

## Content

Title :	Regulations Governing the Administration of Credit Rating Agencies <b>Ch</b>
Date :	2010.10.28
Legislative :	<ol style="list-style-type: none"><li>1. Promulgated by the Executive Yuan on April 30, 1997 per order Ref. No. Taiwan-(86)-Finance-16981</li><li>2. Amended and promulgated on April 17, 2002 per letter Ref. No. Yuan-Taiwan-Finance-0910013571</li><li>3. Full text of 28 articles amended and issued 28 October 2010 per Order No. Financial-Supervisory-Securities-Corporate-0990058578 of the Financial Supervisory Commission, Executive Yuan, for enforcement from the date of issuance</li></ol>
Content :	<p>Article 1</p> <p>These Regulations are prescribed in accordance with paragraph 2 of Article 18 of the Securities and Exchange Act (the "Act").</p> <p>Article 2</p> <p>The term "credit rating agency" as used in these Regulations shall mean a company which, in an independent, objective, and impartial spirit, rates the degree of credit risk of the subject being rated or its performance.</p> <p>The term "internationally recognized credit rating institution" as used in these Regulations shall mean a credit rating institution that has been in business for no less than five years and has performed credit rating for no fewer than five international bond issues in which the aggregate value of subject being rated was greater than US\$500 million.</p> <p>The term "associated persons" as used in these Regulations shall mean persons who are directly involved in credit rating work.</p> <p>Article 3</p> <p>An agency engaging in the credit rating business shall be approved by the Financial Supervisory Commission (the FSC), Executive Yuan, and issued a business license before it may commence business operations. The above provisions shall apply to the establishment of a branch office.</p> <p>A credit rating agency establishing a branch office abroad shall be approved by the FSC, and shall file a report accompanied with the following documents to the FSC for recordation within one month after completion of establishment:</p> <ol style="list-style-type: none"><li>1. One photocopy of approval letter for establishment issued by the local government authority in charge.</li><li>2. A register of managerial officers and associated persons.</li></ol> <p>Article 4</p> <p>A credit rating agency shall be organized in the form of a company limited by shares, unless otherwise provided in these Regulations.</p> <p>The paid-in capital of a credit rating agency shall not be less than NT\$50 million, and shall be fully subscribed by the promoters upon issuance.</p> <p>Article 5</p> <p>An internationally recognized credit rating institution applying to establish a branch office in the R.O.C. shall submit relevant certified documents and certificate of working capital in the amount of NT\$50 million</p>

for business purposes to the FSC for approval.

A branch office so established shall not be subject to the restrictions of paragraph 1 of the preceding article.

#### Article 6

No person to whom any of the following items applies shall serve as a promoter, director, supervisor, or managerial officer of a credit rating agency; those appointed and currently serving in any of these capacities shall be discharged by the FSC pursuant to the provisions of Article 18-1, paragraph 2 of the Act, whereby the provisions of Article 53 of the Act shall apply mutatis mutandis; the FSC shall also make written request to the Ministry of Economic Affairs to rescind the registration of such persons as director, supervisor, or managerial officer:

1. Any of the circumstances listed in Article 30 of the Company Law.
2. The person served as the director, supervisor, managerial officer or any other equivalent positions of a juristic person when such juristic person was adjudicated bankrupt, and a period of three years has not yet elapsed since the bankruptcy was concluded or a settlement has not yet been fulfilled.
3. The person's account with a financial institution has been dishonored or the person has had a record of bad credit standing during the preceding three years.
4. The person was discharged from functional duties pursuant to the provisions of Article 56 or Article 66, paragraph 2 of the Securities and Exchange Act or Article 103, paragraph 2 or Article 104 of the Securities Trust and Consulting Act, and a period of three (3) years has not yet elapsed since the discharge.
5. The person has been replaced or discharged from functional duties pursuant to the provisions of Article 100, paragraph 1, subparagraph 2 or Article 101, subparagraph 1 of the Futures Trading Act, where a period of five (5) years has not yet elapsed since the discharge.
6. The person has received a final and unappealable sentence for violation of the Securities and Exchange Act, the Banking Act, the Financial Holding Company Act, the Trust Enterprise Act, the Act Governing Bills Finance Business, the Financial Asset Securitization Act, the Real Estate Securitization Act, the Insurance Act, the Futures Trading Act, the Securities Investment Trust and Consulting Act, the Statute for Regulation of Foreign Exchange, the Credit Cooperative Act, the Agricultural Finance Act, the Farmers' Association Act, the Fishermen's Association Act, the Money Laundering Control Act, the Certified Public Accountant Act, the Business Accounting Act, or any other financial regulatory act, and the sentence has not yet been completed, or five years have not yet elapsed since the completion of the sentence, expiry of probation, or granting of pardon.
7. The person has been provably engaged or involved in other dishonest or improper acts that are sufficient to show such person unqualified for the rating business.

If the promoter, director, or supervisor is a juristic person, the above provisions shall apply mutatis mutandis to the responsible person or authorized representative of that juristic person.

#### Article 7

A credit rating agency may engage in the following businesses:

1. To rate degree of credit risk and to rate performance.
2. To provide consulting service related to credit rating.
3. To publish publications relating to credit rating.
4. Other businesses approved by the FSC.

#### Article 8

The subjects rated by credit rating agencies shall include the following:

1. Companies, securities firms, futures commission merchants, other businesses related to securities and futures, and other financial institutions.
2. Negotiable securities and other financial products.
3. Other subjects approved by the FSC.

#### Article 9

At least one of the promoters applying for approval of establishment of a credit rating agency pursuant to the provisions of Article 4 shall be an internationally recognized credit rating institution, which shall subscribe to not less than twenty (20) percent of the total shares under first issue, and the promoters shall submit the application with the following documents together with related documentary proofs to the FSC for approval:

1. Articles of Incorporation.
2. Business plan.
3. List of promoters, specifying the name or company name, address, and capital contribution, and a statement declaring the inapplicability of paragraph 1 of Article 6 of these Regulations.
4. The minutes from the meeting of promoters;
5. A commitment letter and implementation plans for five consecutive years for technical assistance arrangement with an internationally recognized credit rating institution.
6. Other documents that the FSC may require.

Where an internationally recognized credit rating institution intends to establish a branch office in the Republic of China pursuant to the provisions of Article 5, it shall apply to the FSC for approval, submitting an application form and the following documents together with related documentary proofs:

1. Articles of Incorporation, or a document equivalent to Articles of Incorporation.
2. Business plan.
3. A document proving that the company meets the qualifications of an internationally recognized credit rating institution, as set forth in paragraph 2 of Article 2.
4. The minutes of the board of directors meeting at which the resolution to establish a branch office in the Republic of China was made.
5. The names, nationalities, and domiciles of directors and other responsible persons.
6. The names, nationalities, domiciles or residences, documentation of identity, and the power of attorney of designated agents for litigious and non-litigious matters in the Republic of China.
7. The power of attorney designating agents for the purpose of applying for establishment of branch offices.
8. Other documents that the FSC may require.

The business plan referred to in subparagraph 2 of paragraph 1 and in subparagraph 2 of the preceding paragraph shall specify the following:

1. The principles of business operation, the divisions of internal organization, planning for internal control.
2. Recruitment and training of personnel, and summary of business floor and the facilities.
3. A financial projection for the next year.
4. Other items relevant to business operation.

