

Content

Title : Regulations Governing the Securities Investor and Futures Trader Protection Institution [Ch](#)

Date : 2009.07.30

Legislative : 1. Full text of 26 articles adopted and issued per 30 December 2002 Order No. Taiwan-Finance-Securities-III-0910006393 of the Securities and Futures Commission, Ministry of Finance; for implementation from the date of promulgation
2. Article 21 amended and issued per 27 October 2003 Order No. Taiwan-Finance-Securities-III-09200004382 of the Securities and Futures Commission, Ministry of Finance
3. Article 19 amended and issued per 28 July 2004 Order No. Finance-Administration-Securities-III-09300003630 of the Financial Supervisory Commission, Executive Yuan
4. Articles 2, 5, 8, 18, and 25 amended and issued, and Article 8-1 added, per 30 July 2009 Order No. Financial-Supervisory-Securities-Trading-0980038205 of the Financial Supervisory Commission, Executive Yuan

Content : Chapter I General Principles

Article 1

These Rules are promulgated pursuant to Article 8, paragraph 2, of the Securities Investor and Futures Trader Protection Act ("the Act").

Article 2

Before a protection institution applies to a court for registration as a foundation, its prospective directors shall file with the Financial Supervisory Commission, Executive Yuan ("FSC") by letter for recordation, attaching each of the following documents in triplicate:

1. An application form stating the purpose of the foundation's establishment, its name, the location of the principle office, its total assets, scope of operations, and other required matters.
2. The articles of incorporation.
3. A list of contributed assets.
4. A roster of directors and supervisors, with copies of national identification cards and a diagram of any kinship relations among them.
5. Consent statements from those agreeing to serve as a director or supervisor.
6. A list of sample specimens of directors' and supervisors' signatures or seals.
7. Minutes of the meeting of contributors.
8. Minutes of the founding meeting of directors.
9. A list of the contributors and consent statements allowing transfer of contributed assets to the ownership of the protection institution.
10. A plan of operations and a capital utilization statement.

After the letter referred to in the preceding paragraph is filed with the FSC for recordation, the directors of the protection institution shall apply to a court for registration as a foundation within 30 days, and shall file by letter for recordation by the FSC within 30 days from the date registration is completed by the court.

Article 3

When there are changes in the particulars of the protection institution's registration, within 15 days of the date of the change it shall fill out an application form and all required documents in triplicate and report to the FSC for review and recordation, and thereafter apply to the court for amendment registration.

Article 4

The protection institution shall report the following particulars, and any amendments thereto, to the FSC for review and recordation:

1. Its articles of incorporation.
2. Procedures for acquiring or disposing of fixed assets.
3. Its internal control system.
4. Appointments and dismissals of personnel at the level of deputy department supervisor and above.
5. Other changes in rules or regulations.
6. Other particulars to be reported for review and recordation pursuant to FSC regulations.

Article 5

In any of the following events, the protection institution shall take immediate measures appropriate to the circumstances, and report by letter to the FSC for recordation:

1. Utilization of the protection fund for payment in accordance with Article 21 of the Act.
2. The conclusion of any case in which the protection fund has been utilized for payment in accordance with Article 21 of the Act.
3. Receipt of assigned assets over NT\$50 million resulting from the assumption of rights of a securities investor or futures trader against a securities firm or futures commission merchant in breach of contract under Article 21, paragraph 3 of the Act.
4. Institution of group arbitration or a class action suit.
5. The initiation of legal action against a director or supervisor, or the seeking of a court judgment to dismiss a director or supervisor, on behalf of the company pursuant to Article 10-1 of the Act.
6. Minutes of board of directors meetings.
7. Any litigation, non-litigation matter, administrative disposition, administrative dispute, commercial arbitration, or settlement having a material effect on finances or operations.
8. The status of execution of any matters undertaken by the protection institution on behalf of the FSC.
9. Any other matters to be reported by letter for recordation pursuant to FSC regulations.

Under circumstances in subparagraph 1 of the preceding paragraph, the protection institution shall send a letter of report to the FSC within two days from passage of its resolution; under circumstances in subparagraphs 2 through 9, it shall send a letter of report to the FSC within five days from the date it passes a resolution, learns of the occurrence of the given matter, or completes its handling of the matter.

Article 6

When a supervisor of the protection institution notifies the board of directors to cease unlawful activity in accordance with Article 15,

paragraph 3 of the Act, the supervisor shall also give secondary notice to the FSC and report to the FSC by letter within three days, with a written explanation of related matters.

Chapter II Operations and Finances

Article 7

Pursuant to Article 10 of the Act, the protection institution shall adopt operating rules in regard to its scope of business under the Act and submit them, and any subsequent amendments thereto, to the FSC for approval.

Article 8

The protection institution shall adopt procedural rules for group arbitration and class actions involving securities investors and futures traders undertaken pursuant to Article 28 of the Act, setting out the types of cases, their scope, operational procedures, methods of execution, and other matters to be observed. The procedural rules, and any amendments thereto, shall be submitted to the FSC for approval.

Article 8-1

The protection institution shall adopt procedural rules for the initiation of legal action against a director or supervisor, or the seeking of a court judgment to dismiss a director or supervisor, on behalf of the company pursuant to Article 10-1 of the Act, setting out the requisites, procedures, and scope for execution, operational procedures, and other matters to be observed. The procedural rules, and any amendments thereto, shall be submitted to the FSC for approval.

Article 9

For the purpose of investor protection, the protection institution shall hold stock in listed or OTC-listed companies in accordance with Article 19 of the Act, in order to exercise shareholder rights.

Article 10

The protection institution shall retain all documents relating to finances and operations at its offices for audit by the FSC.

