

Content

Title : Regulations Governing Payment Operations of Securities Investor and Futures Trader Protection Funds **Ch**

Date : 2009.07.30

Legislative : 1. Full 11 articles adopted and issued per 30 December 2002 per Order No. Taiwan-Finance-Securities-III-0910006395 of the Finance Securities and Futures Commission, Ministry of Finance; for implementation from the date of promulgation
2. Articles 7 and 10 amended and issued per 30 July 2009 Order No. Financial-Supervisory-Securities-Trading-0980038205 of the Financial Supervisory Commission, Executive Yuan

Content : Article 1

These Regulations are adopted pursuant to Article 21, paragraph 2 of the Securities Investor and Futures Trader Protection Act (the "Act").

Article 2

The term "a trade of securities on the stock market" in Article 21, paragraph 1, subparagraph 1 of the Act refers to trades of listed securities on the centralized securities market and trades of OTC-listed securities by means of the computer trading system of the GreTai Securities Market (the "GreTai").

The term "completing settlement obligations" in Article 21, paragraph 1, subparagraph 1 of the Act means that a securities investor's consigned trade has been made and the relevant funds or securities transferred or remitted to the securities firm's settlement and clearing account. When regulations require that funds or securities be collected prior to completing the consigned trading order, "completing settlement obligations" means that on a given date on which a securities firm's financial difficulties result in default due to inability to make payment, the funds or securities have already been delivered to the securities firm, an invoice obtained, and procedures for the consigned trade carried out.

Article 3

The term "engaged in futures trading on the futures market" in Article 21, paragraph 1, subparagraph 2 of the Act means trading futures on a futures exchange established in accordance with Article 8 of the Futures Trading Act.

Article 4

When the protection institution makes compensation payments in accordance with Article 21 of the Act, it shall post an announcement at a prominent place in the principal and branch offices of the securities firm or futures commission merchant that is in default, as well as on the protection institution website and related websites. The announcement shall contain the following particulars:

1. The amount of the payment and the relevant particulars.
2. The method and the place at which an application for compensation may be made.
3. The qualifications necessary to apply for compensation.

4. The application period for compensation payments.
5. The documents required to evidence rights when applying for compensation.
6. Other relevant particulars.

No further application may be made by any party possessing the qualifications listed pursuant to the preceding paragraph but failing to apply during the application period. Where a force majeure event prevents application during the application period, however, application may be made within one week after cessation of the force majeure event, provided that no application may be made more than one month after the end of the application period.

Article 5

When the protection institution makes payments to a securities investor in accordance with Article 21, paragraph 1, subparagraph 1 of the Act, the amount receivable by the securities investor shall be calculated as follows:

1. For securities purchased or sold in an ordinary trade, compensation shall be equal to the price paid or receivable in the transaction.
2. For securities bought on margin, compensation shall be equal to the margin for the purchase.
3. For securities sold short, compensation shall be equal to the margin for the sale.
4. For funds or securities required to cover a margin sale or short purchase, compensation shall be equal to the price differential after closing out the margin loan or stock loan position.
5. When securities of the same type are bought on margin and sold short in the same account on the same day, compensation shall be equal to the price receivable on settlement of the account balance after the covering of the margin purchase and short sale are offset.
6. For trades requiring advance collection of funds and securities, where on the date on which the financial difficulties of a securities firm result in default due to inability to make payment, and where funds or securities have been delivered to the securities firm, an invoice issued, and procedures for a consignment trade carried out, compensation shall be equal to the advance funds paid.
7. For requests for exercise of call (put) warrant rights, compensation shall be equal to the strike price already paid or the market value of the securities based on the closing price on the exercise date.

Required taxes, processing fees, and debt owed to the securities firm in default shall be deducted when making calculations according to the preceding paragraph.

Article 6

When the protection institution compensates a futures trader pursuant to Article 21, paragraph 1, subparagraph 2 of the Act, payments receivable by the futures trader shall be calculated as follows:

1. The futures trader's margin or premium for a futures trade in the segregated customer margin account of the futures commission merchant.
2. The capital gains of the futures trader after completion of clearing procedures by the futures clearing house.
3. Interest payable on the customer margin account as per agreement between

the futures commission merchant and the futures trader.

In calculations under the preceding paragraph, taxes, processing fees, and debt owed to the futures commission merchant in default shall be deducted.

Article 7

Payments made by the protection institution pursuant to Article 21, paragraph 1, subparagraph 2 of the Act shall be in cash.

The amount of any single payment by the protection fund to an individual securities investor or futures trader of any securities firm or futures commission merchant shall be limited to NT\$1 million.

The maximum total amount of a single compensation payment by a protection fund to a group comprising all securities investors or futures traders of a securities firm or futures commission merchant shall be set by the protection institution and reported to the Financial Supervisory Commission, Executive Yuan ("FSC") for approval. The maximum amount shall be not less than NT\$100 million.

In the event that the total amount of compensation receivable by a group comprising all securities investors or futures traders of a given securities firm or futures commission merchant after adjustment pursuant to paragraph 2 exceeds the upper limit set forth in the preceding paragraph, the amount of compensation receivable by all securities investors or futures traders shall be reduced in proportion to the amount receivable after adjustment pursuant to paragraph 2.

The amounts set forth in paragraphs 2 and 3 may be adjusted by the protection institution in view of market conditions and the status of allocations to the protection fund; any such adjustments shall be reported to the FSC for approval.

Article 8

Under any of the following circumstances, no compensation will be paid to a securities investor or futures trader applying for compensation:

1. Where fault attributable to a securities investor or futures trader causes financial difficulty and inability to pay on the part of a securities firm or futures commission merchant resulting in default, no compensation will be paid to the given securities investor or futures trader, or their spouse, minor children, or others in whose name the securities investor or futures trader has made trades.

2. Other circumstances as approved by the FSC.

Article 9

When any of the following circumstances apply with respect to compensation payable to securities investors or futures traders in accordance with the Act, the protection institution shall retain the funds and temporarily withhold payment:

1. The securities investor or futures trader has been declared bankrupt and a bankruptcy administrator has not yet been selected.
2. Arrangement for succession has not been completed after the decease of the securities investor or futures trader.
3. Other circumstances under which payment may be stopped based on acts, regulations or legal relations.

Under the circumstances below, the protection institution shall cease withholding the compensation amount retained in accordance with the preceding paragraph and compensate the securities investor, futures trader,

or person entitled to the compensation:

1. The securities investor or futures trader has been declared bankrupt and a bankruptcy administrator has been selected.
2. Arrangement for succession has been completed after decease of the securities investor or futures trader.
3. The extinguishment of other circumstances under which payment may be stopped based on acts, regulations, or legal relations.

Article 10

After completing review of an application, the protection institution shall provide written notification of the results to the applicant at the address provided in the application. Except where funds are personally collected by the applicant, the protection institution shall transfer the funds to the deposit account opened by the securities investor or futures trader at the financial institution designated by the securities firm or futures commission merchant in default.

If an applicant as referred to in paragraph 1, due to the temporary withholding of compensation pursuant to Article 9 of these Regulations or for other legitimate reason, is delayed and unable to collect compensation within the one month time limit, then within one month after the reason for the delay is extinguished, the applicant may, upon provision of concrete evidence, apply to collect the compensation, provided that if the period for which collection is delayed exceeds six months, no application to collect may be made and the protection institution shall return the compensation amount to the protection fund account.

Article 11

These Regulations shall be enforced from the date of promulgation.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System