

Content

Title : Directions for Futures Trading by Overseas Chinese and Foreign Nationals
Ch

Date : 2021.11.24

Legislative : 1. Full text of 18 points adopted and issued 17 March 2006 per Order No. Financial-Supervisory-Securities-VII-0950001193 of the Financial Supervisory Commission, Executive Yuan; to take effect from 27 March 2006
2. Point 11 amended and issued 15 December 2006 per Order No. Financial-Supervisory-Securities-VII-0950005598 of the Financial Supervisory Commission, Executive Yuan; for immediate implementation
3. Point 11 amended and issued 25 June 2007 per Order No. Financial-Supervisory-Securities-VII-0960029959 of the Financial Supervisory Commission, Executive Yuan; for immediate implementation
4. Points 9, 12, 14, and 16 amended and issued 23 October 2007 per Order No. Financial-Supervisory-Securities-VII-09600562767 of the Financial Supervisory Commission, Executive Yuan; for immediate implementation
5. Points 9 and 11 amended and issued 27 May 2008 per Order No. Financial-Supervisory-Securities-VII-0970024516 of the Financial Supervisory Commission, Executive Yuan; for immediate implementation
6. Point 16 amended and issued 11 December 2009 per Order No. Financial-Supervisory-Securities-Futures-0980064445 of the Financial Supervisory Commission, Executive Yuan; for immediate implementation
7. Full text of 19 points and title amended and issued per 21 September 2010 Order No. Financial-Supervisory-Securities-Futures-0990052150 of the Financial Supervisory Commission, Executive Yuan; to take effect immediately (original title: Directions for Domestic Futures Trading by Overseas Chinese and Foreign Nationals)
8. Points 11 and 13 amended and issued per 13 March 2014 Order No. Financial-Supervisory-Securities-Futures-10300077754 of the Financial Supervisory Commission; to take effect immediately
9. Points 3, 4, 6, 9, 12, 14, and 16 amended and issued per 29 January 2015 Order No. Financial-Supervisory-Securities-Futures-1030052961 of the Financial Supervisory Commission; to take effect immediately
10. Point 2 amended and issued per 24 November 2021 Order No. Financial-Supervisory-Securities-Futures-1100372088 of the Financial Supervisory Commission; to take effect immediately

Content :

Point 1

Unless otherwise provided by law or regulation, overseas compatriots and foreign nationals engaging in futures trading shall do so in accordance with these Directions.

Point 2

Overseas compatriots and foreign nationals engaging in futures trading shall comply with laws and regulations governing futures trading and applicable bylaws and rules of the Taiwan Futures Exchange Corporation (TAIFEX). However, overseas compatriots and foreign nationals engaging in leverage contract trading shall do so in accordance with the rules of the Taipei Exchange, and the provisions of these Directions shall not apply.

Point 3

The term "overseas compatriots and foreign nationals" as used in these Directions includes onshore overseas compatriots and foreign nationals and offshore overseas compatriots and foreign nationals.

The term "onshore overseas compatriots and foreign nationals" as used in

these Directions means natural persons residing in the territory of the Republic of China (ROC) with an Overseas Compatriot Identity Certificate, or holding an ROC passport with an Overseas Compatriot Identity Endorsement, or holding an Alien Resident Certificate, and foreign institutional investors residing in the territory of the ROC.

The term "offshore overseas compatriots and foreign nationals" as used in these Directions means overseas compatriots and foreign nationals, including natural persons and foreign institutional investors, outside the territory of the ROC.

The term "foreign institutional investor" as used in these Directions means either an institutional investor established outside ROC territory in accordance with local law, or a branch company established within ROC territory by an overseas juristic person.

Point 4

The term "futures trading" as used herein shall be limited to futures trading announced by the Financial Supervisory Commission (FSC) under Article 5 of the Futures Trading Act as futures brokerage trading that futures commission merchants (FCM) are permitted to engage in for customers.

