

Content

Title :	Regulations Governing the Conduct of Securities Trading Margin Purchase and Short Sale Operations by Securities Firms <b>Ch</b>
Date :	2015.01.21
Legislative :	<p>4. Article 3 was amended and issued on August 8, 2000 by Securities and Futures Commission, Ministry of Finance per Ruling Ref. No. (89) Taiwan-Finance-Securities-(IV)-68814</p> <p>5. Full text of 31 articles amended and issued 23 October 2006 per Order No. Financial-Supervisory-Securities-IV-0950004751 of the Financial Supervisory Commission, Executive Yuan; for implementation from the date of issuance</p> <p>6. Article 3 amended and issued per 21 January 2015 Order No. Financial-Supervisory-Securities-Firms-1030052223 of the Financial Supervisory Commission</p>
Content :	<p>Article 1</p> <p>These Regulations are prescribed in accordance with paragraph 2 of Article 60 of the Securities and Exchange Act ("the Act").</p> <p>Article 2</p> <p>To conduct securities trading margin purchase and short sale business, a securities firm shall require approval from the competent authority.</p> <p>The term "margin purchase" refers to a securities firm providing monetary financing to its customers; the term "short sale" refers to a securities firm lending securities to its customers.</p> <p>The competent authority may, depending on domestic economic and financial status and securities market conditions, restrict applications by securities firms to conduct margin purchase and short sale business.</p> <p>Article 3</p> <p>A securities firm applying to conduct margin purchase and short sale business shall meet the following requirements:</p> <ol style="list-style-type: none"><li>1. The most recent financial report audited by the certified public accountant shows a net worth of not less than NT\$200 million;</li><li>2. Have operated securities brokerage business for one (1) year or more;</li><li>3. The most recent financial report audited by the certified public accountant shows net worth per share of not less than par value, and financial status meeting the requirements under the Regulations Governing Securities Firms;</li><li>4. Have not been issued a warning by the competent authority under subparagraph 1 of Article 66 of the Act within the last three (3) months;</li><li>5. Have not been sanctioned by the competent authority by ordering the securities firm to discharge a director(s), supervisor(s), or managerial officer(s) under subparagraph 2 of Article 66 of the Act within the last six (6) months;</li><li>6. Have not been sanctioned by the competent authority by suspending its business operation under subparagraph 3 of Article 66 of the Act within the last year;</li><li>7. Have not been sanctioned by the competent authority by revoking the permit for establishing a branch office according to Article 57, paragraph</li></ol>

1 of Article 59, or subparagraph 4 of Article 66 of the Act within the last two (2) years;

8. Have not been sanctioned by the stock exchange, OTC Exchange, or futures exchange by imposing a penalty or suspending or restricting trades in accordance with its rules within the last one (1) year;

9. Regulatory capital adequacy ratio during the half-year period preceding the date of application was not less than 150 percent; and

10. Other requirements prescribed by the competent authority.

The competent authority may, depending on the domestic economic and financial status and the conditions of securities markets and securities firm business, adjust the requirements in subparagraph 1 of the preceding paragraph.

In cases where a securities firm has failed to meet a condition in subparagraphs 4 to 8 of paragraph 1, but where concrete improvement has been made and the competent authority has granted consent, the securities firm may be exempted from restriction thereunder.

After a securities firm is approved by the competent authority to conduct securities trading margin purchase and short sale business, if its regulatory capital adequacy ratio falls below 150 percent for two consecutive months, it shall suspend such business, which it may resume only after the securities firm is in compliance with the requirement for 3 consecutive months and is approved by the competent authority; the same requirement shall apply to a securities firm that has already received approval to conduct such business but has not yet commenced it.

#### Article 4

A securities firm conducting margin purchase and short sale business shall adopt an internal control system and set up a special unit and appoint associated persons to take care of the business.

