

Content

Title :	Organic Act Governing the Establishment of the Financial Supervisory Commission <b>Ch</b>
Date :	2011.06.29
Legislative :	1.Promulgated on July 23, 2003; for implementation from 1 July 2004. 2.Full text of 18 articles amended 29 June 2011; for implementation from 1 July 2012.
Content :	<p>Article 1</p> <p>The Executive Yuan hereby establishes the Financial Supervisory Commission ("the FSC") to promote sound business management at financial institutions, maintain financial stability, and facilitate the development of financial markets.</p> <p>Article 2</p> <p>The FSC shall be the competent authority for development, supervision, regulation, and examination of financial markets and financial service enterprises.</p> <p>The term "financial markets" as used in the preceding paragraph includes the banking market, bills market, securities market, futures and derivatives market, insurance market, and their respective settlement systems. The term "financial service enterprises" includes financial holding companies, the Financial Restructuring Fund, the Central Deposit Insurance Corporation, banking enterprises, securities enterprises, futures enterprises, insurance enterprises, electronic financial transaction enterprises, and other financial service enterprises. However, the Central Bank shall be the competent authority for the payment system.</p> <p>The scope of the terms "banking enterprises," "securities enterprises," "futures enterprises," and "insurance enterprises" as used in the preceding paragraph is as follows:</p> <ol style="list-style-type: none"><li>1.Banking enterprises: refers to banking institutions, credit cooperatives, bills finance companies, credit card companies, trust enterprises, the postal savings and remittance business of the postal institution, and the businesses and institutions run by other banking service enterprises.</li><li>2.Securities enterprises: refers to securities exchanges, over-the-counter securities trading centers, securities firms, securities investment trust enterprises, securities finance enterprises, securities investment consulting enterprises, centralized securities depository enterprises, urban renewal investment trust enterprises, and the businesses and institutions run by other securities service enterprises.</li><li>3.Futures enterprises: refers to futures exchanges, futures commission merchants, leverage transaction merchants, futures trust enterprises, futures advisory enterprises, and the businesses and institutions run by other futures service enterprises.</li><li>4.Insurance enterprises: refers to insurance companies, insurance cooperatives, insurance agents, insurance brokers, insurance surveyors, the simple life insurance business of a postal institution, and the businesses</li></ol>

and institutions run by other insurance service enterprises.

#### Article 3

The FSC shall be in charge of the following matters:

1. Financial regime and supervisory policies.
2. Prescribing, amending, and repealing financial laws and regulations.
3. Supervising and regulating the following matters in connection with financial institutions: establishment; voidance; revocation; change; merger; business suspension; dissolution; and approval of business scope.
4. Development, supervision, and regulation of financial markets.
5. Examination of financial institutions.
6. Examination of matters relating to public companies and securities markets.
7. International financial matters.
8. Protection of financial consumers.
9. Enforcement of financial laws and regulations, punishment of violators, and handling of matters related thereto.
10. Collection, processing, and analysis of statistical information relating to financial supervision, regulation, and examination work.
11. Other matters relating to financial supervision, regulation, and examination work.

#### Article 4

The FSC's subordinate agencies and their work are as follows:

1. Banking Bureau: Planning and implementing the supervision and regulation of the banking market, the bills market, financial holding companies, and banking enterprises.
2. Securities and Futures Bureau: Planning and implementing the supervision and regulation of securities and futures markets as well as securities and futures enterprises.
3. Insurance Bureau: Planning and implementing the supervision and regulation of the insurance market and insurance enterprises.
4. Financial Examination Bureau: Planning and implementing the supervision and examination of financial institutions.

#### Article 5

In carrying out a financial examination, the FSC and its subordinate agencies may, as necessary: (1) require a financial institution, a related party thereof, or a public company to produce relevant account books, documents, electronic files, and other such materials; or (2) notify an examinee to appear at a designated office for questioning.

An examinee who believes that the examination personnel have carried out their examination in an inappropriate manner may request that the matter be dealt with by the FSC or a subordinate agency thereof.

When an examinee submits materials, the examiner shall issue a receipt.

Unless the materials are related to a suspected financial crime, the examiner shall return the materials to the examinee within ten working days of the date on which the materials are submitted in full.

In a case involving suspected financial crime, the FSC and any subordinate agency thereof may present the facts of the case to a prosecutor in seeking permission from the latter to file a motion in the court of jurisdiction for issuance of a search warrant. Once the search warrant has been issued, the FSC or its subordinate agency may, accompanied by judicial police

authorities, enter and search the suspected hiding place of the relevant account books, documents, electronic files, and other such materials or evidence. No one other than the parties mentioned above may take part in the search. The personnel who conduct a search shall transport all relevant materials and evidence obtained during the search to the FSC or a subordinate agency thereof, where it shall be handled in accordance with the law.

Examiners dispatched by the FSC or a subordinate agency thereof to investigate financial crime shall, when carrying out their official duties, display proof of identity and documentation to prove that they are acting in an official capacity. If an examiner fails to display the required items, the examinee and related parties may refuse to allow the examination.

The scope of the term "related party" as used in paragraph 1 includes the following:

1. Responsible persons and employees of financial institutions.
2. Affiliated enterprises (as defined in the Company Act under Articles 369-1, 369-2, 369-3, 369-9, and 369-11) of financial institutions.

