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Regulations

Chapter 300 Members

301 Objectives

This Chapter provides for the stipulation of categories of the members of TFEX, qualifications for membership, procedures for admission of members, rights and duties of the members, including disciplinary actions and termination of membership, for the members of TFEX to observe.

***302 Categories of Members**

302.01 Full License Member

Full License Member are members who trade derivatives contracts of all underlying or variables on TFEX for themselves or for others.

302.02 Limited License Member

Limited license member are members who trade derivatives contracts on TFEX for themselves or for other persons, limited to contracts of the underlying or variables under their licenses to undertake a derivatives trading business issued by the SEC, such as precious metal related member, interest rate related member or limited member who are allowed to trade derivative contracts of other underlyings or variable under a license to operate a derivatives trading business.

302.03 Trading Member

Trading member are members who trade derivatives contracts on TFEX for themselves only.

*(*Rule 302 was amended on 13 March 2012, came into force on 13 March 2012.)*

***303 Qualifications for Membership**

303.01 Qualifications of Applicants for Membership in Category of Full License Member

- (1) Licensed to undertake derivatives business in the category of full license member by the SEC
- (2) Must have the financial condition according to the following criteria:

(2.1) have a minimum paid-up capital according to the criteria prescribed by the SEC, and

(2.2) maintain a minimum amount of net liquid capital (NC) according to the criteria prescribed by the SEC;

(3) Having the executives who are qualified and have no prohibited characteristic under the law on derivatives or according to the criteria prescribed by the SEC;

(4) Having the minimum numbers of officers who have knowledge and/or experience in derivatives transactions and can perform the duties as follows:

(4.1) investor contacts consisting of the head and the investor contacts approved by the Office of SEC in a number sufficient to undertake the derivatives business in an efficient manner,

(4.2) authorized traders in a number sufficient to undertake the derivatives business in an efficient manner; provided that, such authorized traders may be the same persons as the investor contacts,

(4.3) compliance officers who supervise the performance of services related to derivatives contracts provided by the member in accordance with the rules and regulations, circular letters or orders of TFEX in a number sufficient to undertake the derivatives business in an efficient manner; provided that, such compliance officers must not be the same persons as the investor contacts or the authorized traders;

(5) Having computer system and computer hardware that can be connected with the computer system of TFEX, together with other operating systems necessary for the performance of services of derivatives trading which are provided by TFEX;

** (6) Having policies and procedures for management of credit risk, operational risk, market risk arises from changes in prices of derivatives contracts or prices of commodities or variables underlying the derivatives contracts as well as legal risk which can support the undertaking of derivatives business in an efficient manner, including the measures for control and monitoring of the operations as accordance with the criteria prescribed by TFEX.

(7) Being a member of TCH or being able to show evidence that the applicant has an agreement assigning a member of TCH to pay debts under the derivatives contracts which the applicant trades on TFEX; and

(8) Being a member of the association for supervision of the derivatives and in case where such association has not yet been established at the time the applicant is filing an application to be a member with TFEX, the applicant shall proceed to become a member thereof within 60 days from the date such association is established. However, TFEX may extend the period of time within which the applicant shall become a member of such association.

* (9) Being a member or in process of applying for membership of the derivative investor protection fund (DIPF) only for an applicant who buys/sells derivative contracts on behalf of its client or investor who is a Thai individual or corporate entity incorporated in Thailand who is not an institutional investors under the Derivative Contracts Act B.E. 2546 (2003).

The details and the procedures for considering the qualifications of the members shall be in accordance with the criteria prescribed by TFEX.

*(*Rule 303.01 (9) was added on 14 November 2013, came into force on 1 January 2013.)*

*(**Rule 303.01 (6) was added on 19 April 2023, came into force on 8 May 2023.)*

303.02 Qualifications of the Applicant to be a Member in the Category of Limited License Member

(1) The applicant must be granted a license to undertake a derivatives trading business in category of derivatives broker limited to contracts of the underlying or variable specified by SEC.

