

Content

Title : Jin-Guan-Yin-Wai-Zi No. 10150000320 [Ch](#)

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Content : Directions for Offshore Banking Branches(OBUs) Conducting Financial Derivatives Businesses

OBUs conducting financial derivatives business shall comply with "Directions for Banks Conducting Financial Derivatives Businesses" other than the following provisions:

I. An OBU that has obtained approval to conduct financial derivatives businesses, except products involving Subparagraph 1 or 2 of Paragraph 1, Article 7 in "Directions for Banks Conducting Financial Derivatives Businesses" , may offer each type of product to their clients without submitting an application for approval case by case. The above-stated OBU shall, within fifteen (15) days after commencement of business, submit a description of each product's features, a statement of regulatory compliance, and a risk disclosure statement to the Financial Supervisory Commission (FSC) for reference and notify the Central Bank of China.

An OBU that plans to conduct foreign exchange derivatives businesses, whose head office (or the branch established when the foreign bank applied for recognition) has obtained approval for the businesses from the competent authority or has filed with the competent authority for reference, shall be exempt from the procedure of filing with the competent authority for reference as mentioned above.

II. OBUs conducting Credit Default Swap business and Credit Default Option business shall comply with the following provisions:

(1) The counterparties are restricted to professional institutional investors that meet the criteria stated in Article 3, Paragraph 2, Subparagraph 1 and offshore juristic persons with total assets exceeding NT\$50,000,000 and capital exceeding NT\$10,000,000 according to its latest financial report.

(2) In the event that a bank is a credit risk undertaker and the contract reference entity is an interested party of the bank, the transaction terms shall not be more favorable than those accorded others in the same class of counterparties, and the bank shall comply with the following provisions:

1. Trades conducted by domestic banks shall be determined by at least three-fourths of the bank's directors present in a board meeting attended by at least two-thirds of directors. A bank is deemed as having met the requirements when the bank has established internal operating rules and a resolution has been adopted by at least three-fourths of the bank's directors present in a board meeting attended by at least two-thirds of directors, granting the relevant management department general authorization to carry out such trades according to the established internal operating procedures. (For foreign bank branches, such internal rules must be approved by the headquarters or regional centers) .

2. The bank shall request fully secured guarantee for the estimated potential loss amount of credit risk, and enlist the credit under facility control by applying mutatis mutandis comparable to the related rules of giving credit to interested parties; the conditions of collaterals shall be aligned with the duration of transaction contracts and liquidity of the reference asset in the contract. Moreover, the acceptable collaterals are limited to cash, government bond, Central Bank's negotiable certificates of deposit (NCD), Central Bank's saving fund , treasury bills (TB) and the bank's term deposit.

(3) To ensure risk control operation can be fully implemented, the bank shall conduct an evaluation to assess expected return, various types of risk and transaction terms etc, rather than only evaluating the credit

rating of contract reference entity.

(4) The procedures related to accounting, measurement and disclosure shall be consistent with Statement of Financial Accounting Standards No.34 and other provisions. In addition, the calculation methods of equity capital and risk-based assets shall be subject to "Illustration and tables of banks' calculation for equity capital and risk-based assets".

(5) The cases that were approved previously and inconsistent with the above provisions may still be effective subject to the stipulation of the original contract until its expiry date.

III. Banks conducting financial derivatives business not belonging to the items in Article 2 hereof shall classify their counterparties as "professional clients" and "retail clients". The above term "professional clients" refers to investors meeting any one of the following conditions:

(1) A professional institutional investor:

1. Including offshore banks, insurance companies, bills finance companies, securities firms, fund management companies, government investment institutions, government funds, pension funds, mutual funds, unit trusts, securities investment trust enterprises, securities investment consulting enterprises, trust enterprises, futures commission merchants, futures service enterprises and other institutions approved by the FSC.

2. A financial institution within the territory of the R.O.C. referred to in the Paragraph 2, Article 4 of Offshore Banking Act.

(2) An offshore juristic person with total assets exceeding NT\$50,000,000 according to its latest financial report.

(3) An offshore individual meeting all of the following three criteria and having applied in writing to the OBU for the status of professional investor:

1. The person has proof of financial capacity for at least NT\$30,000,000; or has made a foreign currency denominated investment equivalent to over NT\$3,000,000 in value, and his/her total assets at the trustee or sub-distributor, including deposits and investments (including the aforesaid investment), are valued more than NT\$15,000,000. In addition, the person has provided a statement proving that his or her total assets exceed NT\$30,000,000;

2. The person has sufficient professional knowledge or trading experience in financial products; and

3. The person understands fully that an OBU is exempted from certain responsibilities when conducting derivatives-related transactions with professional clients, and yet the person agrees to sign as a professional investor.

The term "retail clients" refers to clients outside the Republic of China who are not classified as professional clients under the above criteria.

IV. This Order is effective from June 1, 2012. The 2 November 2004 Order Financial-Supervisory-Banking- 5 Zi- 0938011781 of the FSC is repealed from the date this order takes effect.