

## Content

Title : Regulations Governing Futures Commission Merchants [Ch](#)

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Futures-1000063626 of the Financial Supervisory Commission, Executive Yuan 18. Articles 2, 17, 24, and 58 amended and issued per 12 July 2012 Order No. Financial-Supervisory-Securities-Futures-1010030979 of the Financial Supervisory Commission; for enforcement from the date of issuance, except for Articles 17 and 24, which shall be enforced from the fiscal year 2013 19. Articles 14, 23, 25-2, and 42 amended and issued per 29 May 2014 Order No. Financial-Supervisory-Securities-Futures-1030013322 of the Financial Supervisory Commission

20. Articles 25-3, 38, and 56-2 amended and issued and Article 53-1 added per 6 January 2015 Order No. Financial-Supervisory-Securities-Futures-1030050108 of the Financial Supervisory Commission

21. Articles 6, 23, 36, 56-1, and 56-5 to 56-7 amended and issued and Article 56-9 added per 9 July 2015 Order No. Financial-Supervisory-Securities-Futures-1040024996 of the Financial Supervisory Commission

22. Articles 14, 28, and 55 amended and issued per 27 January 2016 Order No. Financial-Supervisory-Securities-Futures-1050000242 of the Financial Supervisory Commission

23. Article 18 amended and issued per 2 August 2016 Order No. Financial-Supervisory-Securities-Firms-1050027828 of the Financial Supervisory Commission

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Content : Chapter I General Principles

#### Article 1

These Regulations are prescribed in accordance with Article 56, paragraph 5 of the Futures Trading Act ("the Act").

#### Article 2

A futures commission merchant shall prescribe an internal control system in accordance with the Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets adopted by the Financial Supervisory Commission (FSC) and the regulations providing standards for the internal control systems of futures commission merchants adopted by futures-related agencies, such as the Taiwan Futures Exchange Corporation (TAIFEX).

The operation of a futures commission merchant shall be in accordance with acts and regulations, articles of incorporation, and the internal control system referred to in the preceding paragraph.

When a futures commission merchant operates futures brokerage business, it shall retain transaction vouchers and records of customer identification and registration sufficient for a complete and full understanding of the transaction for any transaction above a specific amount or suspected of money-laundering, and shall handle the case pursuant to the Money Laundering Control Act and the internal control systems.

The prescription and amendment of the internal control system referred to in paragraph 1 above shall be approved by the board of directors, and a record thereof shall be kept on file. Any amendments to be made pursuant to notices from the FSC or futures-related agencies shall be made within the specified time limit.

#### Article 3

In case of any of the following events, a futures commission merchant shall report to the FSC for approval in advance:

1. change of name of the firm;
2. change of capitalization, operating capital, or the fund for operating business;
3. change of the business place of the firm or its branch unit(s);
4. change of the company's business items;

5. acquisition in whole or in major part of the business or assets of another futures firm, or transfer in whole or in major part of the business or assets of the firm;
6. merger or dissolution;
7. investment in a foreign enterprise; or
8. any other matters that are required per FSC regulations to be reported and approved in advance.

The matters that the preceding paragraph requires to be reported to the FSC for approval shall be reported to the FSC via the TAIFEX.

#### Article 4

In any of the following events, a futures commission merchant shall report to the FSC:

1. where business operations are commenced, suspended, resumed or terminated;
2. where the institution for clearance and settlement of futures trades is changed;
3. where a customer margin account is opened, changed, or closed;
4. where a futures commission merchant, or any of its directors, supervisors, managers, associated persons, or any other employee becomes involved in litigation or arbitration stemming from the performance of job duties, or is subject to compulsory execution as an obligor, or where a futures commission merchant is a bankrupt, or is refused services or has a negotiable instrument dishonored by a bank;
5. where any of the conditions referred to in Article 28 of the Act applies to any director, supervisor, manager, or associated person;
6. where, as shown by facts, any director, supervisor, manager, or associated person has engaged or been involved in any other dishonest or improper activities which demonstrate that such person is not suitable to engage in futures trading;
7. where any director, supervisor, manager, associated person, or other employee has violated the Act or any order issued by the FSC in accordance with the Act;
8. where there is any change in the shareholding of any director, supervisor, or manager, or of any shareholder holding more than 10 percent of the shares of the company;
9. where there is any change of the financial ratio or other material events affecting financial structure which, according to the futures trading acts and regulations of a foreign country, must be reported to the competent authority for futures in such country, or to other authorities there;
10. where the futures commission merchant's futures trading volume, whether on its proprietary account or on customers' accounts, has reached the reporting threshold under futures trading acts and regulations of the ROC or a foreign country; or
11. where there is any other matter that must be reported under FSC regulations.

For the matters under subparagraphs 1 and 2 in the preceding paragraph, the company shall report in advance; for the matters under subparagraphs 3 through 7, the company shall report within 5 business days from either the date on which it becomes aware of such a matter, or the day on which such a

matter occurs; for matters under item 8, any director, supervisor, or manager, or any shareholder holding more than 10 percent of the shares of the company, shall report to the company by the 5th day of the following month, and the company shall collect such reports and forward them in a single batch [to the FSC] by the 15th day of the same month; for matters under subparagraphs 9 and 10, the company shall report to the FSC at the time when it reports the same to the ROC or foreign futures exchange or to other authorities.

Matters that must be reported pursuant to paragraph 1 above shall be submitted to the FSC via the TAIFEX.

The term "business day" as used in these Regulations means a trading day on the domestic futures markets.

#### Article 5

A futures commission merchant shall not use the business permission issued by the FSC to advertise or guarantee that it has strong operations or sound financial structure.

#### Article 6

A futures commission merchant shall operate its business in a fair and reasonable manner. The operating costs, transaction risks, reasonable profits, and overall customer contribution shall be taken into consideration in determining the fees to be collected. It is not permitted to use unreasonable fees to solicit or conduct business.

Before a futures commission merchant makes use of any promotional or advertising materials, a manager in the firm must first examine the materials and either sign them or affix his/her seal.

The promotional and advertising materials and related records referred to in the preceding paragraph shall be kept for 2 years.