* (2) The applicant must possess other qualifications under Regulation 303.01 (2) – (9) *mutatis mutandis*.

*(*Rule 303.02 (2) was amended on 14 November 2013, came into force on 1 January 2013.)*

303.03 Qualifications of Applicants to be a Trading Member

(1) The applicant must be approved by its board of directors and/or related regulator;

(2) The applicant must have registered capital and shareholders' equity of not less than Baht 25 million ;

(3) The applicant must be a juristic person with expertise or experience in derivatives on TFEX who is able to ensure liquidity on TFEX after being approved as a trading member;

(4) The applicant must be a member of Thailand Clearing House Company Limited or able to present evidence that it has entered into a contract to assign a member of Thailand Clearing House to be its debts payer under the derivatives contracts which the applicant trades on TFEX;

(5) The applicant must have a sufficient number of authorized traders to undertake the derivatives business in an efficient manner;

(6) The applicant must have a computer system and computer hardware that can be connected to the computer system of TFEX, together with other operating systems necessary for ensuring liquidity on TFEX; and

** (7) The applicant must have policies and procedures for managing credit risk, operational risk, market risk arising from changes in prices of derivatives contracts or prices of commodities or variables underlying the derivatives contracts, and legal risk which can support

the undertaking of a derivatives business in an efficient manner, including the measures for controlling and monitoring of the operations as accordance with the criteria prescribed by TFEX.

*(*Rule 303 was amended on 13 March 2012, came into force on 13 March 2012.)*

*(**Rule 303.03 (7) was added on 19 April 2023, came into force on 8 May 2023.)*

304 Admission of Members

TFEX shall accept the application for membership from time to time and make announcement thereof in general. The acceptance of application for membership by TFEX shall be in accordance with the criteria prescribed by TFEX.

305 Procedures for Admission of Members

305.01 Procedures for Acceptance of the Membership Application

(1) The applicant must submit an application form, together with documents and evidence according to the rules as prescribed by TFEX, and pay an application fee to TFEX.

(2) While the application is being considered, TFEX may prescribe additional conditions for the applicant to comply with and call upon the applicant to make clarification or to deliver additional documents, as it may deem appropriate.

(3) TFEX shall notify the applicant of the results of consideration of the qualifications within 90 days from the date TFEX duly receives all documents and evidence.

(4) TFEX shall notify the applicant of the results of consideration of the approval of membership and inform the applicant to show the documents and evidence according to the rules as prescribed by TFEX; and the applicant who is approved to be a member shall pay a membership fee in the amount and within the period of time as prescribed by TFEX.

(5) When the applicant has fully satisfied the rule 305.01 (4), TFEX shall stipulate and notify the applicant of the commencement date of membership.

The consideration of the admission of members by TFEX shall be final.

305.02 Change or Cancellation of the Membership Approval

TFEX may change or cancel the approval of membership of an applicant under the rule 305.01 (4) in any of the following cases:

- (1) the facts or evidence which the applicant presented or submitted to TFEX to support the consideration are false or not true; or
- (2) there occurs any circumstance, act or other ground which reasonably gives rise to the belief that the applicant is disqualified or is not suitable to be a member.

***305/1 Amendment to the Category of Members**

In the case that any member wishes to amend the category of member, the member must possess all qualifications in accordance with Regulation 303 and obtain approval from TFEX, including to undertake the proceedings according to the procedure prescribed by TFEX, to which Regulation 305 Procedures for Admission of Members shall be applied *mutatis mutandis*. Fee relating to the member must also be paid.

In the case that the member has not made full payment of the membership admission fee for the previous category it is obligated to pay, the member shall remain the duty to pay the outstanding amount in full according to the rules and conditions of the payment of the membership admission fee for the previous category.

(*Rule 305/1 was added on 18 December 2015, came into force on 18 December 2015.)

***306 Rights of Members**

306.01 Rights of Full License Member

The rights of full license member are as follows:

- (1) to trade derivatives contracts of all types of underlying or variables for themselves or for other persons; and
- (2) to receive any other services that TFEX provides.

