

Content

Title : Regulations Governing Responsible Persons and Associated Persons of Securities Investment Consulting Enterprises Ch

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Legislative : 1. Full text of 21 articles adopted and issued per 30 October 2004 Order No. Financial-Supervisory-Securities-IV-0930005157 of the Financial Supervisory Commission, Executive Yuan; for implementation from the date of issuance
2. Articles 2, 3, 5, 6, 7, 8, and 20 amended and issued, and Articles 3-1 and 5-1 added, per 20 September 2005 Order No. Financial-Supervisory-Securities-IV-0940004156 of the Financial Supervisory Commission, Executive Yuan
3. Articles 2, 5, 5-1, 7, 15, 16, and 20 amended and issued, and Articles 5-2 and 15-1 added, per 2 May 2008 Order No. Financial-Supervisory-Securities-IV-09700179632 of the Financial Supervisory Commission, Executive Yuan
4. Article 3 amended and issued per 11 October 2010 Order No. Financial-Supervisory-Securities-Firms-0990051567 of the Financial Supervisory Commission, Executive Yuan
5. Articles 5-1, 15, and 16 amended and Article 5-3 added per 20 December 2010 Order No. Financial-Supervisory-Securities-SITC-0990069311 of the Financial Supervisory Commission, Executive Yuan
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Content : Article 1

These Regulations are adopted pursuant to Article 69 of the Securities Investment Trust and Consulting Act ("the SITC Act").

Article 2

The term "responsible person" as used in these Regulations means a person who shall be held responsible under Article 8 of the Company Act or under any other law.

The term "associated person" as used in these Regulations means a person performing any of the following business operations for or on behalf of a securities investment consulting enterprise (SICE):

1. Providing analysis, opinions, or recommendations about matters relating to investment or trading in securities, securities-related products, or other items approved by the Financial Supervisory Commission (FSC).
2. Engaging in securities investment analysis activities, lecturing/teaching, or publishing.
3. Conducting research and analysis, investment decision-making, or trade execution for discretionary investment related business.
4. Promoting or soliciting business of discretionary investment or securities investment consulting.
5. Engaging in the public offering, sale, or private placement of an offshore fund.
6. Conducting internal audit.
7. Carrying out legal compliance practices.
8. Acting as in-charge accountant.

9. Conducting such other business operations as may be approved.

Article 3

A SICE shall have one general manager, who shall be responsible for the overall administration of the business operations of the entire company, and it may not have any other person in an equivalent position.

The general manager of a SICE shall possess one of the following qualifications:

1. Meets the securities investment analyst qualifications under Article 4, and also has 1 year or more of relevant work experience at a qualified institutional investor(s).
2. Is a graduate of a domestic or foreign school at the level of junior college or higher recognized by the Ministry of Education or has an equivalent level of education, and also has 4 or more years of relevant work experience at a qualified institutional investor(s), with a good performance record.
3. Has other academic or work qualifications sufficient to demonstrate possession of professional knowledge of securities and finance, operational experience, and leadership ability that would enable sound and effective operation of SICE business.

A person who, before the adoption and issuance of these Regulations, was already serving as the general manager of a SICE may continue to serve in the original position or for the duration of the original term, without being subject to the restrictions of the preceding paragraph.

Article 3-1

A department supervisor or branch unit manager of a SICE shall possess leadership ability and the ability to effectively assist in the operation of a SICE, and shall possess one of the following qualifications:

1. Meets the securities investment analyst qualifications under Article 4, and also has 1 year or more of relevant work experience at a qualified institutional investor(s).
2. Has passed an examination for associated persons of securities investment trust and consulting enterprises held by an institution engaged by the Securities Investment Trust and Consulting Association (SITCA), and also has 2 years or more of relevant work experience at a qualified institutional investor(s).
3. Has passed a senior securities specialist examination held by an institution engaged by a securities dealers association or has obtained certification of passage of such an examination issued by the former competent authority for securities, and also has 3 years or more of relevant work experience at a qualified institutional investor(s).
4. Has 2 years or more of work experience serving as a manager of domestic or foreign funds.
5. Is a graduate of a domestic or foreign school at the level of university or higher recognized by the Ministry of Education or has an equivalent level of education, and has served for 4 years or more as an associated person of one or more securities or futures institutions or trust enterprises.
6. Has other academic or work qualifications sufficient to demonstrate possession of professional knowledge of securities and finance, operational experience, and leadership ability.

