

Content

Title :	Regulations Governing Qualification Requirements and Concurrent Serving Restrictions and Matters for Compliance by the Responsible Persons of Banks <b>Ch</b>
Date :	2020.10.26
Legislative :	<ol style="list-style-type: none"><li>1.Promulgated on September 19, 1991</li><li>2.Amended on June 04, 1993</li><li>3.Amended on May 20, 1995</li><li>4.Amended on November 15, 1999</li><li>5.Amended on June 29, 2001</li><li>6.Promulgated by The Ministry of Finance As Last Amended on January 22, 2002</li><li>7.Promulgated by The Ministry of Finance As Last Amended on May 27, 2003</li><li>8.Amended per Order Jin-Kuan-Yin-(2)-Zi-No. 0942000079 dated 2005/03/25</li><li>9.Amended on May 01, 2007</li><li>10.Amended on May 23, 2008</li><li>11.Article 3 amended and promulgated on 4 February 2010</li><li>12.Name and Article 3、3-1、4、12、13 amended 19 October 2010 per Order No. Jin-Kuan-Yin-Kong-Zi-09960005670 of the Financial Supervisory Commission, Executive Yuan</li><li>13.Article 3 -1 amended, Article 3 -2 added and Article 12 deleted by Financial Supervisory Commission Order Jin-Kuan-Yin-Guo-10420003260 on September 16, 2015.</li><li>14.Article 3, 3-1, 9 and 15 amended and Article 3-3 added, per 12 October 2018 Order No. Financial-Supervisory-Banking-Legal-10702736780. The Amendment shall take effect on the date of promulgation except that the amended Article 3-3 and Paragraph 2 to Paragraph 4 of Article 9 shall take effect on July 1, 2019.</li><li>15.Article 5 amended on 26 October 2020 per Order No. Jin-Kuan-Yin-Guo-10902733171 of the Financial Supervisory Commission.</li></ol>
Content :	<p>Article 1 These Regulations are set forth pursuant to Article 35-2 of the Banking Act.</p> <p>Article 2 These Regulations shall apply to commercial banks, specialty banks, investment and trust companies, and foreign banks.</p> <p>Article 3 The responsible person of a bank shall have good moral character and must not be in any of the following situations:</p> <ol style="list-style-type: none"><li>1. Having limited legal capacity or is legally incompetent or subject to the commencement of assistance and those orders have not yet been revoked.</li><li>2. Having been convicted of a crime under the Organized Crime Act.</li><li>3. Having been sentenced to imprisonment for counterfeiting currency or valuable securities, misappropriation, fraud or breach of trust and the sentence has not been completed or ten (10) years have not elapsed since the date of sentence completion, the expiration of probation period, or the pardon of such punishment.</li><li>4. Having been sentenced to imprisonment for forging instruments or seals, offence against privacy, usury, impairing the rights of creditors or violating the Tax Collection Act, Trademark Act, Patent Act or other laws</li></ol>

governing industrial or commercial activity and the sentence has not been completed or five (5) years have not elapsed since the date of sentence completion, the expiration of probation period, or the pardon of such punishment.

5. Having been sentenced to imprisonment for embezzlement and the sentence has not been completed or five (5) years have not lapsed since the date of sentence completion, the expiration of probation period, or the pardon of such punishment.

6. Having been sentenced to imprisonment for violating Banking Act, Financial Holding Company Act, Trust Enterprise Act, Act Governing Bills Finance Business, Financial Assets Securitization Act, Real Estate Securitization Act, Insurance Law, Securities and Exchange Act, Futures Trading Act, Securities Investment Trust and Consulting Act, Foreign Exchange Control Act, Credit Cooperatives Act, Agricultural Finance Act, Farmers' Association Act, Fishermen's Association Act, Money Laundering Control Act or other laws regulating financial activity, and the sentence has not been completed or five (5) years have not elapsed since the date of sentence completion, the expiration of probation period or the pardon of such punishment.

7. Having been adjudicated bankrupt, and rights and privileges have not been reinstated.

8. Being the responsible person of a legal entity at the time such legal entity was adjudicated bankrupt and five (5) years have not elapsed since the closure of the bankruptcy or the terms of bankruptcy settlement have not yet been fulfilled.

9. Having been denied service by the bills clearing house and the denial status has yet to be removed, or there remains a record of dishonored check(s) due to insufficient funds in three (3) years since the denial status has been removed.

10. Having an ongoing event that seriously damages his or her credit worthiness or five (5) years have not elapsed since the closure of such an event.

