

## Content

Title : Directions for Banks Providing Information and Advisory Services on Offshore Financial Derivatives **Ch**

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Content : 1. Banks may provide information and advisory services on offshore financial derivatives pursuant to Subparagraph 22, Article 3 of the Banking Act.

2. The customers which banks may provide information advisory services on offshore financial derivatives shall be limited to professional institutional investors referred to in Subparagraph 1, Paragraph 3, Article 3 of the Regulations Governing Offshore Structured Products.

3. The term "offshore financial derivatives" as used in these Directions includes offshore structured products set out in Article 2 of the Regulations Governing Offshore Structured Products.

The scope of information and advisory services that banks may provide shall be limited to offshore financial derivatives (including offshore structured products) that customers are legally permitted to invest in accordance with applicable laws. However the underlying asset that the derivatives link to may not involve domestic interest rates, exchange rates, stock prices, indexes, commodities, credit events, fixed income or other interests.

4. A bank that plans to provide information and advisory services on offshore financial derivatives shall submit an application form along with the following documents to the Financial Supervisory Commission (referred to as the "FSC" hereunder) for approval, and after receiving the FSC approval, register the business item via the online reporting system of the FSC Banking Bureau before commencing the service; the bank shall also submit relevant documents to the Central Bank of the Republic of China (Taiwan) (referred to as the "Central Bank" hereunder) for record within one week after commencing the business:

- (1) A compliance statement;
- (2) Meeting minutes of the bank's board of directors, or a letter of consent issued by an authorized person who is authorized by the head office or regional office for the branch of a foreign bank in Taiwan;
- (3) A letter of consent from the Central Bank allowing the bank to engage in any foreign exchange derivatives business; and
- (4) Internal operating procedures approved by the bank's board of directors that contains at least the following items:
  - a. Content and scope of services, including whether the financial products that the bank plans to provide information and advisory services for are financial products that the bank has received approval from the FSC or the

Central Bank to engage in;

- b. Operating procedure for transferring information and providing consultation, including the process control mechanism for receiving and conveying information, and safekeeping of relevant records;
- c. Division of labor within the departments and the internal organization, qualification requirements and code of conduct for business personnel;
- d. Procedure for protecting the interests of customers and dispute handling;
- e. Risk management principles and operating procedure;
- f. Accounting reconciliation process; and
- g. Other items as designated by the FSC.

For branches of foreign banks in Taiwan, the internal operating procedures set out in Subparagraph (4) of the preceding paragraph may be approved by an authorized person who is authorized by the head office or regional office and shall be forwarded to the department at the head office or regional office in charge of auditing the business of its branches in Taiwan.

Banks shall include the internal operating procedures set out in Subparagraph (4) of the first paragraph hereof in their internal control and internal audit items.

5. Banks shall exercise the due care and fiduciary duty of a good administrator and follow the principle of good faith in providing information and advisory services on offshore financial derivatives, and observe the following rules:

- (1) The services shall be limited to information transfer and provision of related consultations, including information or documents relating to price inquiry, price negotiation, trade instruction, transaction confirmation, transaction settlement, transaction report, reference price, redemption instruction, contract cancellation, and other information or documents to assist the dealings between the customers and offshore institutions.
- (2) Banks shall not set prices independently or sign any trading contract on behalf of customers.
- (3) Banks shall not provide business place or hold seminars or workshops for the personnel of offshore institutions or act in other ways to assist an offshore institution in providing financial services in Taiwan.
- (4) Bank employees shall not enter any form of agreement with an offshore institution, agreeing to provide financial services other than those allowed pursuant to these Directions for said institution in Taiwan.

6. A bank shall enter an agreement with an offshore institution on receiving a reasonable profit and regular training courses for its relevant business personnel from the offshore institution in connection with the offshore financial derivatives information and advisory services it provides; the branch of a foreign bank in Taiwan shall request its head office or overseas affiliates or other offshore institutions to allocate reasonable profit to it and provide its relevant business personnel regular training.

Banks that provide information and advisory services on offshore financial derivatives shall record the income from the services in accordance with

the International Financial Reporting Standards, International Accounting Standards and tax-related regulations.

7. Banks that provide information and advisory services on offshore financial derivatives shall examine the content and risk information of relevant offshore derivatives product, and convey such information accurately to the customers to help them evaluate whether the product is commensurate with their risk tolerance.

Banks shall keep relevant records on their offshore financial derivatives information and advisory services and ask the offshore institution to provide relevant trading information in a timely manner in accordance with the supervisory requirements of the FSC and the Central Bank.

If dispute arises out of the information and advisory services a bank provides, the bank should assist in the handling of dispute.

8. A bank that provides information and advisory services on offshore financial derivatives shall assign at least three suitable personnel to the business.

The business personnel mentioned in the preceding paragraph shall meet the qualification requirements for financial derivatives business personnel set out in the Directions for Banks Conducting Financial Derivatives Business.

9. If the offshore financial derivatives information and advisory services provided by banks involve other regulations, such other regulations shall be observed as well.

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Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System