

Content

Title :	Rules Governing the Management and Employment of Collective Investment Trust Fund Ch
Date :	2001.09.25
Legislative :	1. The Rules Governing the Management and Employment of Collective Investment Trust Fund was promulgated by Letter Tai-Tsai-Rong -(IV)-0904000014 of Ministry of Finance on September 25, 2001; enforced on the day of promulgation.
Content :	<p>CHAPTER I. GENERAL PROVISIONS</p> <p>Article 1</p> <p>These Rules are enacted in accordance with Article 28, Paragraph 2, of the Trust Enterprise Law (the "Law").</p> <p>Article 2</p> <p>The term "Management and Employment of Colective Investment Trust Funds ("Collective Trust Funds"), ("Collective Funds Management") as used in these Rules, shall mean a trust enterprise receiving trust funds [from a trustor(s)], and, in accordance with the provisions of a trust agreement and with the consent of the trustor(s), pooling, managing and employing such funds together with the funds of other trustors, within the same scope or by the same method.</p> <p>The term "Collective Trust Fund Management and Employment Account" ("Collective Fund Account"), as used in these Rules, shall mean a separate account established by a trust enterprise for purposes of combining trust funds to be employed within the same scope or by the same method.</p> <p>The Term "Beneficial Rights in a Collective Fund Account," ("Beneficial Rights") as used in these Rules, shall mean the beneficial rights of a Beneficiary in the trust funds held in a Collective Fund Account, [the number of units of which] shall be recorded by book-entry.</p> <p>The term "Beneficiary," as used in these Rules, shall mean a Beneficiary entitled to Beneficial rights in accordance with the ratio of all beneficial rights held in a Collective Fund Account.</p> <p>Article 3</p> <p>To be eligible to apply to establish Collective Fund Accounts, a trust Enterprise must have a credit rating of a certain level or above from an MOF-approved credit rating agency, and must, prior to the establishment of each Collective Fund Account, submit the following written documentation to the Trust Association of R.O.C. (the "TAROC") for TAROC's review report to the MOF [for approval]:</p> <p>1.A management and employment plan for the Collective Fund Account;</p>

- 2.The terms and conditions of the Collective Fund Account (the "Terms and Conditions"), and a chart explaining the differences between the Terms and Conditions and TAROC's model terms and conditions;
- 3.The name list and experience of the personnel [managing] the Collective Fund Account;
- 4.Where the Terms and Conditions provide for a trust supervisor(s), the name, experience and acceptance letter of such trust supervisor;
- 5.The minutes of the board of directors meeting [of the trust enterprise, at which a resolution authorizing the establishment of the Collective Fund Account was adopted]; and
- 6.Other documents as may be required by the MOF.

Any change to the items referred to in Paragraph 1, Item 1 or Item 2, above, shall be reported to the TAROC for review, following which the TAROC shall submit same together with its comments to the MOF for approval; any change to the items referred to in Paragraph 1, Item 4, above, shall be reported to the MOF. Unless otherwise provided by laws or regulations, the liquidation [by a trust enterprise] of a Collective Fund Account, shall be done in accordance with the Terms and Conditions.

Where a trust enterprise's management of a Collective Fund Account violates applicable laws or regulations, or such management is otherwise improper, the MOF may order the trust enterprise to liquidate such Collective Fund Account, and/or the trust supervisor(s) may apply to the MOF for approval to liquidate such account and take such other measures necessary to protect the interests of the Beneficiaries.

Upon the occurrence of the events described in Paragraph 2 or Paragraph 4, above, following approval of, or report to, the MOF, as applicable, or, where the MOF requests a trust enterprise to liquidate a Collective Fund Account, the trust enterprise shall make a public announcement in accordance with Article 39 of the Law. Upon the occurrence of the events described in Paragraph 2, the public announcement shall include a fixed time period within which the trustor(s) and the Beneficiaries may determine whether their Beneficial Rights shall continue to be maintained or redeemed. Where the Beneficiary cannot be identified or does not exist, such decision shall be made by the trustor.

