Regulations on the Administration of Futures Trading of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Futures Exchanges 2

Chapter III — Futures Companies 3

Chapter IV — Basic Rules for Futures Trading 4

Chapter V — Futures Industry Associations 5

Chapter VI — Supervision and Administration 5

Chapter VII — Legal Liability 6

Chapter VIII — Supplementary Provisions 7

Promulgated by Decree No. 489 of the State Council of the People's Republic of China on March 16, 2007; revised on October 24, 2012, July 29, 2013, February 6, 2016, and March 1, 2017 in accordance with the Decision of the State Council on Amending the Regulations on the Administration of Futures Trading
Effective: April 15, 2007

Table of Contents

- Chapter I — General Provisions
- Chapter II — Futures Exchanges
- Chapter III — Futures Companies
- Chapter IV — Basic Rules for Futures Trading
- Chapter V — Futures Industry Associations
- Chapter VI — Supervision and Administration
- Chapter VII — Legal Liability
- Chapter VIII — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Regulations are formulated for the purposes of regulating futures trading, strengthening the supervision and administration of futures trading, maintaining the order of the futures market, preventing risks, protecting the lawful rights and interests of futures trading participants and the public interest, and promoting the healthy development of the futures market.

Source: https://www.danyoungcpa.com/futures-trading-regulations-prc-2017/

Article 2 — These Regulations shall apply to futures trading and related activities within the territory of the PRC. The term “futures trading” as mentioned in these Regulations means trading activities conducted on a futures exchange by means of open centralized trading or other methods approved by the futures regulatory authority under the State Council, using futures contracts or option contracts as the subject matter of trading. The term “futures contracts” means standardized contracts uniformly formulated by futures exchanges that provide for the delivery of a specified quantity of a subject matter at a specified time and place in the future. The term “option contracts” means standardized contracts uniformly formulated by futures exchanges that grant the purchaser the right to purchase or sell a specified quantity of a subject matter at a specified price at a specified time in the future.

Article 3 — The futures regulatory authority under the State Council shall implement centralized and unified supervision and administration over the futures market. The dispatched offices of the futures regulatory authority under the State Council shall, in accordance with the authorization of the futures regulatory authority under the State Council, perform their supervisory and administrative functions. The futures exchanges and futures industry associations shall exercise self-regulation in accordance with the provisions of these Regulations and their articles of association.

Article 4 — The futures market shall adhere to the principles of openness, fairness, impartiality, and good faith. The establishment and trading activities of the futures market shall comply with the provisions of laws and administrative regulations. Fraud, insider trading, market manipulation, and other illegal trading activities are prohibited.

Article 5 — The futures regulatory authority under the State Council shall strengthen cooperation and information sharing with other financial regulatory authorities under the State Council, and establish a supervisory coordination mechanism for the futures market.

Chapter II — Futures Exchanges

Article 6 — The establishment of a futures exchange shall be subject to the examination and approval of the futures regulatory authority under the State Council. Without the approval of the futures regulatory authority under the State Council, no organization or individual may establish a futures exchange or organize futures trading in any form.

Article 7 — A futures exchange shall not be established for profit-making purposes. A futures exchange shall exercise self-regulation and management in accordance with the provisions of its articles of association and trading rules. A futures exchange shall be responsible for supervising its members, clients, and futures trading activities conducted on its premises, and shall perform the following functions: providing premises, facilities, and services for futures trading; designing futures contracts and arranging for their listing and trading; organizing and supervising futures trading, clearing, and delivery; conducting risk management; and other functions stipulated by the futures regulatory authority under the State Council.

Article 8 — The term “Futures Exchange” shall be included in the name of a futures exchange. The formulation and amendment of the articles of association of a futures exchange shall be subject to the approval of the futures regulatory authority under the State Council.

Article 9 — The general meeting of a futures exchange shall be composed of all members. The general meeting is the highest authority of the futures exchange. The board of directors shall be the permanent body and the executive body, and shall be responsible to the general meeting. The board of supervisors shall be the supervisory body. A futures exchange shall have a general manager, who shall be the legal representative and shall be responsible for the daily management.

Article 10 — The number of members on the board of directors of a futures exchange shall be seven to 13 persons. Board members shall include specially invited members who are not members of the exchange. The general manager of a futures exchange shall be appointed or removed by the futures regulatory

Source: https://www.danyoungcpa.com/futures-trading-regulations-prc-2017/

authority under the State Council. The qualifications of the responsible persons of a futures exchange shall be stipulated by the futures regulatory authority under the State Council.

Article 11 — The responsible person and other staff of a futures exchange shall not hold positions concurrently in futures companies or other for-profit organizations. Where staff members who had previously served in a futures regulatory authority or other relevant government department are appointed as responsible persons of a futures exchange, the provisions of the Civil Servant Law and other relevant laws and regulations shall apply.

Article 12 — A futures exchange shall establish a risk management system in accordance with the law. A futures exchange may take the following risk management measures in accordance with the provisions: adjusting the margin requirements; adjusting the price limits for price rise and fall; adjusting the position limits; taking compulsory liquidation measures; suspending trading in the event of an abnormal situation; and other emergency measures stipulated by the futures regulatory authority under the State Council.

