

## Content

Title : Regulations Governing Securities Investment and Futures Trading in Taiwan by Mainland Area Investors(99.10.06) [Ch](#)

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Content :

### Chapter I General Provisions

#### Article 1

These Regulations are adopted in accordance with Article 73, paragraph 3 of the Act Governing Relations Between Peoples of the Taiwan Area and the Mainland Area ("the Act").

#### Article 2

The term "Competent Authority" in these Regulations means the Financial Supervisory Commission, Executive Yuan.

#### Article 3

Mainland area investors that engage in securities investment or futures trading in Taiwan shall be limited to the following persons:

1. A qualified institutional investor approved by the competent authority of the securities industry for the mainland area ("Institutional Investor").
2. An employee who has been allotted securities by an exchange-listed or OTC-listed company in accordance with laws and regulations and has household registration in the mainland area ("Mainland Area Employee").
3. A shareholder, duly organized and registered in or with household registration in the mainland Area ("Mainland Area Shareholder"), of a juristic person that is duly organized and registered pursuant to foreign laws and the stock, or the certificates representing the stock, of which are listed for trading on the Taiwan Stock Exchange Corporation (TWSE) or the Taipei Exchange (TPEx).
4. Other persons approved by the Competent Authority.

#### Article 4

A mainland area investor engaging in securities investment or futures trading shall appoint a Taiwan agent(s) or representative(s) to undertake matters such as registering and opening accounts for trading in securities or futures; applying for exchange, conversion, or subscription of shares for corporate bonds in the Taiwan area; exercising rights in purchased

securities; exercising rights related to futures trading; applying for foreign exchange conversion settlement ("exchange settlement"); filing tax returns and paying taxes; and other related litigious and non-litigious matters.

The qualification requirements for the agent or representative in the preceding paragraph shall be as follows:

1. Agent:

A. Natural person: Shall have legal capacity. If the natural person is an overseas compatriot or a foreign national, he must be living within the Taiwan area and possess an overseas compatriot ID card or an Alien Resident Certificate.

B. Juristic person: Shall be established in accordance with laws and regulations in the Taiwan area, and be duly qualified to act as an agent.

C. Foreign juristic person: Shall have established a branch company within the Taiwan area, and be duly qualified to act as an agent.

2. Representative: Shall be the representative at a representative office established in the Taiwan area, or be the responsible person at a branch office.

If an agent is either a juristic person or a foreign juristic person as specified in subparagraph 1, items 2 and 3 of the preceding paragraph, a natural person shall be designated to carry out the agent services.

## Article 5

When a mainland area investor that engages in securities investment or futures trading retains or appoints an agent or representative in the Taiwan area to file tax returns and pay taxes, the mainland area investor shall fill out an evidentiary document for such retention or appointment in advance, and submit it for the approval of the competent tax authority; and the investor shall do the same when there is any change of agent or representative.

When a mainland area investor applies for exchange settlement of earnings derived from securities investments or futures trading, the agent or representative in the Taiwan area shall carry out exchange settlement in accordance with applicable foreign exchange-related laws and regulations, by submitting either the evidentiary document under the preceding paragraph that has been approved by the tax authorities, or a tax payment certificate issued by the competent tax authority.

The format of the evidentiary document under paragraph 1 shall be prescribed by the Ministry of Finance.

If any information filed or evidentiary document submitted by an agent or representative in the Taiwan area under these Regulations contains any misrepresentation, the matter shall be handled in accordance with the applicable provisions of these Regulations, the Income Tax Act, and the Tax Collection Act.

## Article 6

If a mainland area investor holds shares of an exchange-listed or OTC-listed company, unless otherwise provided by laws and regulations, it may not exercise shareholding rights in connection with any matter involving substantive control of, or having impact on, the company's operations and

management, and it shall exercise shareholder rights only through its Taiwan agent or representative attending shareholder meetings to do so on its behalf.

#### Article 7

A mainland area investor wishing to engage in securities investment or futures trading shall apply to the TWSE or the Taiwan Futures Exchange Corporation ("TAIFEX") for registration in accordance with the TWSE Operating Rules or the TAIFEX Operating Rules.