CHAPTER II. PRINCIPLES FOR MANAGEMENT AND EMPLOYMENT OF COLLECTIVE TRUST FUNDS

Article 4

The scope of [the investments] made by a trust enterprise engaging in Collective Funds Management shall be based on the principle that the investments will be made through secondary market transactions, and the following:

- 1.Except in an underwriting of shares approved to be listed on the stock exchange or in the over-the-counter market,[Collective Trust Fund shall] not be used to invest in stocks not approved for listing on the stock exchange, in the over-the-counter market,

or on the Taiwan Innovative Growth Enterprises board.;

2.[Collective Trust Funds shall] not be used to extend loans or guarantee loans;

3.[Collective Trust Funds shall] not be used engage in securities margin transactions;

4.When depositing [the Collective Trust Funds] with a financial institution or investing such funds in financingbonds issued by a bank, the relevant financial institution where the deposit is placed, or the bank that issues the financing bonds, as applicable, shall have a credit rating of a certain level or above from an MOF-approved credit rating agency;

5.[Where Collective Trust Funds] are invested in money market instruments or corporate bonds, such instrumentsor corporate bonds shall be guaranteed or accepted by a financial institution that has a credit rating of a certain level or above from an MOF-approved credit rating agency, or, where [the insturment or corporate bond] is not guaranteed or accepted, the issuer thereof has a credit rating of a certain level or above from an MOF-approved credit rating agency;

6.The amount invested by any one Collective Fund Account in the shares, money market instruments or corporatebonds of the same company, shall not exceed ten percent (10%) of the net asset value of such account as of the day such investment is made;

7.The amount invested by all Collective Fund Accounts managed by any given trust enterprise in the shares, moneymarket instruments and corporate bonds of the same company, shall not exceed ten percent (10%) of the actual paid-in capital of such issuing company on the day such investment is made;

8.The total amount of Collective Trust Funds managed by any given trust enterprise deposited with any one financialinstitution and invested in financing bonds, corporate bonds or money market instruments issued or guaranteed by such financial institution shall not exceed either twenty percent (20%) of such funds' net asset value or ten percent (10%) of the financial institution's net worth on the day such investment is made;

9.The amount invested by any one Collective Fund Account in beneficial certificates of a securities investment trust[mutual] fund for which a securities investment trust enterprise has already raised funds and issued [the beneficial certificates] shall not exceed ten (10%) of the net asset value of each Collective Fund Account on the day such investment is made; and

10.[A trust enterprise] shall not use Collective Trust Funds to make investments not approved by the MOF.Investments approved by the MOF shall be made in accordance with rules promulgated by the MOF with respect to such investments.

Where a trust enterprise engages in Collective Funds Management and receives MOF approval to makes investments which are not traded in a secondary market or which are illiquid, such trust enterprise may include in the Terms and Conditions a

prescribed period within which the Beneficiary may not redeem [holdings]. Where a trust enterprise engages in Collective Funds Management of discretionary trust funds, the scope thereof shall comply with Paragraph 1, above, Article 32, Paragraph 1, of the Law and rules issued [by the competent authority] under the authority of Article 32, Paragraph 2, of the Law.

Article 5

When engaging in Collective Funds Management, the scope of the short-term investments [in which idle funds are held] and the ratio thereof shall comply with the rules [established by the competent authority] as authorized by Article 36 of the Law.

Article 6

Prior to engaging in Collective Funds Management, a trust enterprise shall enter into a contract with the trustor(s) in accordance with Article 19 of the Law, and Terms and Conditions shall be established for each separate Collective Fund Account, which Terms and Conditions shall include [the following]:

- 1.The name of the Collective Fund Account;
- 2.The amount of the trust monies, and the duration thereof;
- 3.The investment guidelines, scope, and limitations for the Collective Fund Account;
- 4.The management and method of employment of the Collective Fund Account;
- 5.The responsibilities of the trust enterprise;
- 6.The time periods with in which purchases in, and redemptions of, [Beneficial Rights] may be made;
- 7.Temporary prohibitions on redemptions;
- 8.Responsibilities for, and method of payment of, expenses and taxes;
- 9.The method by which Beneficiary Rights will be determined, the method by which the net asset value of Beneficiary Rights will be calculated, the method by which profits will be calculated, and the timing of the distribution of profits;
- 10.The method by which a public announcement of the net asset value will be announced;
- 11.The methods and deadlines by which trust assets are to be distributed and returned;
- 12.The identity of the trust assets;
- 13.The items to be included in periodic reports to the trustor(s) and Beneficiary(ies);
- 14.Where there is a trust supervisor, matters related to such supervisor's selection, removal, and dismissal, and therights and obligations of such supervisor vis-a-vis the trustor(s) and the Beneficiary(ies);
- 15.Procedures for amendment and termination of the Terms and Conditions and for handling post-termination matters;
- 16.The terms governing merger of Collective Fund Accounts;
- 17.The method by which the assets will be liquidated and returned upon liquidation and the deadline by which sameshall be done; and

18. Other items as may be required by the MOF.

The TAROC shall promulgate model terms and conditions and report same to MOF for approval.

Article 7

The delivery by a trustor of funds to a Collective Fund Account, the time when the Collective Fund Account will commence investing such funds, the net asset value of Beneficial Rights, the Beneficiary Rights that the Beneficiary will enjoy, and the method and deadline by which assets will be paid out or returned upon total or partial redemption, shall be as separately agreed [by the parties].

Article 8

A trust enterprise may not refuse a Beneficiary's redemption requests unless:

1. The Terms and Conditions provide for a defined period during which a Beneficiary may not redeem;
2. A stock exchange, over-the-counter market, foreign exchange market or other relevant market is closed for reasons other than an ordinary holiday;
3. Regularly used methods of communication are not functioning;
4. Foreign exchange transfers are [temporarily] restricted; or
5. Other extraordinary circumstance exist that prevent the acceptance of redemption requests or requests to return trust monies.

Each time a trust enterprise rejects a redemption request due to the occurrence of the conditions described in the preceding paragraph, such trust enterprise shall immediately report to the MOF for approval.

Article 9

Where a trust enterprise employs trust monies for different investment purposes, such trust enterprise shall establish separate Collective Fund Accounts and the books and records for each separate Collective Fund Accounts shall be kept separately. Collective Fund Account assets shall be held in the name of the trust enterprise; provided, that where the investment objective of the trust assets is overseas investments, the name in which the trust assets are held shall be governed by the agreement between the trust enterprise and the relevant foreign enterprise with which the trust enterprise enters into an agreement [for the custody of the trust assets].

Article 10

A trust enterprise shall segregate the trust assets in each Collective Fund Account from the trust enterprise's own assets and other assets held in trust by such trust enterprise.

Article 11

Where a trust enterprise merges [with another trust enterprise] or a

Collective Fund Account fails to achieve economies of scale, such trust enterprise may, after report to the TAROC and submission by the TAROC of the report together with TAROC's comments to the MOF for MOF approval, and in accordance with the Terms and Conditions, merge [the relevant] Collective Fund Account into another Collective Fund Account. Upon occurrence of the events described in the preceding paragraph, a trust enterprise shall give public notice in accordance with Article 39 of the Law, announcing therein a deadline by which the trustor(s) and the beneficiary(ies) shall decide whether to accept the merger of their Beneficial Rights [in the Collective Fund Account with another Collective Fund Account] or wish to redeem; Where a beneficiary cannot be identified or does not exist, such decision shall be made by the trustor.

Article 12

Where a trust enterprise establishes a Collective Fund Account that employs trust monies within a similar scope and a method, such trust enterprise shall not be entitled to collect additional trust fees therefor.

Article 13

A Beneficiary may exercise Beneficiary rights pro-rata to the Beneficial Rights held by such Beneficiary.

A Beneficiary may not transfer Beneficial Rights in a Collective Fund Account.