11. Five (5) years have not elapsed since being replaced or discharged from duties by order of the competent authority due to a violation the Banking Act, Financial Holding Company Act, Trust Enterprise Act, Act Governing Bills Finance Business, Financial Assets Securitization Act, Real Estate Securitization Act, Insurance Law, Securities and Exchange Act, Futures Trading Act, Securities Investment Trust and Consulting Act, Foreign Exchange Control Act, Credit Cooperatives Act, Agricultural Finance Act, Farmers' Association Act, Fishermen's Association Act, Money Laundering Control Act or other laws regulating financial activity.

12. Having been ordered to enter a reformatory or having been ordered to perform compulsory labor due to the offense of larceny or receiving stolen property and the sentence has not been completed or five (5) years have not elapsed since the sentence completion.

13. Factual evidence shows that the person has engaged in, or been involved in, other dishonest or improper activities which indicate that she/he is unfit to serve as a responsible person of a bank.

#### Article 3-1

The chairperson of a bank may not act concurrently as the general manager. However, a person is not subject to the restrictions if the person has one of the following facts and has obtained the permission from the competent authority:

1. The chairperson or the general manager cannot carry on their duties due to resignation from the job.

2. The chairperson or the general manager is replaced or dismissed by the competent authority.
3. The chairperson or the general manager has encountered other issues that prevent them from continuing their job.

When a bank applies for its chairperson to act as the general manager pursuant to the proviso of the preceding paragraph to the competent authority, the competent authority is allowed to ratify a maximum of three months for concurrent positions. The bank should apply for one extension, if needed, to the competent authority one month before the end of the period.

A responsible person of a bank should not act concurrently as a responsible person of other banks, financial holding companies, trust companies, credit cooperatives, credit department of an agriculture (fishery) association, bills finance companies, securities companies, securities finance companies, securities investment trust companies, securities investment consulting companies, futures companies or insurance companies (excluding insurance auxiliaries). This restriction shall not apply, however, in any of the following circumstances:

1. If the bank and the above mentioned institution have investment relations and their chairpersons and managers have not taken concurrent positions, they are allowed to act the directors, supervisors of other banks, or as the responsible persons of other institutions besides the banking business. However, they should obtain the permission from the competent authority if they act as the directors, supervisors of other banks.
2. To facilitate merges or handle the needs of a difficulty financial institution, they are allowed to act as the chairpersons of such institution with the prior permission from the competent authority. However, where the concurrently held position(s) exists in between, the banks should maintain their investment relations.
3. Where the bank is the corporate director, supervisor of the financial holding company, if the responsible person is the responsible person of the holding company; further, the bank and the subsidiary company of the holding company has no facts that their chairpersons and managers take each other's concurrent positions, the person is allowed to act concurrently as the responsible person of the subsidiary company of the holding company. However, the concurrent position with the banking subsidiary company of the holding company is subject to director and supervisor, with a prior permission from the competent authority.
4. The bank is the shareholder of the financial holding company and there is no concurrently held position(s) in between, the responsible person of a bank is allowed to act concurrently as the director, supervisor of the subsidiary company of the holding company. However, the concurrent position with the banking subsidiary company of the holding company is subject to director and supervisor, with a prior permission from the competent authority.
5. The bank is the subsidiary company of the financial holding company and there is no concurrently held position(s) in between, the responsible person of a bank is allowed to act concurrently as the responsible person of the holding company, the subsidiary company of the holding company and the offshore investee company of the holding company and its subsidiary company. However, the concurrent position with the banking subsidiary company of the holding company is subject to director and supervisor, with a prior permission from the competent authority.

The chairperson or general manager of a bank is not allowed to act as the chairperson, general manager or equivalent titles of other non-financial

enterprises. However, the person is not subject to the restrictions if the person takes a position of a corporate or non-profit corporate.

When the person violates the four preceding restrictions, the competent authority shall order the bank to make adjustment within a prescribed period of time; the person shall be dismissed when the bank fails to adjust within the time period and without justifiable reason.

If the government or a juridical person is a shareholder, the representative or the natural person designated to act such position, when they act as the chairperson, supervisor, they shall comply with the preceding five regulations.

#### Article 3-2

The concurrent holding of positions and the number of concurrently held positions of the responsible person of a bank shall be subject to the principle that the responsibilities of the principal position and the concurrent position are both effectively discharged without any conflict of interests or any violation of the respective internal controls of the institutions.

A bank shall on a regular basis evaluate the performance of a responsible person holding a concurrent position, and having regards to its investment management needs, risk management policies, and the provisions of the Regulations; the evaluation results shall serve as an important reference to determine whether the concurrently held position(s) will be maintained or reduced in number.