The internal control system referred to in paragraph 1 shall state the operational procedures for handling margin purchases and short sales, division of powers and responsibilities, margin account management, and credit investigation of customers.

The supervisors and associated persons of the business referred to in paragraph 1 shall be qualified by undergoing training and examination by an agency recognized by the competent authority, and may concurrently conduct securities business related money lending and securities borrowing and lending business.

#### Article 5

A securities firm conducting margin purchase and short sale business shall file an application together with the following documents to the competent authority for its approval:

1. Articles of incorporation;
2. Internal control system;
3. Latest CPA-audited and certified annual financial report; if at the time of application, it has been more than six (6) months since the commencement of the fiscal year, a CPA-audited and certified financial report of the first half year shall also be submitted;
4. Minutes of board of directors meeting;
5. Supporting document showing that the applicant meets the requirement under subparagraph 7 of paragraph 1 of Article 3 herein;

6. Other documents as required by the competent authority.

#### Article 6

A securities firm conducting securities margin purchase and short sale business shall pay an additional operation bond in the amount of NT\$50 million.

#### Article 7

Within three months from the date on which the competent authority has granted approval pursuant to Article 5, a securities firm shall submit the documentation listed below to the competent authority to apply for approval, and may conduct securities margin purchase and short sale business only after obtaining such approval:

1. Documents showing payment of additional operation bond;
2. List of supervisors and associated persons handling margin purchase and short sale business and their certificates of qualification; and
3. Other documents as required by the competent authority.

If a securities firm fails to apply to the competent authority within the time period provided in the preceding paragraph, its approval shall be revoked, provided that where there is legitimate reason, prior to the expiration of the time period it may apply once only for an extension of not longer than three months.

#### Article 8

When a securities firm begins conducting securities margin purchase and short sale business, it shall terminate any securities margin purchase and short sale agency business; provided that for any outstanding unsettled balance of margin purchases and short sales of customers originally represented by it, it may continue to act as the agent until the balance has been settled.

#### Article 9

After a securities firm has been approved to conduct margin purchase and short sale business, if the net worth in the annual financial report duly submitted by it does not meet the requirement set out in Article 3, paragraph 1, subparagraph 1 herein, the competent authority shall notify it to correct the deficiency within one year. If the securities firm fails to do so by the time limit, its approval shall be revoked.

#### Article 10

A securities firm conducting securities margin purchase and short sale business shall sign a margin trading agreement with its customer and open a margin account.

Contents of the margin trading agreement referred to in the preceding paragraph shall be prescribed by the stock exchange and OTC exchange and reported to the competent authority for approval.

The following matters shall be stated in the margin trading agreement:

1. The ratio, and the time limit to make up any difference, under Article 17;
2. Disposition of the collateral under Article 18;
3. Prohibition against using proceeds derived from short sales and margin deposited for short sales for any other purpose, and the interest rate payable thereupon, under Article 21;
4. Centralized custody of customers' securities, and the requirement to deliver securities of the same type when the securities are used according

to relevant provisions, under Article 22.

#### Article 11

When a securities firm processes customer applications to open a margin accounts, each customer shall open only one margin account. The conditions for opening a margin account shall be prescribed by the stock exchange and OTC exchange and reported to the competent authority for approval.

#### Article 12

When processing a customer's application to open a margin account, a securities firm shall conduct a credit investigation.

#### Article 13

When the brokerage trading agreement between a securities firm and its customer is terminated, the securities firm shall cancel the margin account.

#### Article 14

When a securities firm conducts securities margin purchase and short sale business, the total amount, respectively, of margin purchases or short sales that it provides to customers may not exceed 250% of its net worth. When the regulatory capital adequacy ratio of a securities firm conducting margin purchase and short sale business reaches 250% or more for three consecutive months, the total amount, respectively, of margin purchases or short sales that it provides to customers may not exceed 400% of its net worth.