Article 13 — When a futures exchange handles the following matters, it shall promptly report to the futures regulatory authority under the State Council: discovering any irregularity in the futures market; discovering any unlawful act in the futures market; taking emergency measures in accordance with Article 12 of these Regulations; or other matters stipulated by the futures regulatory authority under the State Council.

Article 14 — The proceeds of a futures exchange shall, in accordance with the relevant provisions of the State, be first used to guarantee the normal operation and improvement of the premises and facilities of the futures exchange, before being distributed in accordance with the relevant provisions.

Chapter III — Futures Companies

Article 15 — The establishment of a futures company shall be subject to the approval of the futures regulatory authority under the State Council. Without the approval of the futures regulatory authority under the State Council, no organization or individual may establish a futures company or engage in futures business. The term “Futures” shall be included in the name of a futures company.

Article 16 — To apply for the establishment of a futures company, the following conditions shall be met: the registered capital shall be not less than 30 million yuan; the directors, supervisors, and senior management personnel shall have the qualifications for their positions, and the employees shall have the qualifications for engaging in futures business; the shareholders shall comply with the provisions of the futures regulatory authority under the State Council; the business premises and business facilities shall comply with the requirements; there shall be a sound risk management and internal control system; and other conditions stipulated by the futures regulatory authority under the State Council. The registered capital of a futures company shall be fully paid-in capital. The futures regulatory authority under the State Council may, based on the principle of prudential supervision, adjust the minimum registered capital requirement.

Article 17 — The business scope of a futures company shall include: futures brokerage business; futures investment consulting business; futures asset management business; and other futures business approved by the futures regulatory authority under the State Council. A futures company shall not engage in any business inconsistent with its approved business scope.

Article 18 — A futures company shall, in accordance with the law and the provisions of the futures regulatory authority under the State Council, establish a sound internal control system and comply with the relevant provisions on risk management indicators. The futures regulatory authority under the State Council shall implement risk supervision indicators such as net capital for futures companies. Where the risk supervision indicators of a futures company fail to meet the prescribed standards, the futures regulatory authority under the State Council shall order it to make corrections within a specified time limit; if it fails to make corrections within the time limit, the futures regulatory authority under the State Council may restrict its business activities or order it to suspend some of its business.

Source: https://www.danyoungcpa.com/futures-trading-regulations-prc-2017/

Article 19 — A futures company engaging in brokerage business shall accept the entrustment of clients and conduct futures trading in the name of the clients. A futures company shall not accept the full authorization of clients to decide on futures trading, nor shall it make any commitment to clients regarding the proceeds of futures trading or compensation for losses. A futures company shall not privately accept the entrustment of clients to engage in futures trading in violation of regulations.

Article 20 — A futures company shall not provide financing or guarantees to its shareholders or their related parties. The funds and assets entrusted by clients to futures companies shall be managed in separate accounts and shall not be commingled with the proprietary assets of futures companies. Futures companies shall strictly separate their proprietary business from their brokerage business.

Article 21 — A futures company shall, when accepting a client's entrustment to engage in futures trading, sign a written entrustment contract with the client and, in accordance with the provisions of the futures regulatory authority under the State Council, fully inform the client of the risks. A futures company shall not deceive or mislead clients in any way. A futures company shall not conduct futures trading for clients who do not comply with the provisions or refuse to sign a risk disclosure statement.

Article 22 — A futures company shall, in accordance with the provisions of the futures regulatory authority under the State Council, truthfully, accurately, and completely record and preserve the following information of clients: basic personal information; changes in the client's margin; trading records; and other information stipulated by the futures regulatory authority under the State Council. A futures company shall properly preserve the above information, and the retention period shall be not less than 20 years.

Chapter IV — Basic Rules for Futures Trading

Article 23 — Futures trading shall be conducted on futures exchanges and other futures trading venues approved by the futures regulatory authority under the State Council. Futures trading shall not be conducted outside futures exchanges or futures trading venues approved by the futures regulatory authority under the State Council.

Article 24 — Futures trading on futures exchanges shall be conducted by members. No organization or individual that is not a member of a futures exchange may conduct futures trading on that futures exchange.

Article 25 — Futures trading shall implement a margin system. Clients shall pay margins for their futures trading. Futures exchanges and futures companies shall, in accordance with the provisions of the futures regulatory authority under the State Council, collect, manage, and use margins. Margins shall be deposited in special accounts and managed in separate accounts and shall not be misappropriated.

Article 26 — Futures trading shall implement a position limit system. A futures exchange may, based on risk management needs, determine and adjust the maximum position limits for members and clients. The measures for the administration of position limits shall be formulated by the futures regulatory authority under the State Council.

Article 27 — Futures trading shall implement a marking-to-market system. After the end of trading on each trading day, futures exchanges and futures companies shall mark to market the positions of members and clients and settle funds in accordance with the settlement price of the day. Where a member or client fails to meet the margin requirements after settlement, the futures exchange or futures company shall require additional margin payments. Where additional margin is not paid as required, compulsory liquidation shall be carried out.