#### Article 10

The incorporation registration of a credit rating agency incorporated pursuant to the provisions of Article 4 shall be completed within six months following approval by the FSC; the applicant shall thereafter file an application and the following documents, together with related documentary proofs, to the FSC for issuance of a business license:

1. A photocopy of the letter approving incorporation registration.
2. The corporate bylaws.
3. A shareholders list and the minutes of shareholders meeting.
4. A list of directors and supervisor(s) and a written statement declaring the inapplicability of paragraph 1 of Article 6 of these Regulations.
5. Minutes of the board of directors meeting.
6. A list of managerial officers and a statement declaring the inapplicability of paragraph 1 of Article 7 of these Regulations and a certification of compliance with paragraph 1 of Article 16 of these Regulations.
7. A list of associated persons and a statement declaring the inapplicability of paragraph 1 of Article 54 of these Regulations.
8. Other documents that the FSC may require.

Where an internationally recognized credit rating institution intends to establish a branch office in the Republic of China pursuant to the provisions of Article 5, it shall duly complete incorporation registration of the branch office within six months following approval by the FSC, and shall thereafter apply to the FSC for issuance of a business license, submitting an application form and the following documents together with related documentary proofs:

1. A photocopy of the letter approving the branch office's incorporation registration.
2. Documentary proof that the branch office possesses the amount of working capital required under the provisions of paragraph 1 of Article 5.
3. The corporate bylaws.
4. A list of directors and supervisors, and a written statement that none of the items listed under paragraph 1 of Article 6 apply to any of the said persons.
5. A list of managerial officers, a written statement that none of the items listed under paragraph 1 of Article 17 apply to any of the managerial officers, and documentary proof that all of the managerial officers possess each of the qualifications listed under paragraph 1 of Article 16.
6. A list of associated persons, and a written statement that none of the items listed under paragraph 1 of Article 54 of the Act apply to any of the associated persons.
7. Other documents that the FSC may require.

In the event a credit rating agency fails to apply for a business license within six (6) months after incorporation registration of a company or branch office, the FSC may void its approval. The period prescribed above may be extended, however, should the said credit rating agency apply to the FSC, with just cause, prior to the expiry of the period. Such an extension shall not be for more than six (6) months and may be granted only once.

#### Article 11

The corporate bylaws referred to in subparagraph 2 of paragraph 1 of the preceding Article shall include the following:

1. The organization and the responsibilities of each department.
2. The internal management control system, including rules regarding the independence of ratings, conflicts of interest, and legal compliance.
3. The internal accounting control system.
4. The deployment, management and training of personnel.
5. The principles and policy for business operation.
6. The rating procedures, rating levels, standards, and division of responsibilities, including the methodology for each type of credit rating and the establishment and methods of use of statistical databases.
7. The organization and operations of the credit rating committee.
8. The announcement of ratings and relevant confidentiality measures; and
9. Other items that the FSC may require.

Any credit rating agency already established and registered prior to the entering into force of the 28 October 2010 amendments to these Regulations shall amend its corporate bylaws in accordance with the provisions of the preceding paragraph and submit them to the FSC for recordation within six months from the date on which the amendments enter into force.

The scope of the major contents of the above bylaws shall be formulated by the FSC.

A credit rating agency shall operate business in accordance with the laws, Articles of Incorporation, and the corporate bylaws referred to in paragraph 1.

The formulation of or amendment to the corporate bylaws referred to in paragraph 1 shall be reported to the FSC for recordation. If any order for amendment to the bylaws is made by the FSC, the amendment shall be made accordingly within the prescribed time period.

#### Article 12

A credit rating agency engaging in any of the following acts shall report to the FSC for prior approval:

1. Amendment of its Articles of Incorporation.
2. Merger.
3. Suspension or resumption of its business operations.
4. Dissolution.
5. Assignment of the whole or a substantial portion of its business.
6. Other items which require approval as prescribed by the FSC.

#### Article 13

A credit rating agency shall report any of the following circumstances to the FSC for recordation within ten (10) days after its occurrence:

1. Any resolution made by a shareholders meeting or board of directors meeting.
2. A change in shareholding of any shareholders holding more than ten (10)

percent of the total outstanding shares.