If, after a securities firm has proceeded in accordance with the preceding paragraph, its regulatory capital adequacy ratio falls below 250% for two consecutive months and moreover the total amount, respectively, of margin purchases or short sales that it provides to customers exceeds 250% of its net worth, it shall temporarily suspend margin purchases or short sales for customers. Once the total amount of margin purchases or short sales has fallen below 250% of its net worth or its regulatory capital adequacy ratio has reached 250% for three consecutive months, it may then proceed in accordance with the two preceding paragraphs, respectively.

When a securities firm conducts margin purchase and short sale business, the total amount of margin purchases that it provides to customers, plus the total amount of any monetary financing that it provides in connection with securities business, may not exceed 400 percent of its net worth; the total amount of short sales that it provides to customers, plus the total amount of securities that it lends in conducting securities borrowing and lending business, may not exceed 400 percent of its net worth.

If a securities firm is concurrently operated by a financial institution, the net worth referred to in the preceding four paragraphs shall be calculated based on the specially allocated operations capital; provided that the amount may not exceed the highest net worth of the securities firm referred to in the preceding four paragraphs in the same period and the limit set by the competent authority.

The ratio referred to in paragraph 1 to paragraph 4 above may be adjusted by the competent authority, depending on the domestic economic and financial status and the conditions of the securities market and business of securities firms.

#### Article 15

In conducting securities margin purchase and short sale business, the total

amount of margin purchases that a securities firm provides for any given type of securities may not exceed 10% of its net worth.

In conducting securities margin purchase and short sale business and conducting securities borrowing and lending business, the combined total amount of short sales and loans that a securities firm provides of any given type of securities may not exceed 5% of its net worth.

If a securities firm is concurrently operated by a financial institution, the net worth referred to in the preceding two paragraphs shall be calculated based on the specially allocated operations capital.

#### Article 16

When a securities firm conducting margin purchase and short sale business provides margin purchase service to a customer, it shall collect the margin for margin purchase based on the ratio prescribed by the competent authority, and all the securities procured through margin purchase shall be used as collateral; when providing short sales to a customer, the securities firm shall collect a margin for short sale in accordance with the percentage prescribed by the competent authority, and the proceeds from the short selling shall be used as collateral.

#### Article 17

A securities firm conducting margin purchase and short sale business shall mark to market on a daily basis the ratio of the value of collateral in each margin account to the customer's debt. If the ratio is lower than the required ratio, the securities firm shall immediately notify the customer to make up the difference within a prescribed time limit.

The ratio and time limit for payment of the maintenance margin referred to in the preceding paragraph shall be prescribed by the stock exchange and OTC exchange and reported to the competent authority for approval.

#### Article 18

In the event that a customer of a securities firm fails to pay the maintenance margin in accordance with the provisions of paragraph 1 of the preceding Article or fails to settle the transaction within the agreed time limit, the securities firm shall dispose of the collateral.

#### Article 19

The margin for short sale and the maintenance margin to be made up in accordance with paragraph 1 of Article 17 may be satisfied by the transfer of securities.

The types and the standards for transfer of securities referred to in the preceding paragraph shall be prescribed by stock exchange and OTC exchange and reported to the competent authority for approval.

#### Article 20

When a securities firm conducts securities margin purchase and short sale business, if due to stock price fluctuation the net value of the collateral in a customer's margin account less the customer's debit balance increases, the securities firm may not deliver to the customer the money or securities equivalent to the excess equity or apply such excess against the margins required for margin purchase or for short sales.

#### Article 21

When conducting securities margin purchase and short sale business, a securities firm may not use the proceeds derived from short sales and the margin deposited for short sales in the customer's account for any purpose

other than those listed below:

1. As a source of funds for conducting margin purchase business.
2. As collateral for refinancing of securities by securities finance enterprises.
3. As a source of securities to lend in conducting securities lending business.
4. As collateral for borrowing securities through the Stock Exchange securities lending system.
5. Bank deposit.
6. Purchase of short-term bills.