Article 14

Where the Terms and Conditions provide for a trust supervisor, the trust enterprise shall select an independent and fair third person to be such trust supervisor, and such trust supervisor shall be a natural person who satisfies at least one of the following qualifications:

1. Having served as an assistant manager or higher in the headquarters of a financial institution, with a minimum of five (5) years experience in trust services and with a good record;
 2. Being a licensed accountant or attorney with a minimum of five (5) years of relevant work experience;
 3. Having taught courses in finance, accounting, law, and/or other trust related courses for a minimum of five (5) years in a domestic or overseas institution at the junior college level or higher;
 4. Having at least two (2) years experience in a financial regulatory [agency] overseeing the trust industry and having received a minimum Grade 9 recommendation or the equivalent thereof; or
 5. Having other experience evidencing that such supervisor is capable of executing their supervisory duties and protecting the interests of the Beneficiaries; or
- a juridical person that is a trust enterprise.

Article 15

A trust supervisor shall carry out his/her/its obligations with the care of a good administrator and represent all trustors and Beneficiaries in carrying out the following duties:

1. Representing Beneficiaries in litigious and non-litigious matters in the supervisor's name;
2. In the event that a trustee enterprise violates its duties or upon the occurrence of other material events, requesting a court to discharge and replace the trustee;
3. Negotiating agreements under, and amendments to, the Terms and Conditions of the Collective Fund Account;
4. Undertaking other such actions as are necessary on behalf of the Beneficiaries under [relevant] laws, orders, or the Law; and
5. Handling other matters as authorized by the trustor and Beneficiaries.

CHAPTER III. ACCOUNTING SYSTEMS

Article 16

The accounting system employed for a Collective Fund Account shall be based on generally accepted accounting principles, rules prescribed by the TAROC, and relevant laws and regulations.

Article 17

Unless otherwise provided in the trust agreement or the Terms and Conditions, a trust enterprise shall, at the conclusion of each business day, calculate the net asset value per unit for each Pooled Fund Account.

The TAROC shall draft guidelines for calculating net asset value and report same to the MOF for approval.

Article 18

A trust enterprise may deduct, directly from the trust assets, monies necessary to satisfy tax obligations incurred from the management and employment of a Collective Fund Account, as well as expenses and financial obligations incurred as a result of the handling of trust matters.

Where relevant laws require that taxes be withheld from a Collective Fund Account, the trust enterprise shall be responsible for such withholding, and the trust enterprise shall issue withholding tax receipts to each Beneficiary in accordance with the ratio of Beneficiary Rights held by such Beneficiary under the trust agreement.

Article 19

All profits and losses arising from the employment of [assets in] a Collective Fund Account shall be for the account of each account[holder].

Article 20

A trust enterprise shall prepare separate accounts for each Collective Fund Account, including therein the procedures by which such accounts are kept; the trust enterprise shall, on a regular basis,

issue a report on such account handling procedures.
Within four (4) months following the conclusion of each fiscal year, a trust enterprise shall prepare an annual report on the [status] of the Collective managed and employed trust assets held in each Collective Fund Account, and, after such report is certified by a public accountant, submit same to the MOF for recordation and notify the trustors and Beneficiaries [of such report's availability].

If the Terms and Conditions provide for a trust supervisor, the report described in the preceding paragraph, shall first be approved by such supervisor.

Article 21

In the event that a trust enterprise decides to liquidate a Collective Fund Account, such trust enterprise shall complete the liquidation of such Collective Fund Account within three (3) months following the MOF's approval to liquidate the Collective Fund Account, and, following such liquidation, the trust enterprise shall distribute the trust assets to the Beneficiaries in accordance with ratio of Beneficial Rights held by each Beneficiary. The method of liquidation and distribution shall be submitted to the MOF for approval and published such that Beneficiaries shall be notified of same, and, within two (2) months following the conclusion of the liquidation, a notification of such liquidation shall be filed with the MOF for reference and the Beneficiaries shall be notified of same.

With regard to the approvals and notifications described in the preceding paragraph, if the Terms and Conditions provide for a trust supervisor, such approvals and notification shall first be approved by such supervisor prior to application or notification being made to the MOF.

CHAPTER IV. MISCELLANEOUS

Article 22

These Rules shall come into effect on the date of promulgation.