A person who, before the issuance of these Regulations as amended, was already serving in a position referred to in the preceding paragraph may continue to serve in the original position or for the duration of the original term, without being subject to the restrictions of the preceding paragraph.

A person who is promoted or assigned to one of the positions referred to in paragraph 1 after the issuance of these Regulations as amended, shall possess or meet the qualifications set out in paragraph 1; those who do not meet those qualifications may not serve in that position, and the SITCA shall void the registration of that person.

Article 4

A person serving as a securities investment analyst of a SICE shall possess one of the following qualifications:

1. Has passed a qualification examination for securities investment analysts held by an institution engaged by the SITCA.
2. Is certified abroad as a securities analyst, has 2 years or more of practical experience, has passed an examination on laws and regulations (legal compliance) for associated persons of securities investment trust and consulting enterprises held by an institution engaged by the SITCA, and has been approved by the SITCA.
3. Has obtained certification as a securities investment analyst prior to 31 October 2004.

Matters relating to the examinations and approval referred to in subparagraphs 1 and 2 of the preceding paragraph shall be prescribed by the SITCA and implemented after ratification by the FSC; the same shall also apply to any amendments thereto.

Article 5

An associated person of a SICE conducting business activities set out in Article 2, paragraph 2, subparagraphs 1 to 5 shall possess one of the qualifications listed below, and an investment manager conducting discretionary investment business shall further meet the qualifications set out in Article 5-3:

1. Is qualified as a securities investment analyst in accordance with paragraph 1 of the preceding article.
2. Has passed an examination for associated persons of securities investment trust and consulting enterprises administered by an institution engaged by the SITCA.
3. Has passed a senior securities specialist examination held by an institution engaged by a securities dealers association or has obtained certification of passage of such an examination issued by the former competent authority for securities.
4. Has 1 year or more of work experience serving as a manager of domestic or foreign funds.
5. Has passed a professional examination on trust business held by a trust association or a professional financial training institute recognized by a trust association, and has also passed an examination, held by an institution engaged by the SITCA, on laws and regulations (legal compliance) pertaining to securities investment trust and consulting.
6. Is a graduate of a domestic or foreign school at the level of university or higher recognized by the Ministry of Education or has an equivalent

level of education, and has served for 3 years or more as an associated person of one or more securities or futures institutions or trust enterprises.

A SICE employee engaging in securities investment analysis in any mass media shall possess the qualifications in at least one of the subparagraphs of paragraph 1 of the preceding article.

Where a SICE employee who is already engaged in securities investment analysis in any mass media before the adoption and issuance of these Regulations does not comply with these Regulations, the employee shall achieve compliance within 3 years from the date of issuance hereof, or, failing which, the employee may not engage in securities investment analysis in any mass media.

A person who, in the position of associated person, was promoting, soliciting, or assisting in the conduct of discretionary investment business or securities investment consulting business before the issuance of these Regulations as amended, shall obtain one of the qualifications set out hereunder within 2 years following the date of amendment and issuance, failing which the person may not serve in that position, and the SITCA shall void the registration of that person.

Article 5-1

An associated person of a SICE who performs an internal audit or legal compliance function shall possess one of the following qualifications:

1. Is qualified as a securities investment analyst in accordance with Article 4, paragraph 1.
2. Has passed an examination for associated persons of securities investment trust and consulting enterprises administered by an institution engaged by the SITCA, and has 1 year or more of securities, futures, or trust-related work experience at a qualified institutional investor(s).
3. Has passed a senior securities specialist examination held by an institution engaged by a securities dealers association or has obtained certification of passage of such an examination issued by the former competent authority for securities, and also has 2 years or more of securities, futures, or trust-related work experience at a qualified institutional investor(s).
4. Has 1 year or more of work experience serving as a manager of domestic or foreign funds.
5. Is a graduate of a domestic or foreign school at the level of university or higher recognized by the Ministry of Education or has an equivalent level of education, and has served for 3 years or more as an associated person of one or more securities or futures institutions or trust enterprises.
6. Is a graduate of a domestic or foreign school at the level of university or higher recognized by the Ministry of Education or has an equivalent level of education, and has 2 years or more of audit work experience at a joint CPA firm meeting the conditions required by the Regulations Governing Approval of Certified Public Accountants to Audit and Certify Financial Reports of Public Companies, and also has passed the examination specified in subparagraph 2 or 3.
7. Possesses the qualifications in Article 5, subparagraph 1 or 2 of the Regulations for the Senior Examination for Professional and Technical

Personnel: Lawyer, and has 2 years or more of legal work experience in the field of securities or futures at a law firm, and also has passed the examination specified in subparagraph 2 or 3.