3. A change of directors, supervisor(s), managerial officers, or associated persons;
4. A change of its principal business place.
5. A reorganization, liquidation, bankruptcy, or a major lawsuit.
6. Other items for which the FSC requires reporting.

Where an internationally recognized credit rating institution receives approval to establish a branch office in the Republic of China pursuant to the provisions of Article 5, it may be exempted from subparagraphs 1 and 2 of the preceding paragraph, and from the provisions of subparagraph 3 that require reporting a change of directors or supervisor(s). Where any of the following events occur with respect to a branch office's parent company, the branch office shall of its own accord inform the FSC of that fact within ten (10) days, presenting a description of the facts and other related information:

1. The company is dissolved or suspends its business activities.
2. A reorganization, liquidation, or bankruptcy occurs.
3. A major criminal case occurs, or the competent authority in the parent company's country revokes its business license.
4. A merger takes place, the company transfers all or a significant portion of its assets or business, or receives the transfer of such items.
5. A major lawsuit occurs.
6. A major change in operating policy occurs.
7. The governing laws and regulations in the parent company's home country change significantly.
8. Other major events occur that may affect the company's ability to continue business operations.

Where any of the personnel changes listed in subparagraph 3 of paragraph 1 occurs, the company employing such personnel cannot be exempted from responsibility for their actions until it has properly carried out procedures for change of personnel.

#### Article 14

A credit rating agency shall, within three months after the end of each business year, report to the FSC financial statements certified by a certified public accountant, passed by the board of directors, and recognized by the supervisor(s). The enterprise shall also report rating results publicly announced during the preceding fiscal period.

In the event the aforesaid financial statements shall be different from the financial statements recognized by the shareholders meeting, it shall report to the FSC within two (2) days after occurrence.

Where an internationally recognized credit rating institution receives approval to establish branch offices in the Republic of China pursuant to the provisions of Article 5, the financial statements of its branch office(s) shall be prepared in accordance with the provisions of paragraph 1. However, said branch office(s) may be exempted from the requirement that the financial statements be passed by the board of directors and recognized by the supervisor(s) and the general shareholders meeting.

#### Article 15

A credit rating agency shall publicly announce the following matters on its company website:

1. Its business report, to be announced within three months after the close of each business year.
2. Its credit rating evaluation results and the methodologies and key ratings assumptions employed, provided that this does not include credit ratings not intended for public use. A credit rating agency shall immediately make a public announcement upon the occurrence of any of the following:
  - A. The issuance, suspension of, or any change in a credit rating; to be accompanied by an announcement of the relevant credit rating history for the preceding five years.
  - B. Any changes in the methodologies or key ratings assumptions employed in issuing credit ratings.

When a credit rating agency makes any of the announcements under subparagraph 2 of the preceding paragraph, it shall note any limitations in the data that were analyzed as well as risks that cannot be reflected by the credit rating. The credit rating agency must also use appropriate labeling to distinguish ratings for structured instruments or ratings produced other than in response to an active request from the entity being evaluated.

The business report of paragraph 1 shall include the following items:

1. A company profile, including the date of establishment, company history, organizational system, and the equity structure of the directors, supervisors, or major shareholders holding more than a 10 percent stake in the company. When a director or supervisor is a juristic person shareholder representative, it shall note the name of the juristic person shareholder and its shareholding ratio, and the names of the top ten shareholders and their shareholding ratios shall also be noted.
2. Operational status, which shall include the following:
  - A. Credit rating policies, methodologies, models, and credit rating assumptions.
  - B. The content of outsourced work.
  - C. The credit ratings issued during the previous year and information on changes in the credit ratings.
  - D. Information on yearly rates of default over time in each credit category.
  - E. The name and the proportion of operating revenues accounted for by any client, or any client in combination with its affiliated enterprises, whose contribution to operating revenues exceeds 10 percent.
3. Financial condition, including the proportion of total operating revenues accounted for by credit rating income, and the proportion of total operating revenues accounted for by operating revenues other than credit rating services.
4. A review and analysis of the company's financial condition and operating results and a listing of risks.
5. Matters of special note.

