

Content

Title : Directions Governing Application Documents and Review Criteria for Approval of Foreign Financial Holding Company **Ch**

Date : 2005.07.07

Legislative : 1.Promulgated on January, 07, 2003
2.Amended per order Jin-Guan-Yin-(VI)-No. 0946000401 dated July 7, 2005

Content : 1. These Directions are adopted regarding the application documents and review criteria for approval of foreign financial holding company under Article 23 of the Financial Holding Company Act (hereinafter called the "Act").
2. In order to own more than 25 percent of the total issued voting shares or registered capital of a bank, insurance company, or securities firm in the ROC, a foreign financial holding company (including foreign institutions already having banking operations) or a foreign financial institution already having cross-industry operations in its home country (collectively, "foreign financial holding company"), shall apply for approval from the Competent Authority in accordance with these Directions. A foreign financial holding company may make application through a wholly-owned, special-purpose subsidiary established for purposes of making investment described in the preceding paragraph or a bank, insurance company or securities firm in which it has controlling interest.
3. A foreign financial holding company that meets the following criteria may apply to the competent authority for approval in accordance with these Directions:
(1) Free of the record of material violation in the past five years;
(2) Having sufficient experience in operating and managing a financial holding company and having outstanding reputation;
(3) Having sound financial and business operations and management capabilities;
(4) Having adequate capital;
(5) The competent financial authority in the foreign financial holding company's home country and the head office of the foreign financial holding company have the capacity to supervise the subsidiary in the ROC on a consolidated basis; and
(6) The competent financial authority in the home country has consented to its application for approval as a foreign financial holding company in the ROC and its investment in a subsidiary located in the ROC, and consented to cooperate with the Competent Authority in the ROC in sharing responsibility for the task of joint financial supervision and administration.
4. For the purpose of applying for approval, a foreign financial holding company shall submit the following documents in duplicate to the competent authority:
(1) Application form (see Attachment 1 for format).
(2) Basic information on the foreign financial holding company, including:
a. Organization: position within the group organization to which it belongs

(including an organization chart), brief history, and organization of each key department; explanation of the shareholding situation and business conditions at its affiliated enterprises worldwide, network, holding company, and subsidiaries and measures for the supervision and management of subsidiaries.

- b. Business introduction: including businesses and professional characteristics, and a comparative analysis of its assets, liabilities, profits, and losses for the past three years.
- c. Ranking in the international financial market by capital or assets in the previous year, and credit rating by a globally recognized rating agency.
- d. Names and background data of key responsible officers and major shareholders, names and background data of shareholders holding 10% or more interest and the ten largest shareholders.
- e. Introduction of home country, including assessment of home country's sovereign risk by reputable professional journals or reports; the home country's financial system, the name, duties and scope and timing of financial examination by the home country's competent financial authority; deposit insurance system or guarantee system for investing institutions, and administrative control measures for foreign exchange transactions and inward/outward fund remittance adopted by home country's competent financial authority.

(3) Documentation that the capital adequacy ratio based on the consolidated financial statements of the group or the stand-alone financial statements of the corporation in the latest fiscal half-year complies with the ROC capital adequacy requirements, or explanation that it is equivalent to the ROC capital adequacy requirements, with certificate of authentication.

(4) Financial statements and consolidated financial statements for the past 3 years, and up to the most recent period, audited and certified by a certified public accountant (CPA), with certificate of authentication.

(5) A self-assessment of business compliance and soundness, including whether there are instances of violation of home country's financial regulations, fraud or discipline by the home country's competent financial authority in the past five years.

(6) Minutes of the board of directors meeting that approved its application for permission as a foreign financial holding company in the ROC, and its investment in a subsidiary located in the ROC or equivalent documentation, with certificate of authentication.