The definition "qualified institutional investor" as referred to in Articles 3, 3-1, and subparagraphs 2 and 3 of the preceding paragraph, and their scope of its work, shall be as announced by the FSC.

A SICE employee engaging in internal audit business may not engage in any business outside the scope of his/her registered work activities. Notwithstanding the foregoing, the position of internal auditor for securities investment consulting business that is concurrently operated by an enterprise in another line of business may be concurrently held by a registered internal auditor of such enterprise.

Article 5-2

A chief compliance officer shall possess the qualifications specified in Article 3-1, paragraph 1 and be assigned a position at a level at least equivalent to department supervisor.

No person conducting any of the business operations of a SICE under Article 2, paragraph 2, subparagraphs 1 to 6 and subparagraph 9 may concurrently hold a position in the SCIE to conduct the business operations of legal compliance.

A chief compliance officer or associated person who fails to meet the specified qualification requirements or to comply with restrictions on concurrent holding of positions shall correct the failure by 30 June 2008, failing which, such a person may not serve in that position and the SITCA shall void the registration of that person.

Article 5-3

An investment manager of a SICE conducting discretionary investment business shall possess one of the qualifications set out in Article 5-1, paragraph 1, subparagraphs 1 to 5.

Article 6

Unless otherwise provided by a law or regulation, the general manager, department supervisors, branch unit managers, and associated persons of a SICE shall serve as full-time employees. Before such personnel begin performing their duties, they shall be registered with the SITCA by the employing SICE; no such person may engage in business unless they have been registered.

Registration under the preceding paragraph shall be prohibited under any of the following circumstances; if registration has already been made, it shall be voided:

1. Any circumstance set out in Article 68 of the SITCA Act.
2. Failure to meet the qualification requirements set out hereunder.
3. Violation of Article 7.

Article 7

The general manager of a SICE may not concurrently serve as a supervisor of a department dedicated to discretionary investment business, a discretionary investment manager, or a trading decision maker for discretionary futures trading.

Where an enterprise in another line of business concurrently conducts securities investment consulting business or discretionary investment business, the supervisory and associated persons of the department

dedicated to such business, established as required by law, may not handle business beyond the scope of the dedicated department, nor may their functions be performed by any department supervisor or associated person, unless the requirements of paragraphs 3 to 5 are met..

Where an enterprise in another line of business concurrently conducts discretionary investment business, the associated persons engaged in investment or trading decision-making for that business may serve concurrently as personnel engaged in investment or trading decision-making with respect to private placement of securities investment trust funds, offering of futures trust funds to persons meeting certain eligibility requirements, or discretionary futures trading.

When an enterprise in another line of business concurrently conducting discretionary investment business meets the following requirements, the associated persons engaged in investment or trading decision-making for that business may serve concurrently as personnel engaged in securities investment analysis for its concurrently conducted securities investment consulting business, and vice versa:

1. The customers of the discretionary investment business or securities investment consulting business are qualified institutional investors as specified in Article 4, paragraph 2 of the Financial Consumer Protection Act.
2. The internal control system of the enterprise has already adopted operational directions for effective prevention of conflict of interests in order to ensure fair treatment of all clients.

Personnel engaging in securities investment analysis in an enterprise in another line of business that concurrently conducts securities investment consulting business, or personnel engaging in investment or trading decision-making in an enterprise in another line of business that concurrently conducts discretionary investment business, if they meet the requirements of Article 8, paragraph 6 of the Regulations Governing Responsible Persons and Associated Persons of Securities Investment Trust Enterprises, may serve concurrently as personnel engaged in investment or trading decision-making in connection with the offering of securities investment trust funds, and vice versa.

If the SICE currently operates securities investment trust business, none of its associated persons may concurrently engage in securities investment analysis while performing a function empowered to make investment or trading decisions for the currently operated securities investment trust business, or vice versa, unless the requirements of Article 8, paragraph 6 of the Regulations Governing Responsible Persons and Associated Persons of Securities Investment Trust Enterprises are met.

Unless otherwise provided by a law or regulation, a director, supervisor, or managerial officer of a SICE may not invest in another SICE, or concurrently serve as a director, supervisor, or managerial officer of another SICE, or of a securities investment trust enterprise (SITE) or securities firm.