Regulations governing matters related to the format, content, preparation, and dissemination of the promotional and advertising materials referred to in paragraph 2 above, and any amendment thereto, shall be prescribed by the Chinese National Futures Association ("the Futures Association") and reported to the FSC for recordation.

The FSC may at any time conduct an inspection of random samples of the promotional materials, advertising materials, and related records, and the futures commission merchant shall not refuse or interfere.

#### Article 7

Where a futures commission merchant, with the intention of soliciting business, issues written, pictorial, or oral promotion statements, or issues advertisements via newspapers, magazines, broadcast radio, television, teletex system, or other mass media, such statements and advertisements shall not contain the following:

1. misrepresentations, high-pressure sales tactics, or declarations that futures trading is suitable for all persons;
2. concealment of material facts, such that the general public would likely be misled;
3. emphasis on profitability without explaining the relevant risks;
4. use of only favorable materials when advertising the firm's investment performance;
5. use of charts, formulas, computer software, or other futures technical analysis instruments for advertising purposes without conspicuous

explanation of the functional limits thereof; or

6. other exaggerated or biased representations or anything likely to deceive the general public.

#### Article 8

In providing customers with information, research reports, or other data regarding spot markets and futures markets, a futures commission merchant shall not engage in misrepresentation, concealment, or fraud, or otherwise mislead its customers.

#### Article 9

A futures commission merchant shall display its permission license in a conspicuous place on the business premises.

#### Article 10

A futures commission merchant shall establish an internal auditing system for scheduled and unscheduled audits of the company's financial and business operations. Audit reports based on such audits shall be prepared and kept on file for inspection.

The audit reports referred to in the preceding paragraph shall include comments on whether or not the firm's financial and business operations are in compliance with applicable acts and regulations and the internal control system of the company.

#### Article 11

The brokerage and proprietary futures trading of a futures commission merchant shall be operated separately and independently. Business information shall not be shared among them, and the rights and interests of the futures traders shall not be prejudiced.

#### Article 12

A futures commission merchant's futures trading shall be handled by duly registered qualified associated persons, as required by the Regulations Governing Responsible Persons and Associated Persons of Futures Commission Merchants.

#### Article 13

No futures commission merchant shall commence business without joining a futures industry association.

### Chapter II Financial Operations

#### Article 14

After completion of corporate registration, a futures commission merchant shall lodge an operating bond with a financial institution designated by the FSC, in accordance with the following provisions:

1. futures broker: 50 million New Taiwan Dollars.

2. futures dealer: 10 million New Taiwan Dollars.

3. merchant operating both businesses in the preceding two subparagraphs: sum total of the amounts referred to in the preceding two subparagraphs.

4. branch unit: additional 5 million New Taiwan Dollars for each branch.

The provisions in subparagraphs 1 through 4 above shall apply mutatis mutandis to other enterprises concurrently engaged in futures trading and to foreign futures commission merchants, both of which shall further be governed by the following provisions:

1. Other enterprises applying to concurrently engage in brokerage of the type of futures contracts set forth in Article 25, paragraph 2, subparagraphs 1 to 3 or Article 40, paragraph 2, subparagraphs 1 to 3 of

the Regulations Governing the Establishment of Futures Commission Merchants shall lodge an operating bond of 15 million New Taiwan Dollars.

2. Other enterprises applying to concurrently engage in brokerage of the type of futures contracts set forth in Article 25, paragraph 2, subparagraph 4 or Article 40, paragraph 2, subparagraph 4 of the Regulations Governing the Establishment of Futures Commission Merchants shall lodge an operating bond of 25 million New Taiwan Dollars.

3. A foreign futures commission merchant applying to engage only in the sub-brokered foreign futures trading services set forth in Article 20, paragraph 2 of the Establishment Criteria of Futures Commission Merchants shall lodge an operating bond of 15 Million New Taiwan Dollars.

The financial institutions referred in paragraph 1 are those banks that have been approved by the FSC to provide custodian services, and which meet the conditions prescribed by the FSC.

A financial institution concurrently engaged in futures trading shall lodge its operating bond with another financial institution.

The operating bond referred to in paragraph 1 above shall be lodged in the form of cash, government bonds, or financial bonds.

The operating bond lodged by a futures commission merchant may not be placed in divided custody, reported lost, or canceled. The items lodged as bond, and the associated custodial receipt, shall not be encumbered in any way, nor shall they be withdrawn or replaced without the approval of the FSC.

Article 15

(deleted)

Article 16

(deleted)

Article 17

The total amount of liabilities of a futures commission merchant minus futures traders' equity shall not exceed its shareholders' equity. The total amount of its current liabilities shall not exceed the total amount of its current assets.

Other enterprises concurrently engaged in futures trading shall, in making the calculation referred to in the preceding paragraph, do so under the account items of an independent department.

Article 18

Futures commission merchants (except those concurrently operated by other enterprises, as these are governed by other relevant acts and regulations) that have already issued securities under the Securities and Exchange Act shall take 20 percent from annual after-tax profit and set it aside as the special reserve set forth under Article 41 of the Securities and Exchange Act; provided that funds for this special reserve need no longer be set aside once the accumulated reserve equals the amount of the company's paid-in capital.

Futures commission merchants that have not issued securities under the Securities and Exchange Act shall set aside a 20 percent special reserve from the annual after-tax profit; provided that funds for this special reserve need no longer be set aside once the accumulated reserve equals the amount of the company's paid-in capital.

The FSC may increase or decrease the percentages under the preceding two

paragraphs based on business needs.

The special reserve referred to in the preceding three paragraphs shall not be used for purposes other than covering the losses of the company or, when the accumulated special reserve reaches 50 percent of the amount of paid-in capital, half of it may be capitalized; provided, that this rule shall not apply if the FSC has provided otherwise.

#### Article 19

A futures commission merchant shall not act as a guarantor of any nature, endorse the transfer of negotiable instruments, or provide assets for use as collateral by others; provided that this provision shall not apply if the said acts are allowed by law or approved by the FSC.

#### Article 20

A futures commission merchant shall not purchase real estate except for purposes related to the operation of its business; provided that this restriction shall not apply where the futures commission merchant holds non-operating real estate because of merger, assignment, closure of branch units, change or reduction of place of business, or approval by the competent authority.