#### Article 3-3

The director or supervisor, or its related person, of a bank who act concurrently as the director or supervisor of other financial institutions as set forth in Paragraph 3 of Article 3-1 will be deemed to have a conflict of interest unless the bank and that financial institutions have the controlling and subordinate relation as defined in the Company Act or such concurrent appointment is allowed under the Act or the Financial Holding Company Act and its regulations.

The term “director” or “supervisor” as used in the preceding Paragraph shall have the following meanings:

1. A juristic person or the natural person designated by such juristic person to exercise the duties.
2. A juristic person or the elected natural person who represents such juristic person.
3. An elected natural person who does not represent the government, any juristic person or the representative of a juristic person or the government.

The term “related person of the director or supervisor” as used in the Paragraph shall mean parties related to the same natural person or juristic person, including:

1. Parties related to the same natural person :
  - (1) The spouse and direct relatives of that natural person ; or
  - (2) Enterprises in which the natural person and natural persons referred to in the preceding subparagraph hold more than one third (1/3) of their outstanding voting shares or more than one third of their capital, or enterprises or foundations in which the natural person and natural persons referred to in the preceding subparagraph act as their chairman, president or directors representing the majority of directors.
2. Parties related to the same juristic person:

(1) The chairman of the juristic person and his spouse and direct relatives.

(2) Enterprises in which the juristic person and natural persons referred to in the preceding subparagraph hold more than one third (1/3) of their outstanding voting shares or more than one third of their capital, or enterprises or foundations in which the juristic person and natural persons referred to in the preceding subparagraph act as their chairman, president or directors representing the majority of directors.

(3) The affiliates of the juristic person. The term "affiliate" shall be defined under Articles 369-1 through 369-3, Articles 369-9 and 369-11 of the Company Act.

The preceding three Paragraphs shall not apply to the government and a bank that its shareholding is directly or indirectly 100 percent held by the government. However the representative or the natural person act as the director and supervisor of the juristic person designated by the government and the bank, shall not serve any concurrent position in other financial institution unless with the approval of the competent authority.

The director or supervisor of a bank, or their related person has a conflict of interest set out in Paragraphs 1 or 4, the competent authority shall order the bank to make adjustment within a prescribed period of time; the person shall be dismissed when the bank fails to adjust within the time period and without justifiable reason.

#### Article 4

A bank should have one person act as the general manager to handle the general affairs of the company and should not have another person with the equivalent functionalities. The general manager shall have good personal character, leadership and the ability to effectively manage the bank, and possess any one of the following qualification:

1. Having graduated from a domestic or foreign college or higher, or an equivalent and with at least nine (9) years of experience working in a bank(s) and at least three (3) years of experience working in the position of manager or higher or similar position in the head office of a bank(s) with good performance record.
2. Having at least five (5) years of experience working in a bank(s) and at least three (3) years of experience working in the position of vice president or higher or similar position of a bank(s) with good performance record.
3. Having other experiences sufficing to evidence the possession of leadership ability, professional banking knowledge or banking management capability to effectively manage the banking business.

A person may not act as a general manager of a bank until the relevant qualification documents have been submitted to and approved by the competent authority.

#### Article 5

A bank's vice president, assistant vice president, head office manager or personnel holding comparable position shall have good moral character, the ability in leadership and efficient banking management, and meet one of following qualifications:

1. Having graduated from a domestic or foreign college or higher, or an equivalent and with at least five (5) years of experience working in a bank(s) and having served in the position of assistant manager or higher or similar position in the head office of a bank(s) with good performance record.

2. Having at least three (3) years of experience working in a bank(s) and having served in the position of manager or higher or similar position in the head office of a bank(s) with good performance record.
3. Having at least ten (10) years of professional experience working in information science, technology, law, e-commerce, digital economy, finance and accounting, marketing, and human resources, with good performance record.
4. Having other experiences sufficing to evidence the possession of professional banking knowledge or banking management capability to effectively manage the banking business, and having received a prior approval of the competent authority for such appointment.

Personnel with qualifications specified in Subparagraph 3 and Subparagraph 4 of the preceding paragraph shall only perform work that involves their original field(s) of expertise.

The branch manager of a foreign bank in Taiwan or an officer in a comparable position shall possess the qualifications specified in the preceding Paragraph; he/she may not hold office unless the competent authority has examined and approved his/her qualifications.

#### Article 6

A bank's branch manager or personnel holding comparable position shall have good moral character, the ability in leadership and efficient banking management, and meet one of following qualifications:

1. Having graduated from a domestic or foreign college or higher, or an equivalent and with at least three (3) years of experience working in a bank(s) and having served in the position of junior manager or higher or similar position in the head office of a bank(s) with good performance record.
2. Having at least two (2) years of experience working in a bank(s) and having served in the position of assistant manager or higher or similar position in the head office of a bank(s) with good performance record.
3. Having other experiences sufficing to evidence the possession of professional banking knowledge or banking management capability to effectively manage the banking business, and having received a prior approval of the competent authority for such appointment.