306.02 Rights of Limited License Member

The rights of limited license member are as follows:

- (1) to trade only in derivatives contracts of the underlying or variables specified in the licensed to undertake derivatives trading business issued by the SEC for themselves or for other persons.
- (2) to receive other services provided by TFEX.

TFEX may limit the rights of members under (1) or (2) only with respect to the derivatives contracts of the underlyings or variables as it deems expedient.

306.03 Rights of Trading Member

The rights of trading member are as follows:

- (1) to trade derivatives contracts only for themselves.
- (2) to receive any other services that TFEX provides.

*(*Rule 306 was amended on 13 March 2012, came into force on 13 March 2012.)*

***307 Assignment of Member's Rights**

The member's rights are personal and cannot be assigned to another person unless such assignment is in accordance with the rules prescribed by TFEX or is approved by TFEX.

*(*Rule 307 was amended on 14 November 2008, came into force on 24 November 2008.)*

***308 Duties of Members**

308.01 Duties of Full License Member

(1) To comply with the law on derivatives, the regulations of the SEC, the Capital Market Supervisory Board, and the Office of the SEC, as well as the rules and regulations, circular letters, or orders of TFEX;

******(2) To Maintain the qualifications of full license members throughout the period of membership unless exempted otherwise as TFEX deems appropriate.

***Rule 308.01 (2) was amended on 14 January 2022, came into force on 1 February 2022.)*

(3) Not to do any act which can be regarded as or reasonably believed to be the avoidance of or failure to comply with the rule 308.01(1).

(4) Not to cooperate with or assist another member in the violation of or non-compliance with the rule 308.01(1).

(5) To render cooperation to or as requested by TFEX.

(6) To deliver information and reports on the financial condition, information concerning the trading or transaction of derivatives contracts, the holding of derivatives contracts, or the placement of margin by the member and the clients, and any other information and documents as specified or requested by TFEX within the time prescribed by it.

(7) To report to TFEX on violation of or non-compliance with the rules 308.01(1) and (2) (self-reporting) immediately upon the member or its executive, employee or operating staff violating or failing to comply with the rule 308.01 (1) and (2).

(8) To have a suitable internal control system that is able to control and supervise the performance of duties of the executives and the employees or operating staff of the member to

ensure their compliance with the rule 308.01 (1) and non-violation of the rule 308.01 (1) or non-committing of any act which can be regarded as or may be believed to be, the evasion of the rule 308.01 (1).

*(9) to provide a letter or any other document, showing that the client has consented to appoint the member as a trading agent for the client. Such letter or other document must include at least the following material content:

(9.1) that the client acknowledges the risks and duties that may arise from the trading of derivatives contracts;

(9.2) that the client acknowledges and understands the law on derivatives contracts, the regulations of the SEC, the Capital Market Supervisory Board, and the Office of the SEC, as well as the regulations, circular letters, or orders of TFEX, and of TCH, governing the trading, clearing and delivery of commodity of derivatives contracts;

(9.3) that the client consents to give the member its information and documents and evidence to prevent and halt irregular trading, inappropriate conduct of derivatives trading, or violation of law with respect to unfair practice concerning derivatives trading, such as information on derivatives trading of client, evidence of client identity, beneficiary of the client, trading objectives, position in an investment in underlying commodity or variable, and persons having direct or indirect power to control finances or transmit trading orders of client (controlling person), including documents and evidence showing that the client gives consent to the member to deliver its information and documents and evidence to TFEX, as requested by TFEX;

(9.4) that the client acknowledges and consents that the member may do any of the following acts in order to prevent and halt irregular trading, inappropriate conduct of derivatives trading, or violation of laws with respect to unfair practice concerning derivatives trading, without prior notice to the client, if it appears that the derivatives trading by such client may result in irregular trading, or unfair trading, or may be regarded as evading the law on derivatives, the regulations of the SEC, the Capital Market Supervisory Board, and the Office of the SEC, as well as the rules and regulations, circular letters, or orders of TFEX:

