

Content

Title :	Regulations Governing Financial Technology Innovative Experimentation Ch
Date :	2018.04.27
Legislative :	2018.04.27(Announced)
Content :	<p>Chapter I General Provisions</p> <p>Article 1 These Regulations are adopted pursuant to Paragraph 1, Article 18 of the Financial Technology Development and Innovative Experimentation Act (referred to as the “Act” hereunder).</p> <p>Chapter II Procedures for Application, Extension and Change of Innovative Experimentation</p> <p>Article 2 An applicant that applies for approval to undertake experimentation involving innovative financial technologies (referred to as “innovative experimentation” hereunder) shall submit the following documents in triplicate and electronic files thereof to the competent authority: Application documents specified under Article 4 of the Act; and An undertaking stating that persons provided in Paragraph 1, Article 5 of the Act are free of any of the circumstances under the subparagraphs of the same paragraph. Where the application documents mentioned in the preceding paragraph are incomplete, the applicant shall make up the missing documents within the time period as notified by the competent authority.</p> <p>Article 3 An applicant that applies for an extension of the experimentation period in accordance with Article 9 of the Act shall submit an application and state the following matters: The current status of innovative experimentation and expected benefits already achieved; Reason(s) for the extension; Length of extension requested and expected benefits; Disputes arising during the experimentation period and how they were handled; If applicable, status of remedial actions taken when the competent authority requested the applicant to make improvement within a given time period pursuant to Paragraph 2, Article 14 of the Act; and Other matters required by the competent authority. Where the competent authority finds the application documents mentioned in the preceding paragraph having unreasonable planning, matters detrimental to the financial market or damaging the interests of innovative experimentation participants (referred to as the “participants” hereunder), or situations that constitute failure to make effective improvement pursuant to Paragraph 2, Article 14 of the Act, the application for extension should be rejected.</p> <p>Article 4 The “important elements” mentioned in the proviso of Paragraph 1, Article 10 of the Act means the financial businesses that requires the permission, approval or concession of the competent authority; utilization of technological innovation or business model innovation; or benchmarks for measuring the expected benefits of the innovative experimentation. Application documents under Paragraph 3, Article 10 of the Act shall state the following matters: The feasibility of making changes to facilitate the achievement of experimentation objectives; The reasonableness of objective evaluation on impacts the proposed changes will have on the interests of participants; The appropriateness of planning with regard to when, whom and how to notify the impact the proposed changes will have on the interests of participants,</p>

handling measures, obtaining the consent of participants, and methods for protecting the interests of participants who do not agree to the proposed changes;

Disputes arising during the experimentation period and how they are handled; and

Other matters deemed possible by the competent authority to have impact on the secure implementation of the innovative experimentation plan or deemed necessary for consideration by the competent authority for the protection of the public interest.

When applying for approval to change an innovative experimentation, the applicant shall submit documents provided in the preceding paragraph and Paragraph 3, Article 10 of the Act in triplicate and electronic files thereof to the competent authority. The competent authority shall, within one (1) month after receiving the application, make a decision on approving or rejecting the application and notify the applicant of the decision in writing.

After an application mentioned in the preceding paragraph has been approved by the competent authority, the applicant shall, within five (5) business days from the date the change is made, notify the competent authority of the change in writing.

Chapter III Review Standards

Article 5 The term “scale of innovative experimentation” mentioned in the Act refers to the number of participants and the monetary amount involved in the innovative experimentation.

The term “monetary amount involved in the innovative experimentation” mentioned in the preceding paragraph refers to the limit of financial products or services provided by the applicant to any single participant set by the applicant itself based on the business nature of the innovative experimentation and the protection measures and appropriate compensation planned after evaluating its own financial position and risk capacity, which also complies with the following provisions:

The aggregate amount of funds, transactions or risk exposures associated with the contracts entered into by the applicant with all participants during the experimentation period and during the contracts’ effective period of financial products or services provision, shall not exceed NT\$100 million or foreign currency equivalent thereof .

With the exception of qualified institutional investors, the amounts of funds, transactions or risk exposures associated with the financial products or services provided through an innovative experimentation to any single participant are subject to the following limits:

The amount of consumer credit or loan shall be limited to NT\$500,000.

The premium or service fees of an insurance product shall be limited to NT\$100,000 or equivalent foreign currency thereof, or the insured amount shall be limited to NT\$1,000,000 or equivalent foreign currency thereof.

Other financial products or services shall be limited to NT\$250,000 or equivalent foreign currency thereof.

The amounts of funds, transactions or risk exposures involved in an innovative experimentation mentioned in the preceding paragraph refer to the amounts of funds, transactions or risk exposures agreed in the contract entered between the applicant and a participant on the provision of financial products or services, excluding investment income, interest income or other income derived thereof.

Where an innovative experimentation involves only charging service fees, the review meeting should determine the limit of total service fees charged and the limit of service fees charged to any single participant in view of the nature of individual business, protection measures adopted and actual management needs.