A mainland area investor applying to complete the registration set forth under the preceding paragraph shall submit an application form together with the following documents:

1. A Power of Attorney for Agent, or Letter of Appointment for Representative, in the Taiwan area.
2. Identity documents conforming to the provisions of Article 3.
3. Other documents as required by the Competent Authority.

#### Article 8

Where a mainland area investor carries out the registration referred to in paragraph 1 of the preceding article, the TWSE or the TAIFEX may reject the application if any of the following circumstances exists:

1. The registration documents or any particular thereof is found to be fraudulent or untrue.
2. The registration documents are incomplete or have not been fully filled out, and the applicant has failed, upon notification, to fully provide the missing information within the specified time period.
3. The applicant has violated these Regulations or securities or futures trading laws and regulations, and the circumstances are serious.
4. The registration is cancelled by the TWSE or the TAIFEX in accordance with securities or futures trading laws and regulations.

After a mainland area investor has registered, the TWSE or the TAIFEX may cancel the registration if any of the circumstances specified in the preceding paragraph is discovered.

#### Article 9

The Competent Authority may, when necessary, require a mainland area investor to submit the following documents to the Competent Authority:

1. A list of beneficial owners of the investment capital, the amount of capital, its source, and related information.
2. Information on utilization of inwardly remitted investment funds, securities or futures trading details, inventory information, and related information; the Competent Authority may examine relevant inventories and accounts.
3. Detailed information on any derivatives issued or traded outside of the Taiwan area of which the underlying securities comprise stocks of any Taiwan public company; or detailed information on any Taiwan public company stock that is held at the instructions of a derivatives trader on the trader's behalf.
4. Detailed information on any futures trading or other derivatives dealt outside of the Taiwan area of which the underlying comprises any

securities, basket of securities, or stock price index in the Taiwan area.

5. Information on any person giving trading orders for securities investment or futures trading, including their name, nationality, contact information, and other related information.
6. Other information as designated by the Competent Authority.

#### Article 10

A mainland area investor carrying out inward remittance of funds and exchange settlement pursuant to these Regulations shall comply with applicable foreign exchange laws and regulations.

### Chapter II Securities Investment

#### Article 11

A mainland area investor may invest in securities pursuant to these Regulations by the following methods:

1. Investing in trust fund beneficial certificates issued by a Taiwan securities investment trust enterprise (SITE) or futures trust enterprise, and sold overseas ("Overseas Beneficial Certificates").
2. Investing in Taiwan securities.
3. Investing in corporate bonds issued or privately placed overseas by a Taiwan issuing company ("Overseas Corporate Bonds").
4. Investing in depositary receipts sponsored by a Taiwan issuing company that are issued or privately placed overseas ("Overseas Depositary Receipts").
5. Investing in stocks issued, privately placed, or traded overseas by a Taiwan issuing company ("Overseas Stocks").

#### Section 1 Investing in Taiwan Securities

#### Article 12

The scope of Taiwan securities in which a mainland area investor may invest shall be limited to the following:

1. Securities of exchange-listed and OTC-listed companies.
2. Beneficial certificates of securities investment trust funds or futures trust funds.
3. Government bonds, financial bonds, or corporate bonds issued by public companies.
4. Beneficial securities or asset-backed securities issued in accordance with the Financial Asset Securitization Act or the Real Estate Securitization Act.
5. Call (or put) warrants.
6. Other securities approved by the Competent Authority.

If funds transferred into Taiwan by a mainland area investor have not yet been invested in Taiwan securities, the Competent Authority may, depending on the economic and financial conditions or the state of the securities market in Taiwan, impose limits on the use of such funds. The percentage at which any such limit is set shall be determined by the Competent Authority after consultation with the competent authority for foreign exchange business.

The combined total investment in Taiwan by mainland area investors and by overseas compatriots and foreign nationals may not exceed the amount of any percentage cap on investment by overseas compatriots and foreign nationals set by any other law or regulations.

If a mainland area investor, in a single investment or cumulative investments, will obtain 10 percent or more of the shares in an exchange-listed or OTC-listed company, the investor shall apply for approval pursuant to laws and regulations prescribed by relevant government agencies.

### Article 13

Industry categories and investment ratios for investment in Taiwan securities by mainland area investors shall be drafted by the Competent Authority in consultation with the central competent authorities of the respective industries, then submitted to the Executive Yuan for approval. The limits on investment amount in Taiwan securities by mainland area investors shall be drafted by the Competent Authority following consultation with the competent authority for foreign exchange business, then submitted to the Executive Yuan for approval.