(1) to refuse to buy or sell derivatives contracts for the client on a temporary basis;

(2) to limit the volume of derivatives trading (trading limit), and/or to limit the client's derivatives position (position limit);

(3) to close out, or transfer, the client's derivatives position as the member, or TFEX, considers appropriate;

(4) to close a derivatives trading account of the client, or of other related persons; or

(5) to do, or to omit, any act as TFEX considers appropriate;

(9.5) that the client acknowledges and consents that the member may do any of the following acts without prior notice should it appear that an order of such client is in violation of or inconsistent with the rules and regulations, circular letters and orders of TFEX, or might be detrimental to the operation of the trading system, the operation of the member or TFEX, or overall trading:

(1) to give notice of the prohibition from recording such an order into the trading system;

(2) to cancel such an order of the client; or

(3) to suspend the provision of the trading service of the client.

*(*Rule 308.01 (9) was amended on 18 December 2015, came into force on 4 January 2016.)*

(10) to refuse to act as a derivatives trading agent for a client who commits any act that may result in irregular trading, or unfair derivatives trading, or that may be regarded as a violation, or evading, the law on derivatives, the regulations of the SEC, the Capital Market Supervisory Board, and the Office of the SEC, as well as the rules and regulations, circular letters, or orders of TFEX.

(11) To comply with the ethics and guidelines on good practices of a person undertaking business as derivatives agent as stipulated by the Office of SEC or the derivatives regulatory association, and to cause the executives, investor contacts, authorized traders, employees or operating staff of the member to comply with such guidelines.

(12) To protect the benefits and interests of TFEX and not to behave in a way that might impair the reputation of TFEX.

(13) To prove the readiness to TFEX before the commencement of new transactions as introduced by TFEX after its announcement of the introduction thereof on TFEX, by producing the documents or evidence to it in accordance with the rules, conditions and procedures prescribed by it.

*(14) In the event that a member executes transactions jointly with a Selling Agent, the member must comply with the following rules and conditions:

(14.1) execute a selling agent appointment agreement, which includes at least the following material particulars:

(1) that the selling agent warrants that insofar as the agreement is in force, the selling agent will act as the exclusive agent of the member;

(2) that the Selling Agent acknowledges, understands, and agrees to comply with the law on derivatives contracts, the regulations of the SEC, the Capital Market Supervisory Board, and the Office of the SEC, as well as the regulations, circular letters, or orders

of TFEX and of TCH, governing the trading, clearing and delivery of commodity of derivatives contracts;

(3) that the selling agent agrees to provide the member with information, documents, and evidence relating to the trading transactions executed by the selling agent and/or its clients, in order to prevent and halt irregular trading, inappropriate conduct of derivatives trading, or violation of laws with respect to unfair practices concerning derivatives trading, and consents that the member may deliver relevant information, documents, and evidence to TFEX, as requested by TFEX;

(4) that the selling agent acknowledges and consents that the member may do any of the following acts, without prior notice to the selling agent, if it appears that the performance of duties by the selling agent when providing bids or asks to its clients is in violation of, or inconsistent with, the regulations, circular letters, or orders of TFEX, or may be detrimental to the functions of the trading system, the operations of the members or of TFEX, or the overall trading conditions:

(a) to inform any personnel of the selling agent to temporarily suspend the record of any bids or asks having such characteristics into the trading system;

(b) to request that TFEX remove any personnel of the member's selling agent from the list of the member's authorized traders;

(c) to terminate the agreement, or to immediately suspend the performance of duties by the selling agent, within the period of time as prescribed by TFEX; or

(d) to do, or to omit, any act as TFEX considers appropriate;

(14.2) to report on its transactions executed through the selling agent, in accordance with the rules and procedures, and within the period of time, as prescribed by TFEX.

