

Content

Title : Regulations Governing Concurrent Conduct of Trust Business by Securities Investment Trust Enterprises, Securities Investment Consulting Enterprises, and Securities Firms **Ch**

Date : 2009.12.18

Legislative : 1.Promulgated on October, 02, 2008
2.Amended on December 18, 2009

Content : Article 1

These Regulations are enacted pursuant to Paragraph 3, Article 3 of Trust Enterprise Act (referred to as the “Act” hereunder).

Article 2

In concurrently conducting specific types of trust business pursuant to Paragraph 2, Article 3 of the Act, securities investment trust enterprises (SITEs), securities investment consulting enterprises (SICEs), or securities firms shall observe the provisions of Securities Investment Trust and Consulting Act, Securities and Exchange Act, Trust Act, and other applicable laws and regulations, and in addition, the Act and these Regulations.

Article 3

For the businesses it may engage in under the Securities Investment Trust and Consulting Act, a SITE or SICE may apply to the Competent Authority for approval to conduct concurrently trust of money and trust of securities businesses and operate its trust-type discretionary investment business.

The “certain criteria” mentioned in Paragraph 2, Article 3 of the Act means a SITE or SICE operating its discretionary investment business under a trust and accepting initial trust assets of more than NT\$10,000,000 in value from a trustor; the initial trust assets include the amount of beginning investment and the amount of additional investment for the discretionary account.

For the businesses it may engage in under the Securities Investment Trust and Consulting Act and Securities and Exchange Act, a securities firm may apply to the Competent Authority for approval to conduct concurrently trust of money and trust of securities businesses and operate specific types of business provided below:

1. Trust-type discretionary investment business;
2. Trust-type wealth management business; and
3. The business of trust-type custody and investment of funds on behalf of customers.

Article 4

A SITE, SICE, or securities firm that applies for approval to conduct concurrently specific types of trust business shall meet the following requirements:

1. A SITE, SICE, or securities firm that applies for approval to conduct trust-type discretionary investment business shall meet the following requirements:

(1) Having been approved by the Competent Authority to operate mandate-type discretionary investment business pursuant to the Securities Investment Trust and Consulting Act and the business permit has not been revoked by the Competent Authority; and

(2) SITEs and SICEs shall meet the qualification requirements for conducting such business set forth in the Regulations Governing the Conduct of Discretionary Investment Business by Securities Investment Trust Enterprises and Securities Investment Consulting Enterprises. Securities Firms shall meet the qualification requirements to conduct such business set forth in the Standards Governing the Establishment of Securities Investment Consulting Enterprises.

2. A securities firm that applies for approval to conduct trust-type wealth management business shall meet the qualification requirements for such business set forth in the Directions for the Conduct of Wealth Management Business by Securities Firms.

3. A securities firm that applies for approval to conduct the business of trust-type custody and investment of funds on behalf of customers shall meet the qualification requirements for such business set forth in the Regulations Governing Custody and Investment of Funds by Securities Firms on Behalf of Customers.

4. Having not been ordered to take corrective measures or improve within the specified period of time in accordance with Article 44 of the Act in the past half a year.

5. Having not been subjected to disciplinary actions provided in Subparagraph 1, 2, or 3, Article 44 of the Act in the past two years.

A SITE, SICE, or securities firm that does not meet the requirement set forth in subparagraph 4 or subparagraph 5 of the preceding paragraph is not restricted by the provisions in those two paragraphs, provided it has made improvement and is able to show concrete evidence of improvement.

Article 5

A SITE, SICE, or securities firm that applies for approval to conduct concurrently specific types of trust business shall prepare an application and submit it together with the following documents to the Competent Authority for approval:

1. For SITEs, SICEs, or securities firms that apply for approval to conduct trust-type discretionary investment business:

(1) SITEs and SICEs shall submit application documents required for conducting such business under the Regulations Governing the Conduct of Discretionary Investment Business by Securities Investment Trust Enterprises and Securities Investment Consulting Enterprises. Securities firms shall submit application documents required for conducting such business under the Standards Governing the Establishment of Securities Investment Consulting Enterprises;

(2) Documents evidencing compliance with the requirements set forth in Subparagraph 1, Paragraph 1 of the preceding article.

2. A securities firm that applies for approval to conduct trust-type wealth management business shall submit qualification documents evidencing compliance with the requirements set forth in Subparagraph 2, Paragraph 1 of the preceding article and application documents required for conducting such business under the Directions for the Conduct of Wealth Management

Business by Securities Firms.