#### Article 21

A futures commission merchant, unless concurrently operated by a financial institution, shall not borrow funds from any party that is not a financial or insurance institution; provided that this rule shall not apply to borrowing made for the following purposes:

1. issuance of commercial paper;
2. issuance of corporate bonds;
3. loans needed to meet urgent cash flow needs of the company.

When borrowing funds to meet the urgent cash flow needs referred to in subparagraph 3 of the preceding paragraph, a futures commission merchant shall report to the FSC within 2 days from the date of occurrence of the event.

#### Article 22

When the shareholders' equity of a futures commission merchant is less than 60 percent of minimum paid-in capital, or when adjusted net capital is less than 20 percent of the total amount of customer margins required for the open positions of futures traders, the futures commission merchant shall immediately report to the FSC and FSC-designated institutions.

When the shareholders' equity of a futures commission merchant is less than 40 percent of minimum paid-in capital, or when adjusted net capital is less than 15 percent of the total amount of customer margins required for the open positions of futures traders, except where necessary in order to deal with currently outstanding positions, the futures commission merchant shall immediately cease accepting orders from futures traders and submit a rectification plan to the FSC and FSC-designated institutions.

Adjusted net capital shall be calculated in accordance with the rules of the FSC. The percentages set forth in the preceding two paragraphs may be adjusted by the FSC depending on domestic and foreign economic and financial conditions and the business conditions being experienced by ROC and foreign futures commission merchants.

The provisions in paragraph 1 and paragraph 2 above shall apply mutatis mutandis to enterprises concurrently engaged in futures trading.

## Article 23

Unless otherwise approved by the FSC, the funds of a futures commission merchant not required for business operation shall not be loaned to other persons or used for any purposes other than the following:

1. bank deposits;
2. purchase of government bonds or financial bonds;
3. purchase of treasury bills, negotiable certificates of deposit, commercial paper, or other short-term notes and bills approved by the FSC; and
4. other purposes approved by the FSC.

## Article 23-1

Except in a case involving its equity investment in another enterprise as approved by the FSC, a futures commission merchant, when exercising rights in any investee company shares that it has acquired, shall do so for the greatest benefit of the futures commission merchant, and may not directly or indirectly participate in the operation of the investee company or make any inappropriate arrangement.

Except where otherwise provided by law or regulation, a futures commission merchant, when exercising voting rights of stock it holds in a public company, shall dispatch a personnel member of the futures commission merchant to attend and do so as its representative.

## Article 24

A futures commission merchant shall prepare financial reports in accordance with applicable regulations, and within 3 months after the close of each fiscal year shall publish and report to the FSC annual financial reports that have been audited and attested by certified public accountants, approved by the board of directors, and acknowledged by the supervisors.

Within 2 months after the end of each fiscal mid-term, it shall publish and report to the FSC financial reports that have been audited and attested by certified public accountants, approved by the board of directors, and acknowledged by the supervisors.

Auditing and attestation of the financial reports referred to in the preceding paragraph shall be performed jointly by two or more practicing certified public accountants of a joint accounting firm approved by the FSC in accordance with the Criteria Governing Approval for Auditing and Attestation of Financial Reports of Public Companies by Certified Public Accountants.

A futures commission merchant shall, by the 10th day of each month, submit to the FSC a monthly accounting summary, monthly statement of financial ratios, and monthly statement of futures trading volume for the preceding month.

The items for reporting referred to in the preceding paragraphs 1 and 3 shall be reported to the FSC via the TAIFEX.

## Chapter III Business Operations

### Article 25

A futures commission merchant shall not open an account for any of the following persons:

1. anyone under the age of 20;
2. anyone who has been adjudicated bankrupt and whose rights have not been reinstated;

3. anyone who has been placed under guardianship or assistance by an adjudication that has not been revoked;
4. anyone who opens an account on behalf of a juristic person but fails to present the documents issued by such juristic person authorizing the opening of the account;
5. an overseas Chinese or foreign national seeking to open an account who is unable to furnish a certificate evidencing registration with the Taiwan Stock Exchange Corporation (TWSE) or the TAIFEX;
6. an overseas Chinese or foreign national who has entered into a contract with a custodian institution or agent and the content of the contract does not comply with the requirements of the TAIFEX;
7. the staff and employees of the competent authority for the futures industry, the TAIFEX, a futures clearing house, or the Futures Association;
8. anyone who has breached a futures trading contract or a securities trading contract within the last 5 years and the case remains unclosed; or
9. anyone who has been found guilty by a judicial authority of a criminal violation of futures trading acts and regulations or securities exchange acts and regulations, and such judgment has become final and unappealable within the last 5 years.

In the event that any of the descriptions set forth in the preceding paragraph applies to a futures trader who has already opened an account, the futures commission merchant shall immediately cease accepting new orders from such a customer; provided that this shall not apply to the new orders necessary in order to deal with currently outstanding positions. When the claims and liabilities of the futures trader referred to in the preceding paragraph are fully settled, the futures commission merchant shall cancel the account.

#### Article 25-1

A futures commission merchant possessing certain qualifications may accept orders from offshore foreign futures commission merchants to open omnibus accounts, and from overseas Chinese and foreign nationals to execute futures trades.

The qualification requirements that a futures commission merchant as set forth in the preceding paragraph must meet to accept orders to open omnibus accounts, and the procedures for doing so, shall be set by the TAIFEX and reported to the FSC for approval; the same applies to any modification of the above.

#### Article 25-2

An offshore foreign futures commission merchant meeting the following requirements may open an omnibus account:

1. Is a member of an FSC-recognized foreign futures exchange.
2. A futures-related government authority or self-regulatory organization has not sanctioned its head office (or any branch thereof) in its home country by ordering a temporary suspension of its securities or futures brokerage business in the preceding 1 year.
3. In the preceding 3 years, has not committed a material violation of a market trading contract or of its filing obligations.

An overseas subsidiary in which a securities firm or futures commission merchant holds more than 50 percent of the shares may open an omnibus account if it is approved by the local competent authority to operate

futures brokerage business and meets the requirements of subparagraphs 2 and 3 of the preceding paragraph.

For an omnibus account that has already been opened, where it is discovered that any of the requirements of the preceding paragraph are not met the futures commission merchant shall immediately stop accepting orders for that account. However, this requirement does not apply to orders placed to offset open positions.