*(*Rule 308.01 (14) was amended on 18 December 2015, came into force on 4 January 2016.)*

*15) in the event that the client trades the derivatives contracts which specify the delivery of commodity, the member has the duty to examine the clients capability to deliver commodity who wishes to deliver commodity, and to inform the client to comply with the rights, duties, and responsibilities related to the delivery of commodity.

*(*Rule 308.01 (15) was amended on 18 December 2015, came into force on 4 January 2016.)*

308.02 Duties with Clients for Members in Category of Full License Member

(1) To require the client to deposit assets as margin at the rate or value not lower than that prescribed by TFEX.

(2) To cause the client to consent to give its information and documents and evidence showing its actual identity, and other information related to the trading of derivatives contracts and underlying, including information of the beneficiary and information of the persons concerned with the client's derivatives trading account.

The member shall deliver the information and documents and evidence under the first paragraph to TFEX in the form and according to the procedures prescribed by TFEX.

In case that a client makes orders for several other persons or in many tiers through an omnibus account, the member must cause such client to notify, procure and prepare an explanation concerning the information under (2) of all those persons in all tiers and the persons who have the power to make trading decisions for such account. The member must procure a system that can provide the afore-mentioned information to TFEX immediately upon request.

In order to prevent and halt irregular trading, inappropriate conduct of derivatives trading, or violation of law with respect to unfair practice concerning exchange trade derivatives, if the member fails to deliver the information and documents and evidence as required or requested by TFEX within the prescribed time, TFEX may order the member to limit the amount of trading, fix or change the position limit or suspend its services to such client, or TFEX may close out or transfer the derivatives position or take any other act as TFEX considers appropriate.

(3) The provisions in (2) shall apply to the case where the member trades derivatives contracts for its own, *mutatis mutandis*.

(4) To do anything to provide the client with knowledge and understanding of the nature and risks of derivatives contracts in accordance with the procedures prescribed by TFEX.

(5) To prepare and disclose information and documents and evidence related to the trading of derivatives contracts to the client according to the rules prescribed by the office of SEC; provided that the member must keep confidential information of the client and refrain from disclosing personal information, derivatives trading information or financial information of the client to other persons except for the disclosure according to its duties.

*(6) To refuse to act as a currency futures trading agent on TFEX for customers having the characteristics specified by TFEX.

*(*Rule 308.02 (6) was added on 16 May 2012, came into force on 5 June 2012.)*

308.03 Duties of Limited License Member

Regulation 308.01 shall be applied to the performance of duties of members in the category of limited license member *mutatis mutandis*.

308.04 Performance of Limited License Member

Regulation 308.02 shall be applied to the performance of members in the category of limited license member *mutatis mutandis*.

308.05 Duties of Trading Member

(1) Regulation 308.01 (1) (3) to (8) and (11) to (13) shall apply to the performance of trading member *mutatis mutandis*.

(2) Trading members shall maintain their qualifications throughout their membership.

308.06 Performance of Trading Member

In order to prevent and halt irregular trading, inappropriate conduct of derivatives trading, and violation of law with respect to unfair practice concerning exchange trade derivatives, if the member fails to deliver the information and documents and evidence required or requested by TFEX within the prescribed time, TFEX may order such member to limit its trading or fix or change the position limit, or TFEX may close out or transfer the derivatives position or take any other action as TFEX considers appropriate.

(*Rule 308 was amended on 13 March 2012, came into force on 13 March 2012.)

309 Membership Fee

The applicant shall pay a membership fee to TFEX according to the rules prescribed by TFEX.