A securities firm shall pay interest to customers for the amounts referred to in the preceding paragraph. The interest rate shall be prescribed by the securities firms and reported to the competent authority for recordation.

#### Article 22

In conducting margin purchase and short sale business, a securities firm shall not use a customer's securities for any purpose other than those listed below and shall deposit the securities in the central depository:

1. As a source of securities for conducting short sale business.
2. As collateral for refinancing of funds or securities by securities finance enterprises.
3. As a source of securities to lend in conducting securities lending business.
4. As collateral for borrowing securities through the Stock Exchange securities lending system.

A securities firm using securities referred to in the preceding paragraph shall be responsible for delivering securities of the same type upon settlement of margin purchases and short sales.

#### Article 23

A securities firm conducting margin purchase and short sale business shall cease providing short sales when the combined total balance of short sales of any given type of securities plus the balance of loans of that type of securities extended in securities lending business reaches the combined total amount of all of the following amounts for the given type of securities:

1. The balance of margin purchases of that type of securities.
2. The securities firm's own holdings of that type of securities.
3. Borrowings made from the Stock Exchange securities lending system of that type of securities.

#### Article 24

The funds or securities required by a securities firm conducting margin purchase or short sale business may be re-financed by a securities finance enterprise.

When a securities firm processes re-financing referred to in the preceding paragraph, it shall nevertheless still separately perform its settlement obligations to the stock exchange or OTC exchange.

The term "re-finance" means that a securities firm acquires financing of funds or securities from a securities finance enterprise.

#### Article 25

When a securities firm conducts margin purchase and short sale business, the standards for interest rates on margin purchases and the handling fees

for short sales shall be set by the securities firm and reported to the competent authority for recordation.

#### Article 26

When a customer makes full payment and settlement, the securities firm conducting margin purchase and short sale business shall deliver to the customer the stocks acquired by the customer through the margin purchase or the monetary proceeds from the short sale together with the margin or the securities transferred for collateral.

#### Article 27

A securities firm conducting margin purchase and short sale business shall keep separate accounting for each margin account and enter the following matters on a daily basis:

1. Margin purchase and short sales matters.
2. Collateral.
3. Margin calls for collateral and dispositions of collateral.

#### Article 28

Regarding the handling of margin purchase and short sale business by securities firms, the stock exchange and OTC exchange shall prescribe rules for the operation of such business, providing for matters such as the exercise of stock rights of stocks acquired through margin purchase or short sale, withholding of income tax on dividends, and the disposition of other relevant matters. Such rules shall be reported to the competent authority for approval before implementation.

A securities firm conducting margin purchase and short sale business shall do so in compliance with the business operation rules referred to in the preceding paragraph.

#### Article 29

In conducting margin purchase and short sale business, a securities firm may not violate these Regulations or the securities trading margin purchase and short sale amount limits, duration limits, margin purchase financing ratio, or percentage of margin required for short sales, or the Standards Governing the Eligibility of Securities for Margin Purchase and Short Sale, as prescribed by the competent authority under Article 61 of the Securities and Exchange Act.

#### Article 30

When a securities firm conducts margin purchase and short sale business, during the valid period of a margin purchase or short sale relationship, if trading in the securities market is completely suspended or trading of a certain type of securities is suspended due to a natural disaster or other extraordinary event and the time for resumption of transactions has not been decided, the securities firm shall notify its customers to close out margin purchases and short sales in the following manners within the agreed period:

1. For securities acquired through margin purchase, redeem the securities by cash and withdraw the securities..
2. For securities sold through short sale, cover the short sale with spot securities, and withdraw the monetary proceeds from the short sale and the margin. However, if unable to cover the short sale with spot securities, the securities firm may to the stock exchange or OTC exchange to purchase the securities through public tender offer. The cost of the tender offer

shall be borne by the short sale customer.

Article 31

These Regulations shall be in force from the date of issuance.

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Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System