The review meeting may reduce or increase the limits to the amount of funds, transactions or risk exposures associated with contracts provided under Subparagraph 1, Paragraph 2 hereof and the amount of funds, transactions or risk exposures associated with participants provided under Subparagraph 2 of the same paragraph in view of the nature of individual business, protection measures adopted and actual management needs. However, the increased limit of the aggregate amount of funds, transactions or risk exposures associated with the contracts provided under Subparagraph 1,

Paragraph 2 hereof shall not exceed NT\$200 million or equivalent foreign currency thereof.

The term “qualified institutional investor” mentioned in Subparagraph 2, Paragraph 2 hereof refers to a qualified institutional investor provided in Subparagraph 1, Paragraph 1, Article 4 of the Financial Consumer Protection Act.

Article 6 The term “whether the experimentation is innovative” under Subparagraph 2, Article 7 of the Act means the business nature of an innovative experimentation under application is not identical or similar to that of any innovative experimentation already approved by the competent authority and the innovative experimentation meets one of the conditions below:

The innovative experimentation uses technology or business model that has not been made public, implemented or patented by a domestic financial service entity.

The innovative experimentation applies existing or patented know-how to the financial business but using significantly different technology or business model.

Article 7 The term “effectively increase the efficiency of financial services, reduce operational and use costs or enhance the interests of financial consumers and enterprises” under Subparagraph 3, Article 7 of the Act means that the following conditions shall be met:

The participation of participants in the experimentation is necessary;
The expected benefits are practicable;

The benchmarks for measuring the expected benefits are reasonable; and

The specifics of “effectively increase the efficiency of financial services, reduce operational and use costs or enhance the interests of financial consumers and enterprises” are concrete and reasonable.

Article 8 The term “potential risks have been assessed and relevant response measures prepared” under Subparagraph 4, Article 7 of the Act means the following:

Perform a complete assessment of the biggest risk that may be brought by the innovative experimentation to the financial market, participants and applicant.

Set up an independent and effective risk management mechanism, including risk patterns generated by the experimentation, risk monitoring and control mechanism (including frequency) and response mechanism.

Establish procedures for submitting periodic reports and reports in case of a risk event to the competent authority in accordance with the supervision and administration provisions under Article 20 and Article 21 herein.

Article 9 The term “participant protection measures have been established and appropriate compensation prepared” under Subparagraph 5, Article 7 of the Act means conforming with the provisions on protection measures under Chapter IV herein.

Article 10 The term “other matters that should be evaluated” under Subparagraph 6, Article 7 of the Act should include the following:

The reasonableness of granting the applicant’s innovative experimentation the exemption from applicable regulations, orders or administrative rules pursuant to Article 25 of the Act.

The appropriateness of exit mechanism regarding the rights and obligations between the applicant and the participants and other matters after the innovative experimentation ends.

The completeness of mechanisms for anti-money laundering and combating financing of terrorism (AML/CFT).

Partners and their cooperation relationships when it is necessary for the applicant to cooperate with other financial institutions in the innovative experimentation.

The concreteness of the innovative experimentation plan without explicit difficulties for implementation.

The professional proficiency possessed by the applicant to implement the innovative experimentation plan.

Article 11 The exit mechanism of an innovative experimentation plan shall include the following matters :

Events that may trigger the exit mechanism;

Time to initiate the exit mechanism;

Manner and time of notifying the participants;

Persons who will handle the exit mechanism and procedure or process therefor.

The mechanism for negotiating with participants;

Settlement of funds involved in the innovative experimentation, its return operation and processing of other rights and obligations associated with the participants;

The termination or referral mechanism for services or products provided by the innovative experimentation;

Risks that may occur after the exit; and

Other matters as required by the competent authority.

Where an innovative experimentation involves the receipt of funds, the applicant shall, within one (1) month from the date the experimentation ends, return or dispose the remaining funds in an agreed manner.

After an innovative experimentation ends, the applicant shall handle the personal information of participants in accordance with Paragraph 3, Article 11 of the Personal Information Protection Act.

Article 12 The competent authority should reject the application of the innovative experimentation when the review meeting it calls decides any of the following situations :

The application documents are incomplete, and the applicant fails to make up the missing documents as required by the competent authority; or the application documents contain false representation.

The application does not meet the review criteria set out in this chapter.

Chapter IV Protection Measures

Article 13 The applicant should allocate a reasonable number of staff and resources based on the scope, duration and scale of the innovative experimentation, and establish and carry out participant protection measures and prepare an appropriate compensation mechanism. The compensation mechanism includes declaring trust or obtaining banker's guarantee.

The "declaring trust" mentioned in the preceding paragraph refers to signing a trust agreement with the bank where a dedicated deposit account is opened as a trust account.

The "obtaining banker's guarantee" mentioned in Paragraph 1 hereof refers to signing a guarantee agreement on the performance of appropriate compensation, by which the bank undertakes the performance obligation of the applicant to participants.

The effective period of the trust or banker's guarantee should cover at least the entire innovative experimentation period plus another six (6) months, and before the innovative experimentation starts, the trust agreement shall be signed with sufficient amount of compensation deposited into the trust account or a banker's guarantee shall be obtained.