***310 Punishment and Termination of Membership**

310.01 Reasons for Termination of Membership

The membership of a member shall be terminated upon a resolution of TFEX in any of the following cases:

- (1) Resignation by submission of a resignation letter to TFEX;
- (2) Failure to pay membership fee, service charge, or any fee payable by the member to TFEX for more than two consecutive times;
- (3) Failure to pay any debts other than that under (2) to TFEX within the time prescribed by TFEX in a written notice asking for such payment;
- (4) Violation or non-performance of duties of the member under the rule 308 which is of a severe nature;
- (5) Having the operation or financial condition that may cause damage to the interest of TFEX, the investors and/or general public;

(6) Being subject to revocation of a license to undertake derivatives business in the category of derivatives agent, particularly where the member is an agent, or revocation of a license to undertake any other business which has material impact on the member and thus causes the member to be unable to undertake business as a derivatives agent in an efficient manner;

(7) Having the volume of derivatives trading transactions on TFEX lower than that prescribed by TFEX;

(8) Having the operation which indicates the lack of seriousness in the undertaking of derivatives trading business as prescribed by TFEX and being unable to make improvement according to the conditions and within the time prescribed by TFEX.

*(9) To cease from being a member of the derivative investor protection fund, but not from the dissolution of the derivative investor protection fund or other reason as the Thailand Futures Exchange considers appropriate.

*(*Rule 310.01 (9) was added on 14 November 2012, came into force on 1 January 2013.)*

A person whose membership is terminated shall remain obligated to pay the fee, membership fee or service charge payable by the member to TFEX.

310.02 Consideration on Punishment and Disciplinary Actions

TFEX may impose one or several disciplinary actions on any member who commits or takes part in the violation or non-performance of duties under the regulations of TFEX as follows:

- (1) Warning;
- (2) Probation;
- (3) Reprimand through public announcement;
- (4) Fine;
- (5) Limitation of scope of derivatives trading on TFEX;
- (6) Prohibition from trading of exchange trade derivatives on TFEX on a temporary basis;
- (7) Termination of membership.

310.03 Resolution to Terminate Membership

A resolution to terminate membership shall require votes of not less than three-fourths of the total number of Board members. Membership shall be deemed terminated as from the date specified by the Board.

310.04 Disclosure of Punishment of Member

TFEX may disclose the punishment of a member in case that such member is punished due to its non-compliance with the rules and regulations of TFEX which adversely affects the investors or the trading as a whole as prescribed by TFEX.

When disclosing the punishment under paragraph one, TFEX may consider making such a disclosure to other members or the persons related to TFEX or making a public disclosure.

310.05 Prohibition from Dealing or Trading with Person whose Membership is Terminated

In case that the membership of any member is terminated for a reason under the rule 310.01(4), other members shall not deal or trade the derivatives contracts with such person whose membership is so terminated.

310.06 Readmission of Member whose Membership was Terminated

Any member whose membership was terminated may resubmit an application for membership if its membership was terminated according to the rule 310.01(1) or for not less than 5 years from the date of termination of membership, or if there is any change in the structure of shareholders, executives, board of directors or management policy of the member company and TFEX deems it appropriate and resolves to readmit such member.

*(*Rule 310 was added on 24 February 2006, came into force on 24 February 24, 2006)*

***311 Suspension of Trading Services on a Temporary Basis**

311.01 Reasons for Suspension of Trading Services on a Temporary Basis

TFEX may suspend its services of buying or selling any or all classes/series of derivatives contracts on TFEX on a temporary basis or take any other actions as TFEX considers appropriate against the member upon the occurrence of any of the following events with such member:

(1) The member is subject to suspension of the derivatives clearing services by TFEX on a temporary basis.

(2) The member carries out derivatives clearing through its derivatives clearing agent, and its agent is subject to suspension of the derivatives clearing service by TCH on a temporary basis or is unable to perform the duties as a derivatives clearing agent for the member.

(3) The member is subject to suspension of the undertaking of any other business on a temporary basis, which has material impact on the member and thus causes the member to be unable to undertake business as a derivatives agent in an efficient manner.

(4) The member has the operation or financial condition that may cause damage to the interest of TFEX, the investors and/or general public.

311.02 Period of Temporary Suspension of Trading Services

The period of suspension of the services of buying or selling derivatives contracts to the member shall not exceed 15 business days from the first day of suspension, unless otherwise prescribed by TFEX.

*(*Rule 311 was added on 24 February 2006, came into force on 24 February 2006.)*