The manager of a foreign bank branch in Taiwan or an officer in a comparable position other than the personnel mentioned in Paragraph 2 of the preceding Article shall possess the qualifications specified in the preceding Paragraph.

#### Article 7

The spouse, relatives by blood within second degree of kinship or relatives by marriage within first degree of kinship of the supervisor of a bank may not hold a position of director or manager in the same bank.

The preceding paragraph also applies to the representative of the government or a juristic person.

#### Article 8

A bank's board of directors is held responsible for the appointment of managers and making sure that the appointed managers meet the qualification requirements. The board of directors is also held responsible for overseeing the maintenance of qualifications by bank managers and the suitability of managers in their positions.

#### Article 9

The director or supervisor of a bank should be of good moral character. If the number of directors and supervisors of a bank is less than five

persons, at least two of the directors and supervisors shall meet one of the qualifications set out below. If the number of directors and supervisors of a bank exceeds five, at least one more of the directors and supervisors for each additional four directors and supervisors shall meet one of the qualifications set out below. If a bank has managing director(s), at least two of the managing directors shall meet one of the following qualifications:

1. At least five (5) years of experience working in a bank(s) and having served in a position of vice president or higher or similar position in the head office of a bank(s) with good performance record;
2. At least five (5) years of experience working in financial administration or management and having held the position of civil service recommended appointment grade 8 or higher or equivalent with good performance record;
3. At least three (3) years of experience working in a bank(s) and having served in a position of manager in the head office or higher or in a similar position of a bank(s) with good performance record;
4. Having other factual evidence to the possession of professional banking knowledge or banking management capability to effectively manage the banking business.

A bank, if the total assets of the previous year as audited by a CPA have exceeded NT\$ one trillion, shall have three of the directors and supervisors that meet one of the qualifications set out in the previous Paragraph when the number of the bank's directors and supervisors is less than five person. If the number of directors and supervisors of a bank exceeds five, at least one more of the directors and supervisors for each additional three directors and supervisors shall meet one of the qualifications set out in the previous Paragraph. If a bank has managing director(s), at least three of the managing directors shall meet one of the qualifications set out in the previous Paragraph.

The number of a bank's directors, who are not government agencies, juristic persons or representatives thereof, that meet the qualifications set out in Paragraph 1, shall comply with the preceding two Paragraphs. When the total number of director exceeds thirteen, the number of directors that meets one of the qualifications set out in Paragraph 1 could be five.

The preceding Paragraph does not apply to a bank that its shareholding is directly or indirectly 100 percent held by the government or a juristic person.

The chairman of a bank shall have one of the qualifications provided in the Paragraph 1. A bank shall submit the qualification documents of its chairman as well as directors and supervisors who meet the qualification set out in Subparagraph 4 of Paragraph 1 to the competent authority for approval within ten (10) days of their election. The competent authority may order the bank to make adjustment within a prescribed period of time if the qualification of the chairman or any of the elected directors or supervisors is disapproved.

Where a bank has question over the application of Subparagraph 4 of Paragraph 1 hereof to any of its directors or supervisors, the bank may seek the prior approval of the competent authority before electing the director or supervisor to the office.

#### Article 10

For a credit cooperative that has been approved by the competent authority to reorganize into a bank or merge with a bank, the experience of its personnel working in said credit cooperative shall be deemed experience working in a bank as provided in Articles 4 through 6 and Article 9 herein.

Article 11

To verify the qualifications of the responsible person of a bank, the competent authority may request the bank to submit necessary documents or data, or order the responsible person to make explanation in person within a prescribed period of time.

Article 12

(deleted)

Article 13

Where any circumstance that constitutes ipso facto cause for dismissal applies to a responsible person of a bank, the responsible person shall promptly notify the financial holding company.

A bank should take proactive action after learning that its responsible person has a situation that constitutes ipso facto cause for dismissal, file a report with the competent authority, and notify the Ministry of Economic Affairs to revoke or cancel related registration.

Article 14

Any matters not provided for in Regulations herein shall be governed by the Banking Act, Company Act and other applicable laws.

Article 15

The Regulations herein shall become effective on the date of promulgation.

Articles 3-3 and Paragraphs 2 to 4 of Article 9 amended on October 12, 2018 shall become effective from July 1, 2019. When the tenure of the directors or supervisors at banks has not expired yet on July 1, 2019, the amended articles shall apply as of the expiry date of their tenure expires.