After the open positions of the account referred to in the preceding paragraph are closed out, the futures commission merchant shall cancel the account.

#### Article 25-3

A futures broker may act as agent for an offshore overseas Chinese, for a foreign national, or for a natural person, juristic person, group, or other institution of the Mainland Area or a branch unit established in a country or area other than the Mainland Area by the natural person, juristic person, group, or other institution of the Mainland Area.

The matters and scope for which a futures broker may act as agent under the preceding paragraph shall be as prescribed by the FSC.

#### Article 26

A futures broker shall not open an account at its own company or any other futures commission merchant to engage in proprietary futures trading, except under the following circumstances:

1. where an account is opened in its own company for settlement of out-trades;
2. where an enterprise concurrently engaged in futures trading opens an account in its own company or another futures commission merchant for business needs;
3. any other circumstances approved by the FSC.

#### Article 27

In the event that a responsible person, associated person, or other employee of a futures commission merchant engages in futures trading, unless otherwise provided by the FSC such a person may only open an account with the futures commission merchant with which the person is employed, and in so doing shall not use any other person's name.

Account openings, orders, and other matters involving the persons referred to in the preceding paragraph shall be handled in accordance with the rules of FSC or FSC-designated institutions.

#### Article 28

When handling a customer's request to open an account, a futures commission merchant shall provide a brokerage contract and a risk disclosure statement. After the contents of the contract and futures trading procedures are outlined and explained to the customers, the said documents shall be signed or sealed and dated by the customer and kept on file.

For the reference of customers, a futures commission merchant shall prepare a written prospectus, which shall include information on futures-related acts and regulations applicable to the merchant's business, and futures exchange rules and regulations regarding total futures trading volume, trading volume reporting thresholds, price fluctuation limits, and other relevant restrictions.

In the event of any change to any of the restrictions in connection with

trading referred to in the preceding paragraph, the futures commission merchant shall immediately give notice of such change on its public bulletin board.

#### Article 29

The main information in the brokerage contract referred to in the preceding article shall include the following:

1. date of account opening;
2. name, age, occupation, domicile, telephone number, and ID number of the principal (if the principal is a juristic person, the contract shall include its name, representative, domicile, and government uniform invoice number; if the principal is an overseas Chinese or a foreign national, the contract shall include the ID number issued to the principal by the TWSE or the TAIFEX);
3. the method by which the principal is to place brokerage orders with the futures commission merchant, and the method of contact between the parties;
4. the method by which the futures commission merchant is to execute orders;
5. provisions allowing the futures commission merchant firm, in the event that it is unable to provide service, to transfer the principal's account to another futures commission merchant;
6. provisions governing the method for collection of margins, premiums, and any other payments; the currency in which they are to be collected; and the method of foreign exchange settlement;
7. rights to the interest accrued on funds deposited in the principal's margin account;
8. provisions governing futures trading commissions and other related fees;
9. the principal's obligation to maintain the margin account;
10. provisions governing the conditions under which the futures commission merchant may offset the futures position on behalf of the principal, and matters related thereto;
11. method and timing of notices requiring the principal to deposit additional equity in the margin account;
12. the futures commission merchant's credit investigations on financial status, and the scope of such investigations;
13. reporting requirements regarding changes to the principal's basic identifying information;
14. matters affecting the rights and interests of the principal for which the futures commission merchant must provide notification to the principal, and the timing of such notification;
15. the scope of information and services that the futures commission merchant is required to provide;
16. the scope of damage arising from reasons attributable to the other party of the contract, and the manner of handling arbitration and other relevant matters;
17. method for handling damages arising from causes not attributable to the fault of either party to the contract;
18. settlement of other trading disputes;
19. change of terms and conditions of contract;
20. rescission of contract; and
21. other matters which must be addressed that affect the rights and

obligations of the parties.

#### Article 29-1

Where a futures commission merchant opens an omnibus account and executes futures trades, the primary content of the brokerage contract shall, in addition to the requirements of the preceding article, include the following matters:

1. the obligations of the futures commission merchant and the omnibus account holder or its agent or representative in Taiwan to report to the FSC, the competent authority for foreign exchange, and the TAIFEX;
2. the obligation of the omnibus account holder and the individual traders under the omnibus account to comply with the laws and regulations of Taiwan and the Operating Rules of the TAIFEX;

The content of reporting under subparagraph 1 of the preceding paragraph includes the following particulars:

1. information relating to outward and inward remittances of funds and foreign exchange settlement;
2. information on the itemized trades and positions held by individual traders under the omnibus account;
3. other information designated by the FSC, the competent authority for foreign exchange, and the TAIFEX.

#### Article 30

Before accepting an order for futures trading, a futures commission merchant shall first enter into a brokerage contract with the principal. For a principal newly opening an account, the futures commission merchant shall carefully check the particulars to be filled in to see if there is any mistake or omission. Until an account has been opened, the futures commission merchant shall not accept any orders from the principal.

#### Article 31

When engaging in futures brokerage trading for a customer, a futures commission merchant shall establish an account for the customer, which shall include the following information regarding the principal:

1. name, domicile or residence, and mailing address;
2. occupation and age;
3. status of assets;
4. investment experience;
5. reason(s) for opening the account; and
6. other necessary information.

The futures commission merchant shall keep confidential the information referred to in the preceding paragraph unless disclosure is required for inquiries made in accordance with acts and regulations.

#### Article 32

Until a customer has opened a deposit account at a financial institution designated by the futures commission merchant, such merchant shall not accept orders for futures trading.

When a futures commission, acting upon a customer's instructions, pays out surplus cash margins or premiums, it shall do so by transferring the funds into the customer's deposit account referred to in the preceding paragraph.

#### Article 33

In accepting a futures trading order, when the principal or his/her representative or agent places the order face to face, the principal shall

fill out the order form and add his/her signature or seal. When the order is placed by written document, telephone, telegram, or other means, except where otherwise provided by the FSC, the particulars of the requested trade shall be filled in on the order form by the associated person accepting the order.

Unless the principal places an order face-to-face and signs/seals the trading order, or unless the parties have stipulated otherwise in advance, the futures commission merchant shall deliver the trading order to the principal for the principal's signature or seal after execution of the order.