3. A securities firm that applies for approval to conduct the business of trust-type custody and investment of funds on behalf of customers shall submit qualification documents evidencing compliance with the requirements set forth in Subparagraph 3, Paragraph 1 of the preceding article and application documents required for conducting such business under the Regulations Governing Custody and Investment of Funds by Securities Firms on Behalf of Customers.
4. A statement of undertaking declaring compliance with the provisions in Subparagraphs 4 and 5, Paragraph 1 of the preceding article.
5. A business plan.
6. A template of trust agreement.
7. A name list of business personnel operating and managing the trust business and documents evidencing their qualifications.
8. Other documents as required by the Competent Authority.

Article 6

A SITE, SICE, or securities firm that applies for approval to conduct concurrently specific types of trust business shall, with six (6) months from the date of approval by the Competent Authority, apply for replacement of business license or permit in accordance with the Securities Investment Trust and Consulting Act or the Securities and Exchange Act, and complete the registration of new business items via the online filing system of the Competent Authority or a website designated by the Competent Authority. Before making such registration, the SITE, SICE, or securities firm shall have its president (general manager) and chief compliance officer double check to make sure the registered items conform to regulatory requirements. The SITE, SICE, or securities firm shall also submit to the Competent Authority a letter of consent for membership enrollment issued by the Trust Association of the R.O.C. (referred to as “the Association” hereunder) and a document evidencing the posting of a reserve fund in accordance with Article 34 of the Act before it may start the business.

Where the SITE, SICE, or securities firm fails to make registration within the time limit specified in the preceding paragraph, the Competent Authority may revoke the permit for the SITE, SICE or securities firm to conduct concurrent trust business. However, the time limit may be extended once, provided the SITE, SICE, or securities firm has justified reasons and submits an application for extension prior to the expiration of the time limit, and that such extension may not exceed six (6) months.

Article 7

A securities firm that has been approved by the Competent Authority to conduct specific types of trust business provided in Subparagraph 2 or Subparagraph 3, Paragraph 3 of Article 3 herein may submit the following documents to the Competent Authority to apply for permission for its established branches to accept trust assets from customers:

1. Application documents required for such business under the Directions for the Conduct of Wealth Management Business by Securities Firms or the Regulations Governing Custody and Investment of Funds by Securities Firms on Behalf of Customers; and
2. Namelist of branch business personnel for operating and managing the trust business and their qualification documents

The securities firm that makes the application mentioned in the preceding paragraph shall, with six (6) months from the date of approval by the Competent Authority, apply for replacement of business permit for its branches in accordance with the Securities and Exchange Act, and complete the registration via the online filing system of the Competent Authority or a website designated by the Competent Authority for the new business of handling the trust business of the head office's trust department as approved by the Competent Authority. The securities firm shall have its president (general manager) and chief compliance officer double check before making such registration to make sure the registered items conform to regulatory requirements and file the same with the Competent Authority before it may start the business.

Where the securities firm fails to make registration within the time limit specified in the preceding paragraph, the Competent Authority may revoke the permit for such business. However, the time limit may be extended once, provided the securities firm has justified reasons and submits an application for extension prior to the expiration of the time limit, and that such extension may not exceed six (6) months.

The Competent Authority shall reject the application made by a securities firm in Paragraph 1 hereof if the application has any of the following situations:

1. The application does not conform to the provisions in Article 8 of the Act herein.
2. The applicant's conduct of trust business has been ordered by the Competent Authority to take corrective measures, but the applicant has failed to comply accordingly and the non-compliance is of serious nature.
3. There are other facts indicating that the applicant's sound business operation might be affected, or the application does not meet the requirements of a financial policy.

