Content

Title：	Standards Governing the Establishment of Futures Advisory Enterprises Ch
Date：	2008.06.27
Legislative：	1. Full 17 articles promulgated on 8 November 2002 per Order No. Taiwan-Finance-Securities-(VII)-0910005645 of the Securities and Futures Commission, Ministry of Finance; to take force from the date of promulgation 2. Full text of 18 articles promulgated on 20 October 2004 per Order No. Finance-Administration-Securities-(VII)-0930004942 of the Financial Supervisory Commission, Executive Yuan; to take force from the date of promulgation 3. Full text of 19 articles amended and issued on 27 June 2008 per Order No. Financial-Supervisory-Securities-VII-0970031239 of the Financial Supervisory Commission, Executive Yuan; for implementation from date of issuance
Content：	Article 1 These Standards are promulgated pursuant to Article 82, paragraph 3 of the Futures Trading Act. Article 2 The term "futures advisory enterprises" in these Standards shall mean enterprises that undertake or provide research and analysis opinions or recommendations on matters relating to futures trading, futures trust funds, futures-related commodities, or other trades or investments announced or approved by the competent authority in return for a consideration. The term "consideration" in the preceding paragraph shall mean any benefit obtained directly or indirectly from a principal or a third party. Article 3 Except when concurrently operated by another enterprise, a futures broker, managed futures enterprise, securities broker, or securities investment consulting enterprise ("SICE") may apply to concurrently operate a futures advisory enterprise. A securities broker or a securities investment consulting enterprise applying to concurrently operate a futures advisory enterprise in accordance with the preceding paragraph shall be restricted to operating securities-related futures advisory business, provided that securities brokers which have not received approval from the competent authority to engage in consigned trading of foreign securities or securities investment consulting enterprises which have not received competent authority approval to engage in investment consulting and recommendation for foreign securities may not concurrently operate futures advisory business relating to foreign securities. Concurrent operation of a futures advisory enterprise by the enterprises named in paragraph 1 shall be subject to prior approval and issuance of a certificate of license by the competent authority. A futures broker, managed futures enterprise, or securities broker that concurrently operates a futures advisory enterprise and provides advisory

services on securities other than futures trust funds shall first obtain a business license for concurrent operation of securities investment consulting business.
No person may use the name "futures advisory enterprise" or any similar enterprise name without receiving the approval specified in the paragraph 3.
Article 4
A futures broker or a managed futures enterprise that concurrently operates a futures advisory enterprise shall establish a department exclusively responsible for such operations and appoint a person exclusively responsible for managing such operations.
Where a securities broker or a securities investment consulting enterprise concurrently operates a futures advisory enterprise, its head office shall establish an independent department exclusively responsible for its advisory business and appoint a director and associated persons whose sole responsibility is the operation of that department.
For a securities broker that has received approval to engage in wealth management business, the independent department exclusively responsible for futures advisory business that, pursuant to regulations, is to be established for the futures advisory enterprise it concurrently operates may be merged with the wealth management business department.
A sufficient number of competent managers and associated persons who meet the qualifications set forth in the Regulations Governing Futures Advisory Enterprises shall be appointed to the department for operation of futures advisory business of a futures broker, managed futures enterprise, securities broker, or SICE as required according to the scope of business, operational conditions, and internal control management system of the given enterprise.
Article 5
A securities broker applying to concurrently operate a futures advisory enterprise shall possess the following qualifications:
1. It shall have been established for a full two years.
2. Its CPA-audited and attested financial report for the most recent period shall show a per-share value not lower than the par value.
3. It shall have received no correction order under Article 100, paragraph 1, subparagraph 1 of the Futures Trading Act, Article 66, subparagraph 1 of the Securities and Exchange Act, Article 103, subparagraph 1 of the Securities Investment Trust and Consulting Act, or Article 44 of the Trust Enterprise Act within the preceding three months.
4. It shall have received no disposition under Article 100, paragraph 1, subparagraph 2 of the Futures Trading Act, Article 66, subparagraph 2 of the Securities and Exchange Act, Article 103, subparagraphs 2 or 3 of the Securities Investment Trust and Consulting Act, or Article 44, subparagraph 1 of the Trust Enterprise Act within the preceding half year.
5. It shall have received no disposition under Article 100, paragraph 1, subparagraph 3 of the Futures Trading Act, Article 66, subparagraph 3 of the Securities and Exchange Act, Article 103, subparagraph 4 of the Securities Investment Trust and Consulting Act, or Article 44, subparagraph 2 of the Trust Enterprise Act within the past year.
6. It shall have received no disposition under Article 100, paragraph 1,