When accepting orders for futures trading, a futures commission merchant shall keep sufficient records to prove the facts of the order.

#### Article 34

The order form referred to in the preceding article shall contain the following information:

1. account number and account name;
2. method of order placement (face-to-face, in writing, by telephone, telegram, or other electronic means);
3. date and time of the order and the duration of the order's validity;
4. name of the futures exchange;
5. type, volume, and delivery month of the futures transacted;
6. whether the principal has placed a market order, a limit order, or some other type of order;
7. signature or seal of the associated person; and
8. signature or seal of the principal.

#### Article 35

When a futures commission merchant allows its own responsible persons, associated persons, or other employees, or their spouses, to open accounts to engage in futures trading, the procedures for executing their orders shall not be more favorable than for other customers in the same type of futures trading.

#### Article 36

When a futures commission merchant accepts and executes a futures trading order placed by telephone, it shall make a tape recording of the phone call for its records.

When a futures commission merchant transmits the contents of a trading order form by fax, telegram, computer system, or other equipment, the transmitted contents shall be kept on file for future reference.

The tape recording and transmitted contents referred to in the preceding two paragraphs shall be kept on file for at least 1 year. If any dispute arises, such tape recording and transmitted contents shall be kept on file until the dispute has been settled.

#### Article 37

When a futures commission merchant accepts trading orders, it shall execute the trades as specifically instructed on the order forms, following the sequence in which the orders were placed and observing the appropriate procedures depending on the exchange, the type of trade, and the pricing particulars of the order.

As long as execution of an order has not yet been completed, the principal or his/her agent may notify the futures commission merchant to cancel the

order.

#### Article 38

When a futures broker engages in foreign futures trading, it shall conduct trades on a foreign futures exchange in one of the following manners and shall place the orders one by one:

1. An ROC futures commission merchant that is a member of the relevant foreign futures exchange and has obtained proof that a clearing member of the futures clearing house will handle its clearing and settlement may, on its own, execute trading orders on the said foreign futures exchange.
2. An approved foreign futures commission merchant that is a clearing member of the relevant foreign futures exchange may, on its own, execute trading orders at the said foreign futures exchange.
3. A futures commission merchant may have trades executed by an approved foreign futures commission merchant that has been publicly announced by the FSC as having obtained a clearing membership in the relevant foreign futures exchange.
4. Such trades may also be conducted in any other manner approved by the FSC.

The foreign futures commission merchant that executes trades as set forth in subparagraph 3 of the preceding paragraph may execute futures trading and handle clearance and settlement in foreign futures exchanges through the holding company by which it is controlled (where such holding company holds more than 50 percent of the merchant's shares), through a subsidiary in which the merchant holds more than 50 percent of the shares, or through another subsidiary of the same holding company by which the merchant is controlled (where such more than 50 percent of the shares in such other subsidiary are held by the merchant's holding company), provided that the said controlled company and subsidiaries are clearing members of the relevant foreign futures exchange.

A futures commission merchant engaging in sub-brokered foreign futures trading services shall, when another futures commission merchant which executes trades in its behalf opens an account, enter into a brokerage or proprietary trading contract for its brokerage and proprietary trading respectively, and shall furthermore open separate margin accounts for each type of trading.

#### Article 39

A futures commission merchant accepting futures trading brokerage orders shall produce a trade report after completion of the trade and deliver the same to the futures trader for his/her signature or seal.

Where the trade report referred to in the preceding paragraph represents a trade made by an agent on behalf of a futures trader, and where it is the agent who confirms the trade, a letter of authorization from the futures trader must be attached.

When a futures commission merchant accepts an order for a futures trade, if trade confirmation has been carried out and records retained after the trade by the futures trader, then the futures commission merchant may be exempted from the requirement under paragraph 1 of this article to obtain a signature or seal.

The trade report referred to in paragraph 1 shall contain the following information:

1. account number and account name;
2. trade date;
3. name of the futures exchange;
4. type, volume, and delivery month of the futures traded;
5. unit price and total trade price;
6. indication of whether the trade is a sale or purchase;
7. indication of whether the trade is not an offsetting trade or is an offsetting trade;
8. the amount of the required margin and/or premium;
9. amount receivable or payable;
10. currency of settlement;
11. commission, service charge, and any other fees;
12. taxes; and
13. other matters as required by the competent authority.

#### Article 40

A futures commission merchant accepting orders from different customers for the same type of futures trades shall act in good faith to distribute the results of completed trades equitably.

In making the distribution referred to in the preceding paragraph, a futures commission merchant shall not treat its responsible persons, associated persons, or other employees, or the spouses thereof, more favorably than other customers.

#### Article 41

In case of emergency events whereby the futures exchange suspends trading, a futures commission merchant shall immediately make a public notice on its bulletin board. If the rights and interests of futures traders are materially affected, the futures commission merchant shall report to the FSC and provide timely notification to futures traders.

In the event that the suspension of trading referred to in the preceding paragraph is related to foreign futures trading, the futures commission merchant shall immediately report to the FSC.

#### Article 42

When a futures commission merchant opens a customer margin account with the institution designated by the FSC pursuant to Article 70, paragraph 1 of the Act, such account shall be designated as a customer margin account.

The name of the institution where a customer margin account is opened, and the number of the account, shall be posted publicly by the futures commission merchant in a prominent location at its place of business; the same requirement also applies to amendment or cancellation of the account. Where a futures commission merchant concurrently engages in brokerage of domestic and foreign futures, it shall open separate customer margin accounts.

The designated institutions referred to in paragraph 1 are limited to the following:

1. Banks that have been approved for foreign exchange or deposit operations by the FSC, and which meet the conditions prescribed by the FSC.
2. Central securities depository
3. Clearing banks that have been engaged by the Central Bank to carry out registration for book-entry central government bonds, and that meet the conditions prescribed by the FSC.

Financial institutions concurrently engaged in futures business may not open their customer margin accounts at financial institutions under their operation.

#### Article 43

Unless otherwise prescribed by the FSC, a futures commission merchant shall collect in full the margins or premiums required by the regulations of the various futures exchanges before it is allowed to accept futures trading orders.

Where a futures commission merchant engages in sub-brokered foreign futures trading services, in collecting margins or premiums from the futures commission merchant placing the order, it shall act in accordance with the requirements of the foreign futures exchange.

