE or the GTSM and reported to the FSC for approval.

### Chapter III Issuance of Offshore Call (Put) Warrants by Domestic Issuers

#### Article 14

Before issuing offshore call (put) warrants, an issuer shall first obtain accreditation as a qualified issuer of call (put) warrants from the FSC, and from the competent authority or an exchange in the place where the warrants will trade.

After obtaining accreditation as a qualified issuer of call (put) warrants from the competent authority or an exchange in the place where the warrants will trade, the issuer shall file relevant documents with the FSC for recordation.

#### Article 15

The securities exchange where offshore call (put) warrants are issued by an issuer shall meet the following conditions:

1. It must be organized as either a securities exchange or over-the-counter market subject to regulation by the local competent authority.
2. The sovereign rating of the country where the warrants are to trade shall have a rating of a certain grade or higher from a credit rating institution listed in appendix 1.

#### Article 16

If an issuer issues offshore call (put) warrants for which the linked underlying is a domestic security or index, the scope of the underlyings shall comply with the provisions of Article 8; if the linked underlying is a foreign security or index, the scope of the underlyings shall be handled pursuant to the requirements of the competent authority or exchange where the warrants are traded, provided that the mainland China stock price indices and securities listed on mainland China securities markets may not be included.

#### Article 17

Where an issuance by an issuer of offshore call (put) warrants involves inward or outward remittance of funds, permission shall be obtained from the Central Bank.

When an issuer issues offshore call (put) warrants and undertakes related hedging transactions, foreign exchange settlement matters shall be carried out in accordance with the Regulations Governing the Declaration of Foreign Exchange Receipts and Disbursements or Transactions.

#### Article 18

The total amount of offshore call (put) warrants issued by an issuer shall be the combined total of the offshore call (put) warrants and the domestic call (put) warrants that it has issued, and is governed by the applicable requirements of the TWSE or GTSM.

#### Article 19

If an issuer issues offshore call (put) warrants for which the underlying security is a domestic security, the total amount of warrants written on a single underlying security shall be governed by the applicable requirements

of the TWSE or GTSM.

#### Article 20

After it has issued offshore call (put) warrants and filed with the FSC for recordation pursuant to Article 14, but before it has applied to the competent authority or an exchange in the place where the warrants will trade, an issuer shall file the relevant documents as required by the TWSE or GTSM.

#### Article 21

An issuer that issues offshore call (put) warrants shall establish a special account for hedging operations, and shall handle it in compliance with the applicable requirements of the TWSE or GTSM.

#### Article 22

If an issuer issues offshore call (put) warrants for which the linked underlying is a domestic security or index, payment at exercise shall be limited to cash settlement; if the linked underlying is an offshore security or index, payment at exercise shall comply with the requirements of the competent authority or exchange where the warrants are traded.

#### Article 23

After an issuer has issued offshore call (put) warrants and filed with the FSC for recordation pursuant to Article 14, the FSC may suspend its issuance of offshore call (put) warrants if it is discovered (or if the TWSE or GTSM informs the issuer by letter) that the circumstances set out in any of the subparagraphs under Article 7 apply to the issuer.

After an issuer that intends to issue offshore call (put) warrants has filed relevant documents with the FSC for recordation in accordance with Article 14, the FSC shall suspend its issuance of offshore call (put) warrants if its regulatory capital adequacy ratio remains below 200 percent for three consecutive months, and its accreditation will not be reinstated until improvement has been made.

When an issuer is suspended from issuance of offshore call (put) warrants in accordance with the provisions of either of the preceding two paragraphs, it shall act in compliance with the requirements of the competent authority or exchange where the warrants are traded to suspend the issue of warrants that it has received permission to issue but has not yet issued. However, call (put) warrants already issued shall remain valid.

### Chapter IV Supplementary Provisions

#### Article 24

These Regulations shall enter into force from the date of issuance.