#### Article 16

A credit rating agency shall formulate organization bylaws to define the internal organization, number of personnel and titles, and report the same to the FSC for recordation.

The internal control system of a credit rating agency and its yearly

internal audit plans shall be established and carried out in accordance with the Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets, and in addition shall include the following items:

1. Management of credit rating procedures, including the operation of the rating committee, the appropriateness of credit rating models and methodologies, and retention of credit rating records.
2. The compliance system for preserving the independence of credit ratings and its implementation.
3. Controls for carrying out announcements of information to be made in accordance with Article 15.

Any credit rating agency already established and registered prior to the time the 28 October 2010 amendments to these Regulations take effect shall amend its internal control system in accordance with the provisions of the preceding paragraph, and submit the amended version to the FSC for recordation, within six months from the date on which the amendments take effect.

When a credit rating agency undertakes a rating, it shall establish a credit rating committee, which shall be responsible for making the final review of the rating results and shall periodically examine the appropriateness of the credit rating models and methodologies. When the nature of the asset risk represented by the entity or the instrument receiving a credit rating changes, a new assessment of the appropriateness of the credit rating results shall be undertaken, and any necessary measures taken.

The provisions of Article 6, paragraph 1 and Article 16, paragraph 1 shall apply mutatis mutandis to the qualifications of the members of the credit rating committee.

#### Article 17

A managerial officer of a credit rating agency shall, apart from not having any of the conditions referred to in paragraph 1 of Article 6, possess at least one of the following qualifications:

1. A master's degree or above, and having been employed by a securities, financial, futures or relevant institutions or employed as a managerial officer by a private or government-run enterprise for one year or more, or having been employed as a lecturer or above position by a domestic or foreign college or higher institution or having work experience in rating related business for a year or more with good performance record.
2. Being a college graduate or above, and having been employed by a securities, financial, futures or relevant institutions or employed as a managerial officer by a private or government-run enterprise for three (3) years or more, or having three-year or more working experience in rating related business with good performance record.
3. Having been employed by a securities, financial, futures or relevant institution or employed as a managerial officer by a private or government-run enterprise for five (5) years or more.
4. Possessing the professional knowledge or credit rating experience proven by other substantial facts, and being able to operate credit rating business well and efficiently.

The term "managerial officer" in the preceding paragraph shall mean

president, vice president, assistant vice presidents and managers and assistant managers of the business units.

#### Article 18

The directors, supervisor(s), managerial officers, mandataries or employees of a credit rating agency shall not concurrently work in any way or take any honorary position for the entity under evaluation or the issuer of the instrument under evaluation, provided that when due to an investment relationship, the directors, supervisor(s) or managerial officers of the entity under evaluation or the issuer of the instrument under evaluation may concurrently hold the position of director or supervisor at the credit rating agency if the matter is reported to and approved by the FSC.

#### Article 19

The directors, supervisor(s) or managerial officers of a credit rating agency shall not make investments in or serve concurrently as the directors, supervisor(s) or managerial officers of another credit rating agency, provided that the above provisions do not apply when an internationally recognized credit rating institution invests in the establishment of a credit rating agency in accordance with the provisions of Article 9 of these Regulations, and serves concurrently as director, supervisor or managerial officer, and prior approval has been obtained from the FSC.

#### Article 20

The managerial officers and associated persons of a credit rating agency shall be full-time employees, and shall not perform business without first reporting to the FSC for approval.

None of the items referred to in paragraph 1 of Article 54 of the Act shall apply to any of the associated persons referred to in the preceding paragraph.