Point 5

To engage in futures trading, an overseas compatriots or foreign national shall mandate an agent or representative within the territory of the ROC to file and pay taxes on his or her behalf, who shall prepare and submit documentation evidencing such mandatory relationship to the competent authority for approval; in case of a change of agent or representative, the succeeding agent or representative shall re-prepare documentation evidencing the new mandatory relationship for the purpose of filing and paying taxes and submit the same to the competent authority for approval. The documentation evidencing the mandatory relationship for the purpose of filing and paying taxes as described in the preceding paragraph shall be filled out in the form prescribed by the Ministry of Finance.

Point 6

To engage in futures trading, an offshore overseas compatriots or foreign national shall appoint a local agent or representative to carry out procedures such as opening an account for futures trading, exercising rights related to futures trading, applying for foreign exchange settlement and paying taxes, etc.

The required qualifications for the agent or representative referred to in the preceding paragraph are as follows:

1. Agent:

A. If a natural person: Shall have legal disposing capacity. If the person is an overseas compatriots or foreign natural person, it is required that such person reside within the territory of the ROC with an Overseas Compatriot Identity Certificate, or holding an ROC passport with an Overseas Compatriot Identity Endorsement, or holding an Alien Resident Certificate.

B. If a juristic person: Must be established under the law of the ROC and be entitled to operate agency business.

C. If a foreign juristic person: Shall have established a branch office within the territory of the ROC that is entitled to operate agency business.

2. Representative: Shall be the representative at a representative office established in the ROC, or the responsible person of a branch office established in the ROC.

Where a juristic person or a foreign juristic person as set forth under subparagraph 1, item B or C of the preceding paragraph is retained as an agent, one natural person shall be appointed to carry out the agency business.

Point 7

To engage in domestic futures trading, an overseas compatriots or foreign national shall apply to the TAIFEX or the Taiwan Stock Exchange Corporation (TWSE) and submit relevant documents for registration in accordance with

TAIFEX operating rules and bylaws.

An offshore overseas compatriots or foreign national filing a registration application under the preceding paragraph shall submit an application form together with all the following documents:

1. A power of attorney for agent or letter of appointment for representative.
2. Identity documents conforming to the provisions of Point 3, paragraph 3.
3. Other documents as specified by the FSC.

The registration procedures under paragraph 1 are not required for those who have already registered with the TWSE and obtained the qualification for investing in domestic securities.

Point 8

When an overseas compatriots or foreign national applies for registration under Point 7, the TAIFEX or the TWSE may reject the application if any of the following circumstances exists:

1. The content of the registration documents or particulars thereof are found to be fraudulent or untrue;
2. The registration documents are incomplete or have not been fully filled out, and the applicant has been notified but failed to provide the missing information by the deadline; or
3. The applicant has committed a serious violation of any law or regulation applicable to futures trading.
4. The applicant's registration has been canceled by the TWSE under the Regulations Governing Investment in Securities by Overseas compatriots and Foreign Nationals.

After an overseas compatriots or foreign national has registered, the TAIFEX or the TWSE may cancel the registration if any one of the circumstances set forth in the preceding paragraph is discovered.

Point 9

To engage in futures trading, an offshore overseas compatriots or foreign national shall designate a domestic agent or representative to apply for opening a segregated foreign exchange deposit account for futures trading. The agent designated to open such account shall be limited to an onshore FCM, financial institution, or securities firm approved by the FSC to act as custodian institution.

The segregated foreign exchange deposit account for futures trading referred to in the preceding paragraph must be opened at a domestic financial institution specifically as a custodial account to be used by a custodian institution for the provision of the mandated custodial services. Notwithstanding the foregoing, the offshore overseas compatriots or foreign national need not open such an account if that person engages only in futures trading that does not involve physical delivery, in which case the foreign exchange deposit account may be opened under the name of that person, or that person may use an offshore deposit account to make incoming and outgoing fund transfers for the purposes of futures trading.

For the purpose of engaging in futures trading, an offshore overseas compatriots or foreign national that has already invested in domestic securities in accordance with the Regulations Governing Investment in Securities by Overseas compatriots and Foreign Nationals may purchase a foreign currency with its New Taiwan Dollar account opened for securities trading.