A mainland area investor applying for exchange settlement of funds in connection with an investment in Taiwan securities shall submit the TWSE registration document, and carry out fund settlement in accordance with applicable foreign exchange acts and regulations.

### Article 14

An Institutional Investor investing in Taiwan securities may apply for exchange settlement of investment capital and earnings on investments, provided that exchange settlement is only permitted for those capital gains and stock dividends that have already been realized.

### Article 15

Under any of the circumstances listed below, an Institutional Investor investing in Taiwan securities shall be deemed to be making an outward remittance of investment capital. The custodian institution shall record all remittances in the account books specified in Article 21, report them within five days to the competent authority for foreign exchange business, and at the same time provide the information to the TWSE for registration:

1. The investor invests in depositary receipts issued in Taiwan by a foreign issuer, and subsequently asks the depository institution to redeem such depositary receipts for the underlying securities they represent.
2. The investor invests in stock issued in Taiwan by a foreign issuer and denominated and settled in NT Dollars, and subsequently sells those stocks in an overseas securities market.
3. The investor invests in NT Dollar-denominated corporate bonds issued in Taiwan by a foreign issuer, and subsequently makes a request to redeem the bonds, or convert them into stock, overseas.
4. The investor uses its securities holdings for purposes of a Taiwan issuing company sponsoring the overseas issuance or private placement of depositary receipts, or the investor reissues Overseas Depositary Receipts in accordance with the provisions of Article 31, paragraph 1.

#### Article 16

A mainland area investor investing in Taiwan securities shall designate a bank approved by the Competent Authority to offer custodial services to act as its custodian institution and to handle related matters such as custodianship of funds and certificates related to securities investments, confirmation of trades, transaction settlement, and the reporting of relevant information.

#### Article 17

A mainland area investor investing in Taiwan securities shall designate a Taiwan agent to apply for the opening of a NT Dollar account. The agent designated to open such account shall be a Taiwan securities firm or financial institution.

For the purposes of investing in Taiwan securities and utilizing funds in connection with such investment, a mainland area investor shall open a current account or a current savings account denominated in NT Dollars at a Taiwan financial institution under the name of a custody account maintained by a custodian institution. Such account shall be for settlement purposes only.

#### Article 18

A mainland area investor investing in Taiwan securities shall apply, submitting registration documentation from the TWSE, to a securities firm to open an account for securities trading. Upon completion of the account-opening procedures, the securities firm shall report to the TWSE or the TPEx.

#### Article 19

A mainland area investor that engages a securities firm to trade Taiwan securities shall provide records of any orders that it places, and the appointed custodian institution shall confirm the trades and handle the settlement procedures.

#### Article 20

A mainland area investor using inwardly remitted investment capital for purposes of investment in Taiwan securities shall do so in compliance with these Regulations and other applicable acts and regulations, and unless otherwise provided by the Competent Authority may not do any of the following:

1. Engage in securities margin trading.
2. Sell securities it does not hold.
3. Extend loans or provide security.
4. Entrust custody of securities to any juristic person or individual other than a custodian institution or centralized securities depository.

#### Article 21

A custodian institution shall establish account books in which information on the utilization of the funds and securities inventories of each mainland area investor shall be recorded on a daily basis, and the previous day's

inward and outward remittances shall be reported to the competent authority for foreign exchange business. Within 10 days from the end of each month, the custodian institution shall produce a statement of trades, inward and outward remittances of funds, and securities inventories for the previous month, and report this information to the competent authority for foreign exchange business, and at the same time provide it to the TWSE for registration.

#### Article 22

An exchange-listed or OTC-listed company may issue securities to a Mainland Area Employee of an offshore subsidiary or branch in accordance with the following provisions:

1. Article 28-2, paragraph 1, subparagraph 1 of the Securities and Exchange Act.
2. Article 28-3 of the Securities and Exchange Act.
3. Article 235 of the Company Act.
4. Article 267 of the Company Act.

A Mainland Area Employee may, after obtaining shareholder status pursuant to the preceding paragraph, subscribe to or be allotted shares pursuant to law.