#### Article 21

A credit rating agency may not engage in any of the following activities:

1. Acting as a guarantor of any kind, endorsing negotiable instruments, or providing property to others for the creation of a security interest.
2. Engaging in credit rating services on behalf of any affiliated enterprise, or any enterprise with which the credit rating agency has an investment relationship or with which it shares benefits.
3. Engaging in credit rating services on behalf of any agency or financial product for which it has previously provided consulting services, provided that this restriction shall not apply when more than 3 years have passed since the end of the consultation period.
4. Issuing any credit rating report or information which lacks an analytical basis or reasonable grounds, and which would be likely to affect market order or harm the public interest.

#### Article 22

Members of the credit rating committee shall recuse themselves under any of the following circumstances:

1. The member or the member's spouse is currently employed by, engages in regular work on behalf of, or receives fixed salaries from the entity under evaluation or the issuer, originator, arranger, or underwriter of the instrument under evaluation.
2. The entity at which the member or the member's spouse is currently

employed, and the entity under evaluation or the issuer, originator, arranger, or underwriter of the instrument under evaluation, are mutually related parties.

3. The member was previously employed by the entity under evaluation or by the issuer, originator, arranger, or underwriter of the instrument under evaluation, and less than two full years has elapsed since the employment ended.

4. The member is a spouse or a relative within the second degree of kinship of a responsible person or managerial officer of the entity under evaluation, or of the issuer, originator, arranger, or underwriter of the instrument under evaluation.

5. The member or member's spouse has an investment or benefits-sharing relationship with the entity under evaluation or with the issuer, originator, arranger, or underwriter of the instrument under evaluation.

6. The member is the certified public accountant for the entity under evaluation or the issuer of the instrument under evaluation.

#### Article 23

The directors, supervisor(s), members of the ratings committee, managerial officers, mandataries, or employees of a credit rating agency may not engage in any of the following acts:

1. Utilizing information obtained in the course of official duties to directly or indirectly engage in the trading of securities or other financial products.

2. Disclosing trade secrets obtained in the course of official duties, except in response to a lawfully conducted inquiry.

3. Issuing any credit rating report or information which lacks an analytical basis or reasonable grounds, and which would be likely to affect market order or harm the public interest.

4. Participating in the process of design or providing related recommendations regarding structured instruments.

5. Soliciting, agreeing to accept, or accepting improper benefits from the entity under evaluation or from the issuer, originator, arranger, or underwriter of the instrument under evaluation.

6. Other acts in violation of laws and regulations.

Personnel referred to in the preceding paragraph who have the authority to decide credit rating levels, or to approve methods of use in connection with credit ratings, may not participate in the discussion, negotiation, or arrangement of rating fees.

#### Article 24

A credit rating agency or its directors, supervisor(s), managerial officers, mandataries or employees violating these Regulations shall be punished in accordance with the Act and other relevant laws and regulations.

#### Article 25

Information relating to the credit rating business engaged in by a credit rating agency shall be retained for a period of at least five years, provided that information relating to any matter in dispute shall be retained until the dispute is eliminated.

The "information relating to the credit rating business" of the preceding paragraph shall include the following documents:

1. Credit rating procedures and methodologies and any changes to them.
2. Credit rating analyses and reports.
3. A register of the personnel who participated in credit rating decisions.
4. Any deliberations relevant to the credit rating process and records of internal and external communications.
5. Explanations of any discrepancies between a final credit rating and the results calculated from the quantitative module.
6. Information on initial credit ratings, follow-up credit ratings, adjusted credit ratings, and withdrawn credit ratings, and records relating to appeals received in response to the aforementioned credit rating results.

#### Article 26

The FSC may at any time order a credit rating agency to provide financial or business reports or other reference information, and may directly examine the agency's financial or business condition.

#### Article 27

The format and content of documentation required by these Regulations shall be separately prescribed by the FSC.

If the documentation to be submitted in accordance with these Regulations is in a foreign language, material content shall be provided in a summary Chinese translation.

#### Article 28

These Regulations shall become effective from the date of promulgation.