


Content

Title :	Jin-Guan-Yin-Wai-Zi-10200293010 
Date :	2013.12.27
Legislative :	Date: December 27, 2013
Content :	<p>The offshore banking branch of banks (hereinafter referred to as the "OBU") shall observe the Directions for Banks Conducting Financial Derivatives Business when conducting financial derivatives business unless specified in this Order:</p> <p>1. Unless it is otherwise approved by the competent authority, the financial derivatives business of OBU shall not involve New Taiwan Dollars; the counterparties of the business shall be limited to clients outside the territory of the Republic of China and financial institutions inside the territory of the Republic of China as referred to in Paragraph 2, Article 4 of the Offshore Banking Act.</p> <p>2. Application procedure</p> <p>(1) After been approved to conduct financial derivatives business, unless the product referred in Subparagraph 1 of Paragraph 1, Point 7 of the Directions for Banks Conducting Financial Derivatives Business, OBU is not required to apply individual financial derivative products on a case-by-case basis,</p> <p>(2) When an OBU conducts businesses other than those provided under Subparagraph 1 of Paragraph 1, Point 7 of the Directions for Banks Conducting Financial Derivatives Business, it shall submit a description of each product's characteristics, a statement of regulatory compliance, and a risk disclosure statement to the Financial Supervisory Commission for reference within 15 days after commencement of business, with a carbon copy to the Central Bank of Republic of China.</p> <p>(3) OBU is not required to submit documents to the competent authority for reference as described in previous subparagraph, provided its head office (or the branch of a foreign bank that was established when the foreign bank applied for recognition) has been approved by or has filed with the competent authority to offer the foreign currency financial derivative product it plans to offer.</p> <p>3. OBU shall observe the following rules when conducting foreign-currency credit default swap or foreign-currency credit default option business:</p> <p>(1) The counterparties shall be limited to offshore professional institutional investors referred to in Subparagraph 1 of Paragraph 3, Article 3 of the Regulations Governing Offshore Structured Products, financial institutions within the territory of the Republic of China referred to in Paragraph 2, Article 4 of the Offshore Banking Act, and offshore juristic persons with total assets exceeding an equivalent of NTD 50 million in value and with capital exceeding an equivalent of NTD 10 million in value according to its most recent financial statements.</p> <p>(2) If the bank is the bearer of credit risk and the reference entity is a related party of the bank, the terms of such transactions shall not be more favorable than offered to similarly situated counterparty, and the following rules shall be observed:</p> <p>A. For a domestic bank, such transactions require the concurrence of at least three-quarters of all of directors present at a board of directors meeting attended by at least two-thirds of the directors. If the bank has already had an internal operating procedure approved by at least three-quarters of all of directors present at a board of directors meeting attended by at least two-thirds of the directors to authorize the department of manager to carry out the transactions according to said operating procedure, the bank is deemed to have complied with the preceding provision (the internal operating procedure drafted by the branch of a foreign bank in Taiwan shall be approved by its head office or regional</p>

center).

B. The bank shall obtain sufficient collateral to fully secure the estimated potential loss associated with the credit risk with the credit limit controlled as credit extended to related parties. The collateral shall be commensurate with the duration of the transaction and the liquidity of reference assets, and shall be limited to cash, government bond, negotiable certificate of deposit and savings bond issued by the Central Bank of Republic of China, and certificate of deposit issued by banks.

(3) For risk management, the bank shall give balanced considerations to expected returns, risks and trading terms when entering a transaction, instead of basing its decision solely on the credit rating of the reference entity.

(4) The transaction shall be booked, measured and disclosed in accordance with International Financial Reporting Standards (IFRS), International Accounting Standards (IAS), and Interpretations developed by the International Financial Reporting Interpretations Committee (IFRIC) or the former Standing Interpretations Committee (SIC) endorsed by the Financial Supervisory Commission. The calculation of risk-weighted asset and the capital shall comply with the Methods for calculating Bank's regulatory capital and Risk Weighted Assets.

(5) Where the existing transaction does not conform to the aforementioned rules, the bank may perform the transaction under the terms until it expires.

4. The OBU is not subject to Point 3, Paragraph 2 of Point 25, Paragraph 2 of Point 28, Paragraph 4 of Point 30 and Point 33 of the Directions for Banks Conducting Financial Derivatives Business. The OBU conducting financial derivatives business shall draw up client acceptance standards, money laundering prevention measures, Know Your Customer and product suitability analysis procedures and scope of products that may be offered as part of their internal control and risk management practices, and implement those policies and procedures with due care and fiduciary duty of a good administrator after the policies and procedures have been approved by their board of directors, or by the head office or regional center in the case of the branch of a foreign bank in Taiwan.

5. This order takes effect immediately; the order of the Commission dated April 11, 2013 (Doc. No. Gin-Guan-Yin-Wai-Zi-10250000860) is voided immediately.

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Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System