An exchange-listed or OTC-listed company acting pursuant to the preceding two paragraphs shall apply to the TWSE for registration under the name of the offshore subsidiary or branch company Mainland Area Employee collective investment account, and shall designate a Taiwan agent or representative to carry out account opening for the sale of securities.

#### Article 23

A Mainland Area Shareholder may subscribe to or be allotted shares pursuant to law.

A Mainland Area Shareholder shall appoint a Taiwan agent or representative to open an account for the sale of securities.

### Section 2 Investing in Overseas Corporate Bonds

#### Article 24

With respect to its holdings of Overseas Corporate Bonds with conversion or subscription rights attached that are issued or privately placed by a Taiwan issuing company, an Institutional Investor may, in accordance with the terms of issuance and conversion or subscription, request to convert the bonds or exercise the subscription rights for securities issued by the Taiwan issuing company.

When an Institutional Investor holds Overseas Corporate Bonds privately placed by a Taiwan issuing company, if it will request to exercise rights of exchange or subscription for the stock of another exchange-listed or OTC-listed company in accordance with the terms of issuance and exchange or subscription, it may request to do so only after three years have elapsed from the delivery date of the privately placed Overseas Corporate Bonds.

When an Institutional Investor that holds privately placed Overseas Corporate Bonds converts the bonds or exercises subscription rights attached thereto to acquire securities issued by a Taiwan issuing company,

or if any shares are subsequently distributed thereupon due to a capital increase out of earnings or capital reserves, such acquired securities and distributed shares may be sold on a Taiwan market only after three years have elapsed from the delivery date of the privately placed Overseas Corporate Bonds and after the Taiwan issuing company has filed with the Competent Authority for supplemental public issuance.

#### Article 25

The provisions of Articles 16, 17, and 20 shall apply mutatis mutandis if an Institutional Investor exchanges, converts, or subscribes to the securities of a Taiwan issuing company pursuant to the preceding article. The provisions of Article 18 shall apply mutatis mutandis if an Institutional Investor exchanges, converts, or subscribes to the securities of a Taiwan issuing company pursuant to the preceding article, provided that those requirements shall not apply to an Institutional Investor who has registered to invest in Taiwan securities and opened an account.

#### Article 26

An Institutional Investor may apply for exchange settlement for investment gains distributed to it on securities it has obtained under Article 24, and for proceeds from its sale of securities.

An Institutional Investor may apply for exchange settlement, in one lump sum, for the proceeds it obtains when an issuing company of corporate bonds distributes its residual assets.

#### Article 27

When an Institutional Investor exchanges, converts, or subscribes to securities of a Taiwan issuing company under Article 24, it shall be deemed an inward remittance of investment capital, and the custodian institution shall enter it into the account books specified in Article 21, and within five days report it to the competent authority for foreign exchange business, and at the same time provide the information to the TWSE for registration.

The amount of an inward remittance pursuant to the preceding paragraph shall be added into the calculation of the total amount of investments made in Taiwan securities by the investor.

#### Article 28

An Institutional Investor that has obtained shares pursuant to Article 24 may subscribe to new shares pursuant to the applicable provisions of the Company Act when the issuing company in which it has invested issues new shares in connection with a cash capital increase, and may apply for inward remittance of the funds necessary to pay such subscription.

### Section 3 Investing in Overseas Depositary Receipts

#### Article 29

An Institutional Investor may request redemption of overseas depositary receipts in which it has invested. At the time it requests redemption of such overseas depositary receipts, it may request that the depositary

institution transfer the title to the securities represented by the overseas depositary receipts to the requestor, or request that the depositary institution sell the securities represented by the overseas depositary receipts and pay the resulting proceeds to the requestor after deducting taxes and relevant fees.

If privately placed overseas depositary receipts held by an institutional investor, or any additional depositary receipts subsequently distributed to it due to a subsequent capital increase out of earnings or capital reserves, are redeemed for shares of a Taiwan issuing company, the Institutional Investor may sell such shares in a Taiwan market only after three years have elapsed from the delivery date of the privately placed overseas depositary receipts, and after the Taiwan issuing company has filed with the Competent Authority for supplemental public issuance.

#### Article 30

The provisions of Articles 16, 19, and 20 shall apply mutatis mutandis when an Institutional Investor requests to convert overseas depositary receipts in which it has invested into the securities they represent.