subparagraph 4 of the Futures Trading Act or Article 66, subparagraph 4 of the Securities and Exchange Act, Article 103, subparagraph 5 of the Securities Investment Trust and Consulting Act, or Article 44, subparagraph 3 of the Trust Enterprise Act within the past two years.
7. It shall have received no disposition under which its trading is suspended or restricted pursuant to the bylaws of a securities exchange, OTC securities exchange, futures exchange, or futures settlement institution within the past year.
8. Any other conditions as set by the competent authority.
In addition to compliance with the qualifications set out in subparagraphs 3 through 8 of the preceding paragraph, the CPA audited and attested financial report for the most recent period of a futures broker applying to concurrently operate a futures advisory enterprise shall also comply with the provisions of Article 17 of the Rules Governing Futures Commission Merchants, while at the same time the futures broker shall be free of any of the circumstances under Article 22 of those Rules.
A managed futures enterprise that applies to concurrently operate a futures advisory business shall possess the qualifications of paragraph 1, subparagraphs 3 through 8.
In addition to compliance with the qualifications of each subparagraph of paragraph 1, the paid-in capital of an SICE applying to concurrently operate a futures advisory enterprise may be no less than 50 million New Taiwan Dollars, provided that the paid-in capital of a SICE engaging in discretionary investment business that is applying for concurrent operation of a futures advisory enterprise shall be no less than 70 million New Taiwan Dollars.
For a futures broker, managed futures enterprise, securities broker, or SICE that applies to concurrently operate a futures advisory enterprise but which has received a disposition pursuant to any of subparagraphs 3 through 6 of paragraph 1, and has also been ordered to make improvement by the competent authority but has not, at the time of application, brought about a concrete improvement, the competent authority may refuse to approve its application.
Article 6
A futures advisory enterprise shall adopt an internal control system in accordance with the competent authority's Regulations Governing Internal Control Systems of Service Enterprises in the Securities and Futures Market and the regulatory standards for establishment of internal control systems in futures advisory enterprises prescribed by the Chinese National Futures Association ("the Futures Association") and other futures-related institutions.
Article 7
The site and facilities of a futures advisory enterprise shall comply with the Futures Association standards governing sites and facilities.
Article 8
A futures broker, managed futures enterprise, securities broker, or SICE applying to concurrently operate a futures advisory enterprise shall fill out an application form, attaching the following documents, and apply to the competent authority for approval:
1. An operations plan giving a general description of the operating

principles of the concurrently operated futures advisory enterprise, a business development plan for the concurrently operated futures advisory enterprise for the next two years, its internal organization and division of responsibilities, a plan for the hiring and training of personnel, and its site and facilities.
2. Rules for prevention of conflicts of interest.
3. The minutes of the shareholders' or directors' meeting containing the resolution for concurrent operation of a futures advisory enterprise.
4. A declaration that none of the circumstances in Article 19 of the Regulations Governing Futures Advisory Enterprises applies with respect to the directors and supervisors.
5. A CPA-audited and attested financial report for the most recent period.
6. A document evidencing compliance with Article 5, paragraph 1, subparagraph 7, provided that exemption from this requirement is allowed when a contract for market use has not been entered into with the relevant institution.
7. An application checklist.
8. A declaration stating that the application and its attachments contain no misrepresentation or concealment.

Article 9

A futures broker, managed futures enterprise, securities broker, or SICE applying to concurrently operate a futures advisory enterprise shall, within six months from the date of approval by the competent authority, duly amend its articles of incorporation and carry out company amendment registration for concurrent operation of a futures advisory enterprise, and shall fill out an application form, attaching the following documents, and apply to the competent authority for issuance of a certificate of license:
1. The enterprise's articles of incorporation and documents evidencing its company amendment registration.
2. A description of its internal control system for concurrent operation of a futures advisory enterprise.
3. A register, issued by the Futures Association, of managers and associated persons who have passed a review of their qualifications for a futures advisory enterprise, and documents verifying their qualifications.
4. A declaration stating that none of the circumstances under Article 19 of the Regulations Governing Futures Advisory Enterprises apply with respect to the managers and operations personnel of the futures advisory enterprise.
5. A CPA-audited and attested financial report for the most recent period, provided that this shall not be required when the report is for the same period as the report submitted in the application for approval for concurrent operation of the futures advisory business.
6. A document showing payment of the operating bond required under Article 10 of the Regulations Governing Futures Advisory Enterprises.
7. Documents showing compliance with the provisions of Article 5, paragraph 1, subparagraph 7 herein, provided that exemption from this requirement is allowed when a contract for market use has not been established with the relevant institution.
8. Documents showing compliance with the provisions of Article 7 herein.
9. An application review checklist.