Article 8

A SICE director or manager who serves as a department supervisor, or who directly performs the functions of an associated person, shall obtain or possess one of the qualifications set out in these Regulations concerning

department supervisors or associated persons.

Article 9

A SICE shall register any change in personnel specified in Article 6 with the SITCA within 5 business days from the day following such change. Before completing registration of the change, the SICE shall remain liable for conduct of that person.

Article 10

The particulars to be registered with respect to the responsible persons, department supervisors, branch unit managers, and associated persons of SICEs shall be prescribed by the SITCA and implemented after ratification by the FSC; the same shall also apply to any amendments thereto.

Article 11

If a manager or associated person of a SICE takes leave, is suspended from performance of business duties, or is absent due to any other cause, the SICE shall appoint a person with equivalent qualification to act as the deputy thereof; such person may not violate any provision of Article 7. With respect to deputations referred to in the preceding paragraph, the SICE shall prepare a special registry to record the reasons and periods of deputations as well as the names and duties of deputies, to be kept on file for future reference.

Article 12

Associated persons of a SICE shall participate in pre-job training and on-the-job training held by an institution(s) designated by the FSC or the former Securities and Futures Commission, Ministry of Finance.

Article 13

A person newly employed as associated person of a SICE, or one who has been re-employed as such after departing for 2 years or more, shall participate in pre-job training within one-half year of commencing work; those already on the job shall participate on-the-job training during the term of their employment.

Article 14

A person who fails to attend the training required under Article 12, or who fails to pass the training and undergoes the training again within 1 year but still fails to pass, may not serve in the position of associated person, and the SITCA shall void the associated person registration of that person.

Article 15

A responsible person, department supervisor, branch unit manager, associated person, or any other employee of a SICE shall exercise the care and fiduciary duty of a good-faith administrator, and abide by principles of good faith and integrity, in performing his or her duties.

Unless otherwise provided by a law or regulation, a person referred to in the preceding paragraph may not engage in any of the following conduct:

1. Using fraud, coercion, or other improper means in connection with the signing of mandate contracts.
2. Acting as another person's agent in activities involving investment in securities or trading in securities-related products.
3. Stipulating that gains or losses from securities investments will be shared with a customer.
4. Trading in the same securities as those recommended by the SICE to an

investor, except in the case of a securities investment trust fund or an offshore fund.

5. Engaging in false or deceptive conduct, rude invective, or other conduct obviously contrary to facts or sufficient to cause mistaken belief by another.

6. Engaging in borrowing or lending of funds or securities with a customer, or acting as an intermediary in such a transaction.

7. Keeping custody of or misappropriating a customer's securities, funds, personal stamp, or passbook.

8. Intending to seek gain for oneself, another customer, or a third party through the use of investment analyses or recommendations, publications, or lectures that were made, issued, or given for a customer.

9. Divulging a matter entrusted by a customer or other secret learned in the course of performing duties, except in answer to an inquiry undertaken in accordance with the law.

10. Consenting or tacitly consenting to let another person use the name of the company or any of its associated persons to do business.

11. Transmitting by any means a message to a customer containing trading recommendations lacking a reasonable analytical basis or source data.

12. Making determinations or forecasts of the future price of a specific security, or making trading recommendations for specific securities without providing a reasonable analytical basis, to unspecified persons in a public venue or through a mass media other than radio or television.

13. Performing investment analyses for investors by means such as divination or appeals to spirits.

14. Encouraging or inducing others through writing, pictures, speech, or any other method to refuse to perform settlement obligations for securities investment or trading, to assemble and protest, or engage in other acts that would disturb the order of trading markets.

15. Using non-full-time personnel to solicit customers, or providing unreasonable commissions.

16. Conducting securities investment analysis activities or other business activities under a name other than one's actual name (under an alias).

17. Providing a securities investment consulting service as a form of gift.

18. Conducting business operations at a place of business not registered for such purposes.

19. Any other conduct in violation of securities and futures laws and regulations or prohibited by rules of the FSC.

Article 15-1

A responsible person, a department supervisor, a branch unit manager, a staff member who provides analysis/opinions or recommendations/suggestions to customers or unspecified persons, an investment manager, or an employee having knowledge of relevant securities investment information, of a SICE shall report to the employing SICE on the circumstances in which and if such a person, the person's spouse or minor child, or a nominee through whom the person holds shares, has traded in corporate stocks or equity derivatives.