The provisions of Article 18 shall apply mutatis mutandis when an Institutional Investor requests to convert overseas depositary receipts in which it has invested into the securities they represent, provided that the requirements thereof shall not apply if the Institutional Investor has already registered to invest in Taiwan securities and has opened an account.

The provisions of Articles 26 to 28 shall apply mutatis mutandis to matters regarding investment in overseas depositary receipts by an Institutional Investor.

#### Article 31

Only after overseas depositary receipts have been redeemed may an Institutional Investor, itself or through a depository institution, within the scope of the original number of shares redeemed, purchase the original securities from the Taiwan market or deliver to the custodian institution original securities it already holds, for the depository institution subsequently to reissue overseas depositary receipts based thereupon. Overseas depositary receipts reissued pursuant to the preceding paragraph are limited to those for which it has been expressly stipulated in the deposit contract and custody contract that after redemption the overseas depositary receipts may be reissued.

### Section 4 Investing in Overseas Stocks

#### Article 32

An Institutional Investor that has invested in overseas stock may sell the stock in a Taiwan market.

Privately placed overseas stock held by an Institutional Investor, and shares subsequently distributed to it due to a capital increase out of earnings or capital reserves, may be sold in a Taiwan market only after three years have elapsed from the delivery date of the privately placed overseas stock, and after the Taiwan issuing company has filed with the

Competent Authority for supplemental public issuance.

#### Article 33

The provisions of Articles 16, 19, and 20 shall apply mutatis mutandis when an Institutional Investor requests to sell in a Taiwan market overseas stock in which it has invested.

The provisions of Article 18 shall apply mutatis mutandis when an Institutional Investor requests to sell in a Taiwan market overseas stock in which it has invested, provided that the requirements thereof shall not apply to an Institutional Investor that has already registered to invest in Taiwan securities and opened an account.

#### Article 34

When a Taiwan issuing company distributes cash dividends or distributes its residual assets, an Institutional Investor may apply for exchange settlement, in one lump sum, of the distribution amount to which it is entitled based on its investment in overseas stocks.

An Institutional Investor may apply for exchange settlement, in one lump sum, of the proceeds derived from the sale of overseas stock pursuant to Article 32.

#### Article 35

After overseas stock has been sold on a Taiwan market, an Institutional Investor may, within the scope of the original number of shares it sold, repurchase such stock from the Taiwan market and then trade it on a foreign market. The Institutional Investor shall retain a custodian institution to handle exchange settlement matters in connection with the required funds pursuant to applicable foreign exchange laws and regulations.

#### Article 36

The provisions of Article 28 shall apply mutatis mutandis when any issuing company in which an Institutional Investor is invested issues new shares in connection with a cash capital increase.

#### Article 37

The sale of overseas stocks pursuant to Article 32 by an Institutional Investor is deemed an inward remittance of investment capital. The depositary institution shall record it in the account books referred to in Article 21, and within five days shall report it to the competent authority for foreign exchange business, and at the same time shall provide the information to the TWSE for registration.

The amount of an inward remittance pursuant to the preceding paragraph shall be added into the calculation of the total amount of investments made in Taiwan securities by the investor.

### Chapter III Futures Trading

#### Article 38

The scope of futures trading under these Regulations is restricted to contracts traded on the TAIFEX and announced by the Competent Authority as

contracts that futures commission merchants are permitted to trade for customers.

#### Article 39

An Institutional Investor that engages in futures trading shall have its agent in the Taiwan area apply to open a foreign exchange deposit account for futures trading. The agent designated to open the account must be a futures commission merchant or financial institution in the Taiwan area. The foreign exchange deposit account for futures trading referred to in the preceding paragraph shall be opened at a financial institution in the Taiwan area under the name of a custody account maintained by a custodian institution. However, in the case of an Institutional Investor that engages solely in futures trading and does not perform physical delivery, the foreign exchange deposit account for futures trading may be opened in the investor's own name, or the investor may be exempted from opening that account by instead using its offshore deposit account to carry out fund transfer operations for futures trades.

An Institutional Investor that has already invested in securities pursuant to these Regulations may use its NT Dollar securities trading account to purchase foreign currencies to engage in futures trading.

Foreign currencies specified in the preceding paragraph and Article 41 is limited to foreign currencies accepted by the TAIFEX, and the requirements of the TAIFEX regarding collection and payment of margins shall be complied with.