Where an examinee obstructs, avoids, or refuses to allow an examination of the type set forth under paragraph 1, refuses to furnish relevant account books, documents, electronic files, or other such materials, or refuses without legitimate reason to appear for questioning, the FSC or a subordinate agency is empowered, unless another law provides to the contrary, to impose an administrative fine of not less than NT\$50,000 and not more than NT\$250,000, and may impose consecutive penalties until the examinee cooperates with the examination, appears for questioning, or furnishes the relevant account books, documents, electronic files, or other such materials.

#### Article 6

For the purposes of supervision and regulation, the FSC is empowered to collect annual supervisory fees from supervised institutions. Fees charged to insurance institutions shall be based on real operating revenues, and for other institutions shall be set between 0.03 and 0.08 percent of annual operating revenues. Standards governing the calculation of annual supervisory fees shall be prescribed by the FSC.

For the purposes of carrying out financial examination work, the FSC is empowered to collect examination fees from examined institutions, and may base its fees on those charged by professionals and technologists.

Standards governing the calculation of examination fees shall be prescribed by the FSC.

#### Article 7

The FSC shall establish a Financial Supervisory Fund, with revenues from the following sources:

1. Appropriations made by the government in the course of its budgetary process.
2. Concession fees, annual fees, examination fees, inspection fees, license fees, administrative fines, and other official fees collected (for the purposes of financial supervision, regulation, or examination) from institutions subject to FSC supervision, or from professionals whose licenses are issued by the FSC.

3. Interest generated by the Fund.

4. Other related revenues.

Regulations governing the collection of the fees set forth under subparagraph 2 of the preceding paragraph shall be prescribed by the FSC. Outlays by the Financial Supervisory Fund shall be used for the following purposes:

1. Promotion of research on systems for protecting the rights and interests of depositors, investors, and insured parties.

2. Promotion of research and development of financial systems and new types of financial products.

3. Promotion of the disclosure of financial information.

4. Promotion of the training of financial supervisory personnel.

5. Promotion of international exchange in the financial field.

6. Special allowances granted by the Executive Yuan to personnel from the FSC and its subordinate agencies.

7. Other ad hoc expenditures connected with the support of financial supervisory agencies.

Standards governing payment of the special allowances set forth under subparagraph 6 of the preceding paragraph shall be formulated by the FSC in consideration of labor market conditions and salary levels at financial institutions, and filed with the Executive Yuan for approval.

Regulations governing the Financial Supervisory Fund's revenues, disbursements, custody, and funds utilization shall be prescribed by the Executive Yuan.

#### Article 8

Where FSC supervision, regulation, or examination work is connected with the operations of the Central Bank or any other agency of the central government, the FSC shall prescribe rules to govern the implementation thereof.

The FSC shall have the responsibility to direct and supervise the governments of special municipalities, counties (county-level cities) in their implementation of matters falling under FSC authority.

#### Article 9

The FSC shall have one chairperson, who shall be a special appointee, and two vice chairpersons, one of whom shall be a politically appointed senior civil servant at occupational grade 14, and the other of whom shall be a regularly appointed senior civil servant at occupational grade 14.

The FSC shall have six to 12 commissioners. Among them, the Minister of Finance, the Minister of Economic and Energy Affairs, and the Minister of Justice shall serve as ex officio commissioners, as shall FSC commissioners who had been appointed before the amendment to this Act enters into force (until the terms of their original appointments expire after the amendment to this Act enters into force). The other commissioners shall be appointed (or retained) by the Premier from among the heads of related government agencies as well as persons with academic expertise or work experience in a relevant field, to serve in a concurrent capacity. The term of any commissioner serving as the representative of a government agency shall begin and end when his or her position at that agency begins and ends.

FSC commissioners-other than those appointed before the amendment to this Act enters into force, as set out in the preceding paragraph-shall serve in

an honorary capacity.

Article 10

In carrying out financial supervision, the FSC shall act independently and in accordance with the law.

Article 11

When a major sanction is imposed for violation of a financial law or regulation, the FSC shall issue a public announcement and explanation within an appropriate period of time after the disposition. Regulations governing such announcements shall be prescribed by the FSC.

Article 12

The FSC shall have one secretary general, a regularly appointed senior civil servant who shall serve at occupational grade 12.

Article 13

Civil service ranks, occupational grades, and the authorized complement at the FSC shall be separately set out in a personnel establishment table.

Article 14

For the sake of its work requirements, the FSC may request Executive Yuan approval to station personnel overseas, subject to the provisions of the Act Governing the Organization of Overseas Government Agencies.

Article 15

To maintain trading order in financial markets, the FSC is empowered to establish a financial transaction monitoring system. Regulations governing the monitoring system shall be prescribed separately.

Article 16

With respect to financial examination personnel from the Central Bank and the Central Deposit Insurance Corporation who transferred to the FSC or any of its subordinate agencies on 1 July 2004 with the special approval of the Executive Yuan, and who are qualified for civil service appointment, separate regulations governing matters regarding their civil service ranks, occupational grades, and retirement benefits shall be prescribed jointly by the Examination Yuan and the Executive Yuan before this Act enters into force.

Article 17

For the sake of its work requirements, the FSC and its subordinate agencies may, in accordance with the provisions of the Act Governing the Hiring of Contract Employees, hire 60 to 100 senior personnel who have conducted specialized research on derivative financial products, securitization, investment banking, finance leasing, futures, actuarial practice, and information technology.

Article 18

The Executive Yuan shall prescribe by order the implementation date of this Act.