The "foreign currency" referred to in the preceding paragraph and in Point 11 for the purpose of engaging in domestic futures trading may only be a foreign currency accepted by the TAIFEX, and shall conform to the TAIFEX's requirements in relation to the collection and payment of margins.

Point 10

Funds remitted in under Point 9 by an offshore overseas compatriots or foreign national may be used for the following purposes only:

1. To engage in futures trading.
2. To meet securities settlement requirements when, as evidenced by relevant transaction certificates, the funds it has remitted in under the Regulations Governing Investment in Securities by Overseas compatriots and Foreign Nationals are insufficient to meet its settlement requirements in

securities investments.

Point 11

An offshore overseas compatriots or foreign national that engages in trading of domestic futures shall do so in a foreign currency, and may not convert the funds into New Taiwan Dollars except where one of the following circumstances or those of paragraph 2 exist:

1. To pay the profit-loss difference for settlement upon expiration or for close-out before expiration;
2. To pay for futures brokers' commissions and taxes incurred; or
3. For the purposes set forth in Point 10, subparagraph 2.

For purposes of the payments under subparagraphs 1 and 2 of the preceding paragraph, an offshore overseas compatriots or foreign national may make an advance designation through their agent of an FCM to handle conversions into New Taiwan Dollars, provided that the amount of the conversion for any individual investor or for any omnibus account may not exceed NT\$5 million. An offshore overseas compatriots or foreign national that engages in trading of foreign futures shall do so in a foreign currency and may not convert the funds into New Taiwan Dollars. This restriction does not apply, however, to trading of New Taiwan Dollar denominated futures trading contracts listed on a foreign futures exchange (below, "international cooperative products") under a cooperation agreement entered into between the TAIFEX and the foreign futures exchange with the approval of the FSC. For any matters under the proviso of the preceding paragraph involving foreign exchange business, the FSC shall consult with and obtain consent from the competent authority for foreign exchange business.

The balance in New Taiwan dollars resulting from the cumulative realized New Taiwan Dollar profits gained from trading of domestic futures by an offshore overseas compatriots or foreign national combined with the amounts under paragraphs 2 and 3 may not exceed NT\$300 million for any individual trader or any individual omnibus account.

If the limit set forth in the preceding paragraph is exceeded, the agent of the offshore overseas compatriots or foreign national shall, within 5 business days, appoint an FCM, or a foreign FCM that has member status with a foreign futures exchange or foreign futures clearing house and furthermore has been approved by the FSC to handle matters related to international cooperative products within the ROC, to make a conversion into a foreign currency; the New Taiwan Dollar balance after the conversion may not exceed NT\$10 million.

The New Taiwan Dollar balance referred to in paragraph 5 shall be limited to the following uses:

1. To pay for margins and premiums required for trading;
2. To pay the profit-loss difference for settlement upon expiration or to pay it before expiration.
3. To pay futures brokers' commissions, taxes, interest, or other monies necessary to complete clearing and settlement;
4. Transfers of monies approved by the FSC under Article 71, subparagraph 4 of the Futures Trading Act.

Applications for remittance under paragraphs 1 to 3 and 6 shall be made by the FCM, or by the foreign FCM that has member status with a foreign futures exchange or foreign futures clearing house and furthermore has been approved by the FSC to handle matters related to international cooperative products within the ROC, in accordance with applicable foreign exchange laws and regulations, except that for the use under Point 10, subparagraph 2, the application for remittance shall be made by the agent.

Any revision to the limits on funds held in New Taiwan Dollars as set out in paragraphs 2, 5, and 6 shall be determined by the FSC, after consulting with and obtaining consent from the competent authority for foreign exchange business.

Point 12

To engage in futures trading, an offshore overseas compatriots or foreign national shall appoint a bank approved by the FSC to provide custodial services, a securities firm approved by the FSC to act as custodian institution, or a futures broker, to act as its agent to handle matters related to futures trading, such as clearing, settlement and reporting of

relevant information.