The scope of information to be reported pursuant to the preceding paragraph, and of eligible investment instruments, and any amendments thereto, shall be determined by the SITCA and submitted to the FSC for

approval.

Article 16

A responsible person, department supervisor, branch unit manager, associated person, or any other employee of a SICE may not engage in any of the following conduct when engaging in business advertising or publicly holding securities investment analysis activities:

1. Providing programs on securities investment analysis through mass media in violation of any provision of Article 15.
2. Using deception or other improper means to induce an investor to participate in a securities investment analysis activity for the purpose of soliciting customers.
3. Making unsubstantiated advertising claims that the performance, content, or methods of its own securities investment services are superior to those of others.
4. Revealing in advertising only matters advantageous to the SICE, or other types of exaggerated presentation of content.
5. Using advertising that will cause a mistaken belief that the SICE offers discretionary investment services when the SICE has not yet received approval to conduct such business.
6. Making representations guaranteeing that investments will be profitable or that the SICE will bear losses.
7. Engaging in advertising to solicit customers at the same time as engaging in investment analysis via mass media.
8. Engaging in conduct involving conflicts of interest, fraud, misrepresentation, or the intent to influence securities market prices.
9. Making judgment or forecasts about future prices of specific securities.
10. Making recommendations or soliciting unspecified persons to trade in a specific security over radio or television during the trading hours of the centralized securities exchange market or an over-the-counter market, or within one hour before or after trading hours.
11. Using radio or television at any time outside the period prescribed in the preceding subparagraph to provide analytical opinions to unspecified persons on the industry or on the operations or finances of a company connected with a specific security, or to make recommendations for trading in any specific security, without providing reasonable analytical basis for judgments.
12. Failing to provide a reasonable analytical basis for judgments about securities market prices, market analysis, or industry trends.
13. Using collusion among major investors, group speculation, insider information, or other improper or unlawful information in appeals to solicit customers or as the basis for recommending specific securities.
14. Using letters of recommendation, letters of thanks, records of past performance, or any other similar text or representation likely to cause a belief in the certainty of profit.
15. Failing to list the company's registered name, address, telephone number, or business license number in written documents produced for the purpose of promoting business.
16. Holding securities investment analysis activities or producing written or electronic documents in the name of an associated person, internal research department, or other name other than that of the SICE.

17. Violating the SITCA code of conduct for advertising and promotional activities.

The code of conduct referred to in subparagraph 17 of the preceding paragraph shall be prescribed by the SITCA and implemented after ratification by the FSC; the same also applies to any amendments thereto.

Article 17

If a responsible person or associated person of a SICE is suspected of violating the SITC Act or any other applicable law or regulation, or if there is any inquiry about such person's performance of duties, he/she shall appear before the FSC to give explanations or provide a written report within the period specified by the FSC.

Article 18

Responsible persons, associated persons, and other employees of SICEs are also prohibited from doing, in the course of exercising their duties, any act that an enterprise is prohibited from doing under Article 59 of the SITC Act or under any other act, regulation, or contract.

Acts done by responsible persons, associated persons, and other employees of SICEs when conducting securities investment consulting business, discretionary investment business, and other relevant business as approved by the FSC, where civil liability is involved, are presumed to be acts within the scope of the authorization by the enterprise.

Article 19

Where a responsible person or associated person of a SICE has done any of the following, the FSC will give the person a reward or commendation:

1. Made significant accomplishments contributing to the sound administration and development of securities investment consulting business and discretionary investment business, and promoted integrated management in the asset management services market.
2. Done research writing that contributed creative ideas regarding the development of securities investment consulting business or the execution of securities investment consulting business, and the ideas have been adopted and implemented.
3. Reported illegality in the market which has been proved to be true.
4. Made concrete achievements through zealous service of the public interest and the exercise of team spirit.
5. Other achievements that merit commendation.

Article 20

Where an enterprise in another line of business concurrently conducts securities investment consulting business or discretionary investment business, the department supervisors and associated persons, except for the internal audit officer, of such enterprise who engage in business specified in Article 2, paragraph 2, subparagraphs 1 to 7 shall possess the qualifications set out in these Regulations.

Unless otherwise provided by another law, where an enterprise in another line of business concurrently conducts securities investment consulting business or discretionary investment business, the provisions of Article 6, and Article 8 up to the preceding article, apply mutatis mutandis to the department supervisors and associated persons of such enterprise who engage in business specified in Article 2, paragraph 2, subparagraphs 1 to 7.

Article 21

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

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System