#### Article 44

When a futures commission merchant accepts futures trading brokerage orders, it shall take payment in New Taiwan Dollars or a foreign currency accepted by the clearing house.

The payments referred to in the preceding paragraph shall be made through the customer's margin account. All withdrawals shall be made through bank transfer, and a detailed and accurate record and receipt shall be prepared as proof of payment.

When a futures commission merchant accepts futures trading brokerage orders, if it is authorized by the principal to handle foreign exchange settlement procedures, it shall do so in accordance with the Regulations Governing the Reporting of Foreign Exchange Receipts and Disbursements or Transactions.

#### Article 45

A futures commission merchant shall not exercise overdrafts on funds or securities in customer margin accounts, nor create any security interests or other rights thereupon, nor divert them to serve as another client's margin, premiums, clearing and delivery fees, commissions, or processing fees, or to cover insufficient funds of other clients.

#### Article 46

In addition to the margins set by the futures exchange in accordance with Article 15, paragraph 1, subparagraph 4 of the Act, a futures commission merchant may collect extra margins depending on a customer's credit condition and the nature of the trades conducted by the customer.

When the amount of margins required for the futures trading is adjusted, the futures commission merchant shall notify the futures traders to pay the difference within the time limit prescribed in the brokerage contract.

#### Article 47

Margins or premiums for domestic futures trading may be paid in cash or with securities approved by the competent authority.

Unless otherwise provided by the FSC, margins or premiums for foreign futures trading shall be paid in cash.

#### Article 48

A futures commission merchant shall set up an itemized account record for each customer, and on a daily basis shall calculate the balance of cash and securities on deposit in each customer's margin account and changes of the actual marginable value of securities and prepare an itemized statement for each customers' margin account.

After making the calculation referred to in the preceding paragraph, the futures commission merchant shall proceed with the following steps; provided that if it engages in foreign futures trading, and the rules of the foreign futures exchanges provide otherwise, such provisions shall be followed:

1. A futures trader's trading loss shall be deducted from his/her margin account.
2. A futures trader's trading gains shall be deposited into his/her margin account.
3. When the sum of the balance of the deposits and the actual marginable value of securities in a customer's margin account is less than the amount of maintenance margin, the futures commission merchant shall notify the customer to deposit additional equity in the margin account so that the balance will return to the original amount.
4. When the sum of the balance of the deposits and the actual marginable value of securities in a customer's margin account is more than the amount of initial margin, the futures commission merchant shall make withdrawal and payment according as requested by the customer.

The additional equity referred to in subparagraph 3 of the preceding paragraph shall be paid within the time limit prescribed in the brokerage contract.

#### Article 49

In the event that the equity amount of a futures trader is less than the amount of maintenance margin required by the regulations of the given futures exchange, the futures commission merchant shall issue a margin call.

Until it has fulfilled the provisions of the preceding paragraph by collecting in full the margin required under regulations of the given futures exchange, the futures commission merchant shall not accept any trading order from the futures trader; provided that this provision shall not apply to orders made to offset open positions already held.

The provisions in the preceding two paragraphs shall apply mutatis mutandis to futures commission merchants engaged in sub-brokered foreign futures trading services.

#### Article 50

Where a futures trader is required to settle a futures trade by delivery of commodity or cash, the futures commission merchant shall handle matters relevant to the delivery of commodity or cash in accordance with locally applicable acts, regulations, and futures clearing house rules, whether domestic or foreign.

#### Article 51

A futures commission merchant shall keep at its business place all the receipts, vouchers, account books, statements, records, contracts, and evidentiary documents concerning trades as well as clearing and settlement and make them available for the FSC's examination at all times.

The period for keeping the receipts, vouchers, account books, statements, records, contracts and evidentiary documents referred to in the preceding paragraph shall be in line with the Business Accounting Act and relevant acts and regulations.

#### Article 52

A futures commission merchant shall prepare a monthly reconciliation statement in duplicate and complete it by the 5th day of the following month, with one copy to be delivered to the futures trader and the other to be kept by the futures commission merchant.

The reconciliation statement referred to in the preceding paragraph shall contain the following information:

1. name and account number of the futures trader;
2. type, volume, unit price, and date of trades closed in the month;
3. itemized statement of margins and premiums paid for futures trades closed in the month;
4. deposits and withdrawals of cash and securities in the margin account by the futures trader, balance at the end of the month, and the actual marginable value of securities;
5. itemized records, total amount, and delivery months of trades carried out by the futures trader;
6. itemized records of transaction fees and taxes, and their totals;
7. itemized records and total amounts of trading losses and gains; and
8. other matters related to futures trading.

A futures commission merchant shall keep the reconciliation statements for 2 years, and the data may be stored in electronic media.

#### Article 53

A futures commission merchant shall take care to ensure that its proprietary trading does not harm the fairness of price discovery and the soundness of the firm's operations. Furthermore, it shall not use any information to which it becomes privy as the result of its business relations to engage in acts that would harm its customers.

#### Article 53-1

The scope of business, limits on trading in foreign futures contracts, and relevant operating principles to be followed by futures dealers shall be prescribed by the FSC.

#### Article 54

The execution of proprietary trades of a futures commission merchant may not be given priority over brokerage trades in the same type of futures trading.