10. A declaration stating that the application and its attachments contain no misrepresentation or concealment.
The internal control system referred to in subparagraph 2 of the preceding paragraph shall set out a code governing the conduct of managers and associated persons of the futures advisory enterprise and their concurrent holding of other positions, the division of authority and responsibility between departments and their information sharing, common use of operating sites and facilities, procedures for handling business disputes, and preventive measures and risk segregation measures to insure that in operations-related activities such as advertising, the offering of lecture courses, and the provision of analytical opinions or recommendations, there are no conflicts with customer interests or with business other than that of the futures advisory enterprise and that no conduct harmful to customer interests occurs.
Approval will be revoked for any enterprise named in paragraph 1 that fails to apply to the competent authority for a certificate of license for concurrent operation of a futures advisory enterprise within the period prescribed in paragraph 1, provided that with legitimate reason, the enterprise may apply to the competent authority prior to the lapse of the application period for a further six-month extension, which will be granted once only.
When an enterprise named under paragraph 1 concurrently operates a futures advisory enterprise, and it enters the Futures Association as any type of enterprise other than a futures advisory enterprise, it may not commence operation of the business of its futures advisory enterprise.
Article 10
When a foreign futures broker's branch unit within the ROC has obtained permission from its head office and a declaration is also issued by the head office that it is allowed to operate futures advisory business in its home country, the foreign futures broker may apply for concurrent operation of a futures advisory enterprise by a branch unit in the ROC.
When a foreign futures broker applies for concurrent operation of a futures advisory enterprise by a branch unit in the ROC, it shall submit a certified copy of the minutes of the relevant board of directors meeting and a power of attorney for the designated representative appointed to handle the application for concurrent operation of the futures advisory enterprise.
In applications by a futures broker for the concurrent operation of a futures advisory enterprise by a branch unit within the ROC, the provisions of Article 11 through Article 13 shall apply, and in addition, the provisions regarding application by a futures broker for concurrent operation of a futures advisory enterprise shall apply mutatis mutandis.
When a foreign futures broker's branch unit within the ROC only engages in sub-brokered foreign futures trading business and does not accept orders from individual futures traders, it may apply to concurrently operate a futures advisory enterprise, provided that when it engages in the business specified under Article 2, paragraph 1, subparagraphs 1 and 2 of the Regulations Governing Futures Advisory Enterprises, the scope of such business shall be restricted to foreign futures trading only, and its advisory services may be provided only to futures enterprises.

The qualifications that must be possessed by a foreign futures broker in order to apply for concurrent operation of a futures advisory enterprise by its branch unit within the ROC, and the documents and procedures necessary for its application for an approval and a certificate of license, shall be as prescribed in Articles 11 through 13, and in addition, the provisions of paragraphs 1 and 2 and the provisions regarding a securities broker's application for concurrent operation of a futures advisory enterprise shall apply mutatis mutandis.

Article 11

A futures broker, managed futures enterprise, securities broker, or SICE applying for approval to concurrently operate a futures advisory enterprise may simultaneously apply for approval to operate futures advisory business on behalf of its branch offices.

Applications by the enterprises named in the preceding paragraph for approval for concurrent operation of futures advisory business by a branch office shall be restricted to those enterprises whose head offices have already obtained an approval or certificate of license for concurrent operation of a futures advisory enterprise; those enterprises shall also be in compliance with the provisions of Article 5. When such an enterprise is not in compliance with the provisions of Article 5, paragraph 1, subparagraph 3 through subparagraph 6, but there has been concrete improvement of the circumstances and it has received approval from the competent authority, the enterprise may be exempt from the restrictions of subparagraph 4.

Article 12

A futures broker, managed futures enterprise, securities broker, or SICE applying for approval for concurrent operation of futures advisory business by its branch office shall fill out an application form, attaching the following documents, and apply to the competent authority for approval:

1. An operations plan, giving a general description of the principles of the branch office's operation of futures advisory business, its internal organization, division of responsibilities, a plan for hiring and training of personnel, the site and facilities, and a one-year financial status forecast.
2. Rules for the prevention of conflicts of interest, provided that exemption from this requirement is allowed when these rules are identical with those submitted during a previous application for concurrent operation of futures advisory business by a branch office.
3. The minutes of the shareholders' or directors' meeting containing the resolution for concurrent operation of futures advisory business by the branch unit.
4. A description of the internal control system for the operation of futures advisory business by the branch unit, provided that the futures commission merchant may be exempt from this provision when the description is identical to that submitted in the previous application made on behalf of a branch office.
5. A CPA-audited and attested financial report for the most recent period.
6. Documents evidencing compliance with the provisions of Article 5, paragraph 1, subparagraph 7, provided that exemption from this requirement is allowed when a contract for market use has not been entered into with

the relevant institution.
7. An application review checklist.
8. A declaration stating that the application and its attachments contain no misrepresentation or concealment.