Article 11

The protection institution shall send a letter of report to the FSC by the 20th of each month, including a statement of changes in the protection fund for the previous month, a monthly accounting summary, and the funds contributed by the various entities as well as the status of any contribution payments in arrears.

Article 12

When the net worth of the protection fund reaches NT\$5 billion, the protection institution shall immediately report to the FSC by letter, including a list of the securities firms and futures commission merchants who have allocated funds for a period of more than ten years and a statement of the amounts allocated yearly by each.

After making a report as referred to in the preceding paragraph, if the net worth of the protection fund falls below NT\$5 billion due to any circumstance under Article 21 of the Act or other circumstance having a material impact, the protection institution shall immediately notify the FSC by letter.

Article 13

The protection institution may not provide guarantees, endorse negotiable instruments, or provide assets for use as collateral by others except with

the permission of the FSC.

Article 14

Two months prior to the beginning of a new fiscal year, the protection institution shall draft a yearly budget and operations plan for ratification by the FSC; any amendments thereto shall also require ratification. Within 15 days of the conclusion of each quarter, it shall produce a report on the execution of the plan and the budget, up to and including that quarter, for submission to and recordation by the FSC.

The protection institution shall execute the yearly budget and operations plan as they are ratified by the FSC.

Article 15

Within three months from the end of any fiscal year, the protection institution shall submit to the FSC an operations report and a financial report audited and attested by a certified public accountant, passed by the board of directors, and recognized by the supervisors.

Chapter III Organization and Personnel

Article 16

The protection institution shall formulate rules governing organization, staffing, and job titles for its internal units. The organizational rules and any amendments thereto shall be submitted to the FSC for review and recordation.

Article 17

The protection institution shall formulate human resource management rules with regard to hiring, compensation, employee performance, incentives and reprimands, training, retirement, advanced study, severance, and retirement pensions. The human resource management rules and any amendments thereto shall be submitted to the FSC for approval and recordation.

The protection institution may make no additional payments to personnel under categories other than those listed in the human resource management rules formulated pursuant to the preceding paragraph.

Article 18

Under any of the circumstances set out in Article 30 of the Company Act, Articles 53 and 54 of the Securities and Exchange Act, Article 28 of the Futures Trading Act, or Article 68 of the Securities Investment Trust and Consulting Act, the person in question may not serve as a director, supervisor, manager, or employee of the protection institution, and shall be dismissed in the event they already hold such a position.

Article 19

In addition to compliance with the previous article, directors and supervisors of the protection institution appointed by the competent authority in accordance with Article 11 of the Act who are not contributor's representatives shall possess one of the following qualifications:

1. A combined total of not less than five years of experience in securities, futures, or financial institutions, and having held a managerial sales position in a securities, futures, or financial institution.
2. A combined total of not less than five years of experience in administrative management in securities, futures, or finance, and having held a position equal to or higher than an intermediate civil service rank.

3. Be a judge, prosecutor, attorney, or CPA with not less than five years experience in business, law, or financial operations, or a lecturer in a related department at a public or private tertiary educational institution.

Article 20

In addition to compliance with Article 18, managers of the protection institution shall possess one of the following qualifications:

1. A combined total of not less than three years of experience in securities, futures, or financial institutions, and having held a managerial sales position in a securities, futures, or financial institution.

2. A combined total of not less than five years of experience in administrative management work in securities, futures, or finance, and having held a position of deputy manager in a securities, futures, or financial institution.

3. A combined total of not less than three years of experience in administrative management work in securities, futures, or finance, and having held a position equal to or higher than an intermediate civil service rank.

4. Be a judge, prosecutor, attorney, or CPA with not less than three years experience in business, law, or financial operations, or a lecturer in a related department at a public or private tertiary educational institution.

Article 21

Within one month of assuming their posts, the directors, supervisors, and managers of the protection institution shall report to the protection institution the types and amounts of their holdings of publicly-issued companies and non-publicly-issued stock in securities firms and futures commission merchants.

The holders of stock referred to in the preceding paragraph shall report to the protection institution, prior to the end of January each year, on their shareholdings as of the end of the previous year.

Holdings of stock by persons referred to in paragraph 1 include holdings by their spouses and minor children as well holdings under any other person's name.

The information reported pursuant to paragraphs 1 and 2 may be inspected at any time by the FSC.

Article 22

Managers and employees at the protection institution shall hold their positions on a full-time basis, and may not in any manner concurrently hold a position at a listed or OTC-listed company, a securities firm, or a futures commission merchant, or hold any position or titular position at any other enterprise concurrently engaged in securities or futures operations.

Article 23

When a manager or employee of the protection institution delays or fails in the execution of required tasks, the protection institution shall dismiss them or take appropriate disciplinary action.

Article 24

In the course of carrying out their duties, directors, supervisors, managers, or employees of the protection institution shall recuse themselves from participation in any matter with a bearing on their

personal interests.

Article 25

Directors, supervisors, managers, and employees of the protection institution may not engage in any of the following acts:

1. Using information gained through their position at the protection institution to directly or indirectly engage in securities or futures trading.
2. Disclosing a secret they have learned through their position at the protection institution in response to any inquiry other than those duly made in accordance with acts and regulations.
3. Engaging in borrowing or lending of funds or securities with anyone in a sales-related position.
4. Accepting or agreeing to accept improper benefits in connection with the performance of their duties, or in violation of their duties.
5. Any other conduct in violation of securities or futures acts or regulations, securities investment trust and consulting acts or regulations, or conduct not complying with prohibitions or requirements of FSC regulations.

Chapter IV Supplementary Provisions

Article 26

These Rules shall be enforced from the date of promulgation.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System