#### Article 55

When engaging in futures trading, a futures commission merchant shall not:

1. conceal or alter the trading information transmitted from a futures exchange;
2. recommend a specific kind of futures trading to futures traders or any unspecified group of multiple persons, or provide judgment on the rise or fall of prices to induce customers to engage in unnecessary or unreasonable trading;
3. directly or indirectly set up fixed places at locations other than the business premises of its head office or branch units to enter into brokerage contracts with futures traders; provided, however, that this restriction shall not apply where the FSC has provided otherwise;
4. directly or indirectly set up fixed places at locations other than the business premises of its head office or branch units to accept orders for futures trading from futures traders;
5. disclose, not in response to inquiries made in accordance with acts and

regulations, either the particulars of orders placed by futures traders, or other secrets obtained in the course of business;

6. misappropriate the funds or securities of a futures trader;
7. keep custody of funds, seals, or passbooks on behalf of a futures trader; provided that this restriction shall not apply if otherwise provided by the FSC;
8. fail to provide necessary reply and disposition in response to a futures trader's inquiry regarding trade particulars thus causing damage to the futures trader's rights and interests;
9. make false statements in account books, statements, or documents required by acts and regulations, or fail to prepare, report, publicly announce, preserve, or keep such items;
10. fail to submit, within the prescribed time limit, account books, statements, documents, or other reference materials or reports required by order of the FSC, or refuse or interfere with an inspection conducted by the FSC according to law;
11. lend to or borrow from futures traders or act as an intermediary for such lending or borrowing;
12. make untrue futures trading records;
13. make unauthorized alteration of the time stamp affixed on trading order forms, trade reports, or other vouchers;
14. conduct futures trading for customers in a volume or in an open position in excess of the amount permitted by domestic or foreign futures trading acts and regulations;
15. provide trading accounts to futures traders for trading;
16. agree, without having received approval, to provide discretionary trading services, thereby making decisions on a customer's behalf concerning type, quantity, and price with respect to futures trades;
17. use the accounts or names of futures traders to engage in futures trading;
18. use fraud, coercion, or other improper means to enter into a brokerage contract with a futures trader;
19. provide information on recommended trades to a futures trader in any fashion; provided, however, that where other acts or regulations provide otherwise, they shall govern;
20. use information obtained through business relationships to trade futures on one's own account, or to provide others such information for their use in trading futures;
21. make use of non-employees to carry out business relating to futures trading; however, if the FSC has provided otherwise, this rule shall not apply;
22. violate the standards of self-governance adopted by the Futures Association; or
23. otherwise violate futures regulations or regulations of the FSC governing compulsory or prohibited acts.

#### Article 56

In the event that a futures commission merchant experiences bankruptcy, dissolution, suspension of business operations, or circumstances under which acts or regulations require suspension of the acceptance of orders from futures traders, the FSC may order it to transfer all the accounts

related to its futures traders to another futures commission merchant which has entered into a succession contract with it (unless such futures commission merchant is a clearing member, in which case the provisions of Article 54 of the Act shall govern).

Upon receiving the FSC order referred to in the preceding paragraph, unless the futures commission merchant has and reports a legitimate reason to the FSC and receives approval therefrom, it shall transfer to the other futures commission merchant referred to in the preceding paragraph the balances of the futures traders' deposits of cash and securities in margin accounts, the actual marginable value of securities, and the itemized trading statements of such futures traders within 2 business days. Any costs associated with the transfer shall be borne by the transferring futures commission merchant.

Within 2 months after commencement of business, a futures commission merchant shall submit to the FSC for recordation a photocopy of a contract with another futures commission merchant under which the other merchant would assume the accounts related to its futures traders in case of occurrence of the event referred to in paragraph 1 above.

### Chapter 3-1 Investments in Foreign and Mainland China Enterprises

#### Article 56-1

Investments by futures commission merchants in foreign enterprises shall be limited to those investments set forth in the following subparagraphs:

1. Futures enterprises and enterprises related thereto (including related securities, futures, and financial businesses they are allowed to operate under the local laws and regulations of the country of the investment) in countries and territories that have established a competent authority for futures.

2. Other related enterprises in which the FSC has approved investment.

A futures firm or its subsidiaries investing in futures companies in Mainland China area shall do so in accordance with the Regulations Governing Permission and Administration of Securities and Futures Business Dealings and Investment Between the Taiwan Area and the Mainland Area.

A securities firm approved to invest in futures companies in the Mainland China area may not engage in any of the following conduct:

1. To accept engagement to conduct futures brokerage trading in the Mainland China area.
2. To make recommendations to traders in Taiwan to engage in futures trades on the Mainland China futures market.

A futures commission merchant or its subsidiaries investing in futures companies in the Mainland China area may not provide services to Taiwan area individuals or enterprises.

A futures commission merchant or its subsidiaries investing in non-securities/non-futures institutions in Mainland China shall apply for permission with the FSC.

#### Article 56-2

Except where otherwise provided by law or regulation, a futures commission merchant investing in a foreign enterprise shall meet with each of the following requirements:

1. Within the preceding 3 months, the merchant has not received a warning from the FSC.

2. Within the preceding half-year, the merchant has not been ordered by the FSC to discharge or replace a director, supervisor, or manager.
3. Within the preceding 1 year, the merchant has not been ordered by the FSC to suspend its business.
4. Within the preceding 2 years, the merchant has not had a business permission voided or revoked by the FSC.
5. In the preceding 1 year, the merchant has not had its trading rights terminated or restricted by a futures exchange or futures clearing house pursuant to its bylaws.
6. The futures commission merchant's average adjusted net capital for the preceding quarter was not less than 40 percent of the total amount of margin deposits required for futures traders' open positions, and it did not show an accumulated deficit in the financial report (audited and attested by a certified public accountant) for the most recent fiscal period, and it is in compliance with the provisions of Article 17 and Article 23, and none of the situations contemplated under Article 22 apply to it.
7. The total amount invested in foreign and Mainland China enterprises may not exceed 40 percent of a futures commission merchant's net worth, and together with funds used for other purposes approved by the FSC in accordance with Article 23, subparagraph 4 may not exceed 40 percent of a futures commission merchant's net worth. This requirement shall not apply, however, where there is a particular need and special approval is granted. If a futures commission merchant fails to meet any of the requirements set forth in subparagraphs 1 to 5 of the preceding paragraph, but has shown concrete improvement in the circumstances, and the FSC has recognized the improvement, the futures commission merchant may be exempted from the relevant requirement.

#### Article 56-3

A futures commission merchant applying for new establishment of a foreign enterprise shall submit the following documents in applying to the FSC for approval:

1. Its articles of incorporation.
2. An investment plan, the content of which shall expressly specify the following matters:
  - A. Investment plan: To include investment objectives, expected returns, sources of funds, a funds utilization plan, a business plan, and a capital recovery plan. For investment in a holding company, a downstream investment plan shall also be submitted.
  - B. Business management principles: To include the company's location, authorized capital, business to be operated, lines of business, and principles of business management.
  - C. Organizational structure and allocation of responsibilities: To include at least the company's organizational chart (or a corporate group chart in the case of a holding company) as well as a departmental allocation of responsibilities and division of labor.
  - D. Personnel plan: To include rules for authorized personnel complement, personnel training, and personnel management.
  - E. Financial status forecasts for the 1st year after establishment and the year thereafter: To include startup costs, fiscal year financial forecasts,

and financial forecast notes.