Article 8

A SITE, SICE, or securities firm that conducts concurrently specific types of trust business shall conform to the following provisions in addition to other regulatory requirements with respect to the risk management of its trust business:

1. A department dedicated to the trust business should be set up to take charge of the management, use and disposal of trust assets and accept trust assets from customers. Unless it is otherwise approved by the Competent Authority, the trust business that branches of the SITE, SICE, or securities firm may engage in shall be limited to the acceptance of trust assets, whereas the management, use and disposal of trust assets shall be centrally handled by the dedicated department;
2. The accounting of the trust business shall be incorporated into the accounting of trust accounts;
3. For the trust business, the dedicated department or branches should post a sign in a conspicuous manner at the business counter and fully inform the customers of the following:
 - (1) The trustee will provide the trust services with the care of a good administrator and in good faith; and
 - (2) The trustee does not guarantee the results of trust asset management or investment that the trustor or the beneficiary is solely responsible for

the profit or loss of the trust;

4. The business place of the dedicated trust department shall be segregated from other departments;
5. The co-selling activities, sharing of information, and sharing of business facilities and business place between the trust business and other businesses of the company shall not free of conflict of interest or other situations that could harm the interests of customers;
6. Unless it is otherwise provided by law or the Competent Authority, the trust business personnel shall keep confidential the customers' correspondence and transaction information and keep such information from the personnel of other departments as well; and
7. Internal rules shall be established in reference to the Rules for the Risk Management of Trust Business of Banks drawn up by the Association and approved by the Competent Authority.

The dedicated trust department set up by a SITE, SICE, or securities firm according to the preceding paragraph to operate the trust-type discretionary investment business may be incorporated into an independent, dedicated department set up to operate the mandate-type discretionary investment business in accordance with the Regulations Governing the Conduct of Discretionary Investment Business by Securities Investment Trust Enterprises and Securities Investment Consulting Enterprises.

The dedicated trust department set up by a securities firm according to Paragraph 1 hereof to operate the trust-type wealth management business or the business of trust-type custody and investment of funds on behalf of customers may be incorporated into an independent, dedicated department set up to operate the wealth management business in accordance with Directions for the Conduct of Wealth Management Business by Securities Firms.

Article 9

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Article 10

A SITE, SICE, or securities firm that conducts concurrently specific types of trust business shall put the trust assets delivered by the trustors under the custody of a trust company or a bank concurrently conducting trust business that has a credit rating of a certain level or above from a credit rating agency sanctioned by the Competent Authority.

The trust assets of a securities firm that conducts trust-type wealth management business or the business of trust-type custody and investment of funds on behalf of customers shall be exempted from the requirement of putting under the custody of a trust company or a bank mentioned in the preceding paragraph. In the case the trust asset is money, the money shall be deposited in a dedicated account at a bank that meets the criteria set forth in the Directions for the Conduct of Wealth Management Business by Securities Firms or the Regulations Governing Custody and Investment of Funds by Securities Firms on Behalf of Customers and under the name of the trust asset.

Article 11

A SITE, SICE, or securities firm that conducts concurrently specific types of trust business shall produce balance sheets, inventory of trust assets and income statement for its trust accounts once every half fiscal year in accordance with the Principles of Accounting for Trust Enterprises and the

deadline set forth in Paragraph 1, Article 17 of the Enforcement Rules of the Trust Enterprise Act, and submit the same to the Association. The Association will compile those statements and report them to the Competent Authority and post them on the website of the Association.

Article 12

A SITE, SICE, or securities firm that conducts concurrently specific types of trust business shall follow Article 19 of the Act as well as relevant provisions in the Regulations Governing the Conduct of Discretionary Investment Business by Securities Investment Trust Enterprises and Securities Investment Consulting Enterprises, the Directions for Conduct of Wealth Management Business by Securities Firms or the Regulations Governing Custody and Investment of Funds by Securities Firms on Behalf of Customers with respect to clauses to be included in the trust agreement signed with the customers.

Article 13

If the business or financial conditions of a SITE, SICE, or securities firm that conducts concurrently specific types of trust business deteriorate so significantly that it might not be able to pay its debts or that the interests of trustors or beneficiaries might be adversely affected, the Competent Authority may revoke the permit for the SITE, SICE or securities firm to conduct concurrently trust business.

If a SITE, SICE, or securities firm that conducts concurrently specific types of trust business becomes unable to continue the business due to dissolution, close-down, suspension of business, or revocation or repeal of permit, the SITE, SICE, or securities firm shall contact other trust enterprises to assume its trust business, subject to the approval of the Competent Authority.

The assumption of trust business (by another trust enterprise) mentioned in the preceding paragraph shall be agreed upon in the trust agreement and consult the opinion of the beneficiaries. Where a beneficiary dissents to the assumption of trust business or does not indicate assent or dissent, the trust agreement signed with the beneficiary is deemed terminated.

Article 14

These Regulations shall be in force on the date of promulgation.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System