#### Article 40

Funds remitted inward pursuant to the preceding article by an Institutional Investor may be utilized only as follows:

1. To engage in futures trading.
2. To pay the funds required for settlement of securities trades, as evidenced by relevant certificates of execution of the trades, when the funds remitted inward pursuant to these Regulations are insufficient to pay the funds for settlement of those securities.

#### Article 41

An Institutional Investor that engages in futures trading shall do so using foreign currencies, and may not convert them into NT Dollars except for any of the following uses:

1. To pay the profit-loss difference upon settlement at maturity or at the closing out of a position before maturity.
2. To pay futures commission merchant handling fees and taxes.
3. For use as set forth in subparagraph 2 of the preceding Article.

To make payments for the purposes under subparagraphs 1 and 2 of the preceding paragraph, an Institutional Investor may have funds converted into NT Dollars in advance by the futures commission merchant designated by its agent, provided that the NT Dollar balance on a trader-by-trader basis may not exceed the ceiling amount set by the Competent Authority.

The NT Dollar balance of the Institutional Investor's cumulative NT Dollar realized gains from futures trading plus the NT Dollar ceiling amount of the preceding paragraph, on a trader-by-trader basis, may not exceed the

ceiling amount set by the Competent Authority.

When the NT Dollar balance of the preceding paragraph exceeds the ceiling amount set by the Competent Authority, the Institutional Investor shall within five business days have the excess converted into foreign currencies by the futures commission merchant designated by its agent. After such conversion, the NT Dollar balance may not exceed the ceiling amount specified by the Competent Authority.

Use of the NT Dollar balance in paragraph 3 is limited to:

1. Margins and premiums required to be paid for trades.
2. Payment of the profit-loss difference upon settlement at maturity or at the closing out of a position before maturity.
3. Payment of futures commission merchant handling fees and taxes.

Except for the use set forth in paragraph 1, subparagraph 3 for which the agent makes the application, an application for exchange settlement pursuant to paragraph 1, 2, or 4 shall be made by the futures commission merchant pursuant to applicable foreign exchange laws and regulations.

The Competent Authority shall consult with and obtain the consent of the competent authority for foreign exchange business before adopting the ceiling amounts for the NT Dollar balances referred to in paragraphs 2 to 4.

#### Article 42

An Institutional Investor that engages in futures trading shall designate a futures commission merchant or a bank approved by the Competent Authority to offer custodian services, to act as its agent, handle clearing and settlement, and report information related to futures trading.

#### Article 43

An Institutional Investor that engages in futures trading shall apply to a futures commission merchant to open an account by annexing the registration documents offered by the TAIFEX or the TWSE. Upon completion of the account-opening procedures, the futures commission merchant shall notify the TAIFEX.

#### Article 44

An Institutional Investor that places orders with a futures commission merchant to trade futures shall provide records of the trading orders. The custodian institution or futures commission merchant designated by the investor as its agent shall handle settlement procedures.

#### Article 45

An Institutional Investor that engages in futures trading shall report its futures trading volumes and positions that it holds, pursuant to Article 104 of the Futures Trading Act and the requirements of the TAIFEX.

An Institutional Investor that is already engaged in securities investment pursuant to these Regulations may apply for increases in position limits under the preceding paragraph based on hedging needs pursuant to the requirements of the TAIFEX.

The Competent Authority may, when necessary, impose restrictions on the Institutional Investor's trading volume and positions, suspend its futures

trading in whole or in part, or adopt other necessary measures pursuant to Article 96 of the Futures Trading Act.

#### Article 46

The custodian institution or futures commission merchant designated by an Institutional Investor as its agent shall establish account books and on a daily basis record information on the utilization of the funds of each Institutional Investor, and report to the competent authority for foreign exchange business the previous day's exchange settlement, the balance of foreign exchange deposits, and summary information on the equity in the customer margin account with the futures commission merchant. Within 10 days from the end of each month, it shall prepare an itemized statement of the equity in the customer margin account with the futures commission merchant and the cumulative exchange settlement amount for the previous month, and file it with the competent authority for foreign exchange business, and at the same time provide it to the TAIFEX for registration.

### Chapter IV Supplementary Provisions

#### Article 47

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

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