Where an offshore overseas compatriots or foreign national places an order for futures trading with an offshore foreign FCM that has established an omnibus account at a local FCM in the ROC, the matters set out in the preceding paragraph shall be handled by a custodian bank, securities firm, or futures broker designated as agent by such foreign FCM.

Point 13

An overseas compatriots or foreign national applying to an FCM to open an account for domestic futures trading shall submit the registration documents from the TAIFEX or TWSE; the FCM shall notify the TAIFEX after completing the account-opening procedures.

After completing the registration from the TAIFEX or TWSE, an offshore overseas compatriots or foreign national may conduct domestic futures trading in an offshore foreign FCM that has established an omnibus account at an onshore FCM.

Point 14

An offshore overseas compatriots or foreign national placing an order with a domestic FCM to engage in futures trading shall provide a trading record and have the clearing and settlement procedures executed by the custodian bank, securities firm, or futures broker designated as its agent.

Point 15

An overseas compatriots or foreign national engaging in domestic futures trading shall report its futures trading volumes and open positions in compliance with the provisions of Article 104 of the Futures Trading Act and the requirements of the TAIFEX.

To meet its hedging purpose requirement, a foreign institutional investor that has invested in domestic securities in accordance with the Regulations Governing Investment in Securities by Overseas compatriots and Foreign Nationals may apply to raise the position limit under the preceding paragraph in accordance with TAIFEX provisions.

When it deems necessary, the FSC may restrict the futures trading volume or open positions held by a futures trader, suspend futures trading activities in part or in whole, or take other necessary measures, as set out in Article 96 of the Futures Trading Act.

Point 16

The custodian bank, securities firm, or futures broker designated as agent by an offshore overseas compatriots or foreign national shall establish a separate account and record therein on a daily basis the utilization of the funds by that person, and report to the competent authority of foreign exchange business the previous day's detailed remittance, foreign exchange deposit balance, and summary information on the equity in the customer margin account with the FCM; within ten days after the end of each month, the custodian bank or futures broker shall prepare an itemized statement of the equity in the customer margin account with the FCM of the previous month and the cumulative foreign exchange settlement amount, and file it to the competent authority of foreign exchange business with a copy to the TAIFEX for records.

Where the offshore overseas compatriots or foreign national places orders for domestic futures trading with an offshore foreign FCM that has established an omnibus account at an onshore FCM, one of the following institutions shall file the futures trading statement in accordance with TAIFEX regulations:

1. The offshore foreign FCM.
2. The custodian bank, securities firm, or futures broker designated as agent.
3. The onshore FCM.

Point 17

The FSC may, in accordance with Articles 98 and 99 of the Futures Trading Act, request an offshore overseas compatriots or foreign national to submit all of the following information:

1. A list of beneficial owners of the investment capital, the amount of the

capital, its source, and related information.

2. Information on utilization of trading funds remitted in, details of futures trading, and related information. The FSC may examine account books when it deems necessary.
3. Detailed trading records of futures contracts, option contracts, and futures option contracts as well as derivative products that it have been traded offshore of which the underlyings are securities, securities portfolios, or stock indexes of the ROC.
4. Information on persons placing futures trading orders, including their name, nationality, contact information, and other related information.
5. Other information as specified by the FSC.

Point 18

An overseas compatriots or foreign national may mandate a managed futures enterprise to engage in discretionary futures trading.

When an offshore overseas compatriots or foreign national has mandated a managed futures enterprises to engage in discretionary futures trading, the scope of utilization of the assets shall be limited to that prescribed in Point 4.

A managed futures enterprise accepting a mandate to engage in discretionary futures trading for an offshore overseas compatriots or foreign national shall apply in advance for permission from the competent authority in charge of foreign exchange business.

Point 19

An overseas compatriots or foreign national found in violation of any futures trading law or regulation shall be punished in accordance with applicable laws and regulations.

Files : 14Directions for Futures Trading by Overseas Chinese and Foreign Nationals(110.11.24).txt

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System