(7) Documents evidencing the consent of the competent financial authority in the home country to the company's application for approval as a foreign financial holding company in the ROC, and consent to its investment in a subsidiary located in the ROC

(8) Documents evidencing that the competent financial authority in the home country is willing to cooperate with the ROC to share the responsibility of joint supervision and administration of the company and exchange supervision information, and documents evidencing the soundness of the company's finance and business.

(9) Letter of undertaking confirming the ability to effectively provide for the liquidity and financial support of the invested ROC financial institution, and an undertaking to perform the obligations under Articles

53, 55, and 56 of the Financial Holding Company Act.

(10) The operational, financial and investment plans in the ROC, including:

a. Investment and financial plan: Shares of the target financial institution in the ROC to be acquired, the trading structure and sources of funding (explain whether it will be own funds or funds borrowed from third parties).

b. Operational plan: The operations strategies and management plan for the invested financial institution in the ROC (including risk management system and planning for the management team), measures for protecting the interests of employees, projected balance sheet and income statement for the next three years (and describe the basis for the projections), measures to be adopted for fulfilling the obligations under Articles 53, 55 and 56 of the Act, and emergency capital raising plan.

c. Assessment of the effects on ROC financial market competitiveness and advancement of the public interest.

(11) The power of attorney or authorization letter issued by the company's responsible officer if an attorney or certified public accountant is entrusted to handle the application.

(12) Document evidencing the qualification of a juristic person, and copy of the financial holding company license issued by the competent financial authority in the home country or other evidentiary documentation, with certificate of authentication.

(13) A Foreign Financial Holding Company Permission Review Form prepared by an attorney or CPA (see Attachment 2 for format).

(14) Power of attorney issued to designate a litigious and non- litigious agent in the ROC, with certificate of authentication.

(15) The Declaration of Foreign Financial Holding Company's Litigious and Non-litigious Agent in Taiwan (see Attachment 3 for format).

(16) If the application for permission by the foreign financial holding company constitutes a combination of enterprises under Article 6 of the Fair Trade Act, documentation evidencing permission by the Fair Trade Commission, Executive Yuan.

(17) Other documents required by the Competent Authority.

Where the information recorded in the documents required under the preceding paragraph is incomplete or insufficient, the application shall be rejected; if the deficiency can be supplemented or corrected, but correction is not made by the time limit given by the Competent Authority, the application shall be rejected.

Certificates of authentication for documents or forms under paragraph 1 shall be executed by a notary public or ROC consulate in the company's home country.

5. If a foreign financial holding company invests in an ROC financial institution whose capital adequacy does not meet the prevailing requirements set forth by the competent authorities of the respective industry, the foreign financial holding company shall consider whether it can improve the business operations of the invested ROC financial institution within the reasonable timeframes provided in the operational, financial, and investment plans under subparagraph 10, paragraph 1 of Point 4 herein.

6. Where a foreign financial holding company has any of the following

circumstances, its litigious and non-litigious agent in the ROC shall on its own initiative report such circumstance to the Competent Authority together with the reasons and relevant information:

- (1) It has dissolved, or suspended business operations.
- (2) An event of reorganization, liquidation, or bankruptcy has occurred.
- (3) A material change in the financial system or administrative laws or regulations of the home country.
- (4) A change of name, or of the location of the head office.
- (5) Change in chairperson or general manager.
- (6) Assignment of 10 percent or more of shareholding in the company, change in equity ownership structure, or change of 10 percent or more in capitalization.
- (7) Merger or consolidation, or assignment, or acquisition of all or a material part of its assets or business.
- (8) Major equity investment or transaction in the ROC.
- (9) Major loss or foreseeable major loss.
- (10) Material litigation.
- (11) Material change in operational or management policy.
- (12) Material regulatory violation, or revocation of its business license/permit by the home country regulator.
- (13) Any other material event.

If any institution under the group to which a foreign financial holding company belongs has any of the circumstances in subparagraphs 7 through 13 of the preceding paragraph, its litigious and non-litigious agent in the ROC shall on its own initiative report such circumstance to the Competent Authority together with the reasons and relevant information.

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System