Article 13

A futures broker, managed futures enterprise, securities broker, or SICE applying for concurrent operation of futures advisory business on behalf of a branch office shall, within six months of the date of approval by the competent authority, fill out an application form, attaching the following documents, and apply to the competent authority for issuance of a certificate of license for the operation of futures advisory business by the branch unit:

1. A register, issued by the Futures Association, of managers and associated persons who have passed a review of their qualifications for the futures advisory business and documents evidencing their qualifications.
2. A declaration stating that none of the circumstances under Article 19 of the Regulations Governing Futures Advisory Enterprises applies with respect to the managers and associated persons for the futures advisory business of the branch unit.
3. A CPA-audited and attested financial report for the most recent period, provided that the futures commission merchant will be exempt from this requirement when the report is for the same period as that submitted in the application for original approval.
4. Documents evidencing compliance with the provisions of Article 5, paragraph 1, subparagraph 7 herein, provided that exemption from this requirement is allowed when a contract for market use has not been entered into with the relevant institution.
5. Documents evidencing compliance with the provisions of Article 7 herein.
6. An application review checklist.
7. A declaration that the application and its attachments contain no misrepresentation or concealment.

Approval for the operation of futures advisory business by a branch unit will be revoked for any enterprise named in the preceding paragraph that fails to apply for a certificate of license for the operation of futures advisory business by a branch unit within the period prescribed in the preceding paragraph, provided that with legitimate reason, the futures commission merchant may apply to the competent authority prior to the lapse of the application period for a further six-month extension, which shall be granted once only.

If an enterprise named in paragraph 1 has obtained a certificate of license for the operation of futures advisory business by a branch unit but fails to report the matter to the Futures Association for recordation, the branch unit may not commence operation of futures advisory business.

Article 14

An application will be refused where there is failure to submit in full all application documents or information required under these Standards, followed by failure to supplement the required materials by the end of a time period prescribed by the competent authority.

Article 15

Under any of the following circumstances, the competent authority may

withhold approval for an application for concurrent operation of futures advisory business by a futures broker, managed futures enterprise, securities broker, or SICE:
1. The content or matters set out in the application documents are discovered to contain misrepresentations.
2. The operations plan or the description of the internal control system lacks specificity or cannot be effectively implemented.
3. Business operations have not been effectively carried out in conformance with the internal control system.
4. The circumstances set out in Article 19 of the Regulations Governing Futures Advisory Enterprises apply to the directors, supervisors, or persons appointed to serve as managerial officers of the futures advisory enterprise.
5. Any other circumstances where withholding of approval is deemed necessary for protection of the public interest.

Article 16

When, after commencement of concurrent operation of a futures advisory enterprise by a SICE, the net worth per share given in the CPA audited and attested financial report to be submitted pursuant to the Rules Governing Administration of Securities Investment Consulting Enterprises is lower than the par value, such circumstance shall be remedied within a two-year period.
When such circumstance has not been remedied at the end of the above period, the competent authority may revoke the approval for concurrent operation of futures advisory business.

Article 17

A futures broker, managed futures enterprise, securities broker, or SICE applying to the competent authority for issuance of a certificate of license for concurrent operation of futures advisory business shall pay license fees in accordance with the following provisions:
1. A license fee of 5,000 New Taiwan Dollars shall be paid for an application for concurrent operation of a futures advisory enterprise by the main office.
2. A license fee of 3,000 New Taiwan Dollars shall be paid for each application for concurrent operation of futures advisory business by a branch office.
A license fee of 1,500 New Taiwan Dollars shall be paid when an enterprise named in paragraph 1 applies to the competent authority for re-issuance of a certificate of license for futures advisory business.
No fee will be required in applications for re-issuance of certificates of license due to a redrawing of administrative districts or a change in the street address of the futures commission merchant.

Article 18

The format of documents required under these Standards will be prescribed by the competent authority.

Article 19

These Standards will be enforced from the date of issuance.