Where the protection measures or compensation mechanism mentioned in Paragraph 1 hereof are deemed inadequate by the competent authority in the review, the competent authority may require the applicant to add more protection measures or raise the compensation.

Article 14 An applicant shall establish the following management mechanisms based on the professional level of participants and possible risks associated with the innovative experimentation:

Assessing the suitability of participants.

Informing and disclosing the important contents of innovative experimentation and all associated risks.

Advertising and soliciting activities and methods.

Handling dispute and compensation.

Protecting funds received and funds for payment obligations.

Protecting personal information .

Maintaining information security.

Article 15 An innovative experimentation must have independent accounting.

Personnel arrangement, information exchange and utilization, and sharing of business equipments and venues between business involved in innovative experimentation and business not involved in innovative experimentation shall be free from conflicts of interest or other situations that may damage the interests of participants.

Article 16 An applicant shall, prior to starting an innovative

experimentation, consent in writing or consent explicitly in its products or service contracts or other documents that the complaint, mediation and ombudsman service procedures in the Financial Consumer Protection Act apply mutatis mutandis to Article 24 of the Act.

The written consent, contract or other documents mentioned in the preceding paragraph shall state that the applicant will accept the decision of the Financial Ombudsman Institution in an ombudsman procedure, and the decision requires the applicant to pay each participant cash or property value under a certain amount. If the ombudsman decision exceeds the certain amount, the applicant will also accept it if the participants explicitly agree to reduce the cash or property value to a certain amount.

Article 17 The contract entered between the applicant and participants shall contain the following particulars:

The scope, important content, duration, and potential associated risks of the innovative experimentation, disclosure of transaction information and the number of approval document issued by the competent authority;

Where the products or services in the experimentation involves investment or utilization of funds, there shall be no guaranteed performance or income;

Rights and obligations of the applicant and the participants, including the applicant's responsibilities towards the participants described under Article 20 to Article 22 of the Act;

Mechanisms for participating in and withdrawing from the innovative experimentation;

Protection and return measures for funds associated with funds received by the applicant and applicant's payment obligation, and informing the participants that funds received will not be protected by deposit insurance or Insurance Guaranty Fund;

Complaint, dispute handling and compensation mechanism; and

Other matters designated by the competent authority.

The applicant shall inform the participants of related matters in accordance with Article 8 of the Personal Information Protection Act.

Article 18 An applicant shall ensure the security of information collection, processing, use and transmission in accordance with Article 13 of the Act, prevent illegal intrusion, access, tampering, or destruction of business records or personal information, and establish a participant notification and damage compensation mechanisms to respond to third-party's intrusion in information system.

Article 19 When the innovative experimentation is terminated by the applicant, or cancelled or revoked by the competent authority or when the innovative experimentation period ends, the applicant shall handle exit related matters in accordance with the exit mechanism approved by the competent authority and the instructions of the competent authority, and notify the participants of the end of the innovative experimentation.

An applicant shall, within three (3) business days after completing the exit mechanism mentioned in the preceding paragraph, report the implementation results to the competent authority for record.

The report on the innovative experimentation results submitted to the competent authority in accordance with Article 16 of the Act shall include the implementation status of the exit mechanism, and if applicable, subsequent planning for the financial business involved in the innovative experimentation.

Chapter V Supervision and Administration of Innovative Experimentation

Article 20 An applicant shall submit periodic reports as requested by the competent authority. The reports shall contain at least the following items and be signed by the applicant:

Statement:

The innovative experimentation is carried out in consistence with the content approved by the competent authority.

Status of regulatory compliance.

Report content:

The progress of the innovative experimentation plan, including the scope of the experimentation, number of participants protection measures, protection of participant's personal information, implementation of risk management mechanism and exposures, solicitation activity and content, measurement of

expected outcomes and achievement status, AML/CFT assessment as of the date of report, etc.

Implementation status of information system security control mechanism, including information operation, network security monitoring and controls, defense and responses, audit trail retention mechanisms and implementation status.

Implementation status of matters requested by the competent authority.

Other matters deemed by the applicant that should be reported to the competent authority.

Article 21 When an applicant has any of the following situations during the innovative experimentation period, the applicant shall submit a signed special report no later than the next business day of occurrence:

A situation under any of the subparagraphs of Paragraph 1, Article 15 of the Act.

Having material changes to its finance, business or personnel.

Ending the innovative experimentation on own initiative.

Having an information or communications incident and the outcome of the incident damages the interests of participants or affects the continuing operation of the applicant.

There is media report that may affect the applicant's business reputation.

There is a situation on which the competent authority requires a special report.

Any material situation deemed by the applicant that it should be immediately reported to the competent authority.

Article 22 With regard to the reports mentioned in the preceding two articles, the competent authority may ask the applicant to make an explanation or provide relevant information within a given time period, to which the applicant shall respond accordingly.

Article 23 If deemed necessary, the competent authority may send people to conduct an onsite visit, to which the applicant shall not evade, interfere or refuse.

An applicant shall provide relevant data and explanations in coordination with the needs of the onsite visit conducted by the competent authority.

Chapter VI Supplementary Provisions

Article 24 These Regulations shall come into force on April 30, 2018.