3. Minutes of shareholders or directors meetings.
4. The financial report for the most recent period, audited and attested by a certified public accountant.
5. For foreign enterprises in which the futures commission merchant holds more than a 50 percent stake via either equity investment or downstream equity investment, the merchant shall adopt a set of management rules, the content of which shall address the following matters:
  - A. Managerial scope.
  - B. Managerial direction and principles.
  - C. Management of financial, business, and accounting operations.
  - D. Management of assets.
  - E. Financial statements to be prepared regularly.
  - F. The method for carrying out regular internal audits of financial and business operations.
  - G. Other matters: Such as management of personnel operations, and internal control self-assessment with respect to enterprises in which the merchant holds an equity investment.
6. An itemized list of domestic and foreign enterprises in which the merchant holds investments as of the date of application.
7. Other documents as required by FSC regulations.

**Article 56-4**

A futures commission merchant applying to make an equity investment in a foreign enterprise shall submit the following documents in applying the FSC for approval:

1. Its articles of incorporation.
2. Investment plan: To include investment objectives, expected returns, sources of funds, a capital recovery plan, and earnings forecasts for the invested foreign enterprise for the coming 3 years.
3. Minutes of shareholders or directors meetings.
4. The financial report for the most recent period, audited and attested by a certified public accountant.
5. For foreign enterprises in which the futures commission merchant holds more than a 50 percent stake via either equity investment or downstream equity investment, the merchant shall adopt a set of governing rules, the content of which shall address the following matters:
  - A. Managerial scope.
  - B. Managerial direction and principles.
  - C. Management of financial, business, and accounting affairs.
  - D. Management of assets.
  - E. Financial statements to be prepared regularly.
  - F. The method for carrying out regular internal audits of financial and business operations.
  - G. Other matters: Such as management of personnel operations, and internal control self-assessment with respect to enterprises in which the merchant has made equity investments.
6. An itemized list of domestic and foreign enterprises in which the merchant holds investments as of the date of application.
7. Overall status of the target of the equity investment: To include a company brochure, company organization, capital and stock, the types of

business in which the company engages, and its financial status over the preceding 3 fiscal years.

8. Joint venture (or investment) agreement.

9. Other documents as required by FSC regulations.

#### Article 56-5

When any of the following circumstances occurs in connection with any investment after approval by the FSC, the futures commission merchant shall immediately report the reasons to the FSC along with relevant documentation:

1. Change in business items or material operating policies.
2. Change in authorized capital resulting in a change in the original shareholding ratio of the futures commission merchant or its third-region overseas subsidiary.
3. Material equity investment in another company.
4. Dissolution or suspension of operations.
5. Change in the institution's name.
6. Merger or consolidation with another financial institution, or assignment to or receipt of assignment from another of all or a major part of assets or operations.
7. Occurrence of reorganization, liquidation, or bankruptcy.
8. Occurrence or foreseeable occurrence of any instance of material loss.
9. Material violation of law or regulation or the voidance or revocation of the business permit by the overseas competent authority.
10. Any other material matter.

Unless otherwise provided by the FSC, the futures commission merchant shall report to the FSC in advance regarding any circumstance under subparagraphs 1 to 7 of the preceding paragraph.

After a futures commission merchant receives approval for investment in a foreign enterprise, any evidentiary documents it receives in connection with the outward remittance of funds, or with registration or amendment registration for the foreign investee enterprise, shall be reported within 5 days of their receipt to the FSC for recordation.

#### Article 56-6

Where a foreign subsidiary of a futures commission merchant intends to make an equity investment in another institution, or an institution in which a foreign subsidiary holds an equity investment intends to make a downstream equity reinvestment in another institution, and the intended equity investment would give rise to a relationship of substantive control and subordination, as defined in the chapter on Affiliated Enterprises in the Company Act, between the investor and investee, the investment shall first be reported to the FSC for approval, unless otherwise provided by the FSC. Where an equity investment is approved by the FSC under the preceding paragraph, within 10 days of its actual execution, it shall be reported and related evidentiary documents submitted to the FSC for recordation.

When a futures commission merchant makes an equity investment in a foreign enterprise, the foreign enterprise management rules that it is required to submit pursuant to the provisions of Article 56-3, subparagraph 5 and Article 56-4, subparagraph 5 may within 10 days of the investment's actual execution be submitted to the FSC for recordation together with the related evidentiary documents required under the preceding paragraph.

#### Article 56-7

An overseas subsidiary of a futures commission merchant may not make a downstream equity investment in any domestic futures-related enterprise.

#### Article 56-8

Within 3 months from the date of approval by the FSC, a futures commission merchant that invests in a foreign enterprise shall file for approval or recordation with the Ministry of Economic Affairs Investment Commission in accordance with regulations.

Where a futures commission merchant fails to file with the Investment Commission in accordance with the preceding paragraph, the FSC may void the original approval.

#### Article 56-9

Unless otherwise provided by the FSC, a futures commission merchant that has made an equity investment in an overseas enterprise(s) as approved by the FSC shall do the following:

1. Submit to the FSC, within 15 days after the end of each quarter, an operations report on the invested overseas subsidiary(ies), including the status of business operations, revenues and expenditures, and an evaluation of the efficiency of the investment.
2. Submit a report on the basic company information and operational status of the invested overseas enterprise(s) along with the monthly accounting summary.
3. Submit other information or documentation as required by the FSC.

Matters that must be reported pursuant to the preceding paragraph shall be submitted to the FSC via the TAIFEX.

### Chapter IV Supplementary Provisions

#### Article 57

(deleted)

#### Article 58

These Regulations shall become effective as of June 1, 1997.

Any amendments to these Regulations shall become effective as of the date of their issuance, except Article 25, paragraph 1, subparagraph 3 as amended and issued on 4 March 2009, which shall take effect on 23 November 2009, and Articles 17 and 24 as amended and issued on 12 July 2012, which shall enter into force from the fiscal year of 2013.