Article 28 — Futures trading shall implement a daily price limit system. The daily price limit for a futures contract shall be prescribed by the futures exchange in its contracts and trading rules. Where a futures contract reaches the daily price limit, the futures exchange may adjust the daily price limit or take other measures in accordance with the provisions of these Regulations and market conditions.

Article 29 — Futures trading shall implement a large-position reporting system. Where the position of a member or client reaches the reporting standard prescribed by the futures exchange, the member or client shall report to the futures exchange. Where a client fails to report in a timely manner, the futures company that the client entrusts shall report to the futures exchange on behalf of the client.

Article 30 — A futures exchange shall, in accordance with the provisions of the futures regulatory authority under the State Council, establish and improve a risk management system to prevent and manage market risks. A futures exchange shall establish a risk reserve fund. The risk reserve fund shall be withdrawn from the trading fees and membership fees in accordance with the ratio prescribed by the futures regulatory authority under the State Council. The risk reserve fund shall be managed in a separate account and used for specific purposes, and shall be used to make up for losses caused to the futures exchange by force majeure or for risk management.

Article 31 — Futures clearing shall be uniformly organized by futures exchanges. Futures exchanges shall implement a central clearing system and be responsible for the settlement of all futures trading. Futures exchanges shall establish a clearing risk fund, which shall be used to make up for losses caused to the futures exchange by technical failures, operational errors, or force majeure.

Article 32 — The delivery of futures trading shall be organized by futures exchanges. Futures exchanges shall not restrict the total delivery volume of physical commodities. Futures exchanges shall determine the standard quality, delivery location, and delivery method of the subject matter of a physical delivery contract and shall make such information public. Futures exchanges shall, in accordance with the provisions of the futures regulatory authority under the State Council, supervise the delivery process of physical commodities and ensure fair delivery.

Article 33 — Where a futures exchange, futures company, or other futures business institution or any of their staff, in the course of engaging in futures trading business or providing services, engages in fraud, insider trading, market manipulation, or other conduct that harms the lawful rights and interests of clients, they shall bear civil liability in accordance with the law. Where a futures exchange, futures company, or other futures business institution fails to properly perform its duties or management responsibilities, thereby causing losses to clients, it shall bear corresponding civil liability.

Chapter V — Futures Industry Associations

Article 34 — The futures industry association is a self-regulatory organization for the futures industry and is a social organization legal person. Futures companies and other institutions specializing in futures business shall join the futures industry association. Other futures-related institutions may join the futures industry association. The authority of the futures industry association shall be the general meeting composed of all its members.

Article 35 — The futures industry association shall perform the following functions: educating and organizing members to comply with laws and regulations on futures; formulating self-regulatory rules for members, supervising and inspecting the conduct of members, and taking disciplinary action against members who violate the association’s rules and articles of association; accepting and handling complaints and reports from clients relating to members; mediating futures business disputes; organizing professional training for futures employees and conducting professional ethics education; and other functions provided by laws, administrative regulations, or the articles of association of the futures industry association.

Article 36 — The articles of association of the futures industry association shall be formulated by the general meeting and filed with the futures regulatory authority under the State Council.

Chapter VI — Supervision and Administration

Article 37 — The futures regulatory authority under the State Council shall supervise and administer the futures market in accordance with the law, maintain the order of the futures market, and protect the lawful rights and interests of futures trading participants. The staff of the futures regulatory authority under the State Council shall be loyal to their duties, act in accordance with the law, be impartial and honest, and shall not use their positions to seek illegitimate benefits. The staff of the futures regulatory authority under the State Council shall not conduct futures trading.

Article 38 — The futures regulatory authority under the State Council shall, in accordance with the provisions, conduct on-site inspections and off-site supervision of futures exchanges, futures companies, and other futures business institutions. The futures regulatory authority under the State Council, in performing its supervisory and administrative functions, shall have the authority to take the following measures: conduct on-site inspections of futures exchanges, futures companies, and other futures business institutions; investigate and collect evidence; question the parties, entities, and individuals related to the matter under investigation; examine and copy the property registration and transfer records, financial and accounting materials, and other relevant documents and materials; and investigate and deal with illegal acts in accordance with the law.

Article 39 — Where a futures company or other futures business institution is suspected of illegal acts, the futures regulatory authority under the State Council may, in accordance with the law, seal up the relevant documents and materials, freeze the relevant funds, and take other administrative compulsory measures. When taking the above measures, the futures regulatory authority under the State Council shall comply with the statutory procedures.

Article 40 — The futures regulatory authority under the State Council shall establish a risk warning system for the futures market and regularly assess the risk status of the futures market. Where the futures regulatory authority under the State Council discovers that there is a major hidden risk in the futures market or that a major abnormal situation has occurred, it shall immediately report to the State Council and propose disposal suggestions.

Article 41 — The futures regulatory authority under the State Council shall, together with relevant departments under the State Council, establish a mechanism for sharing information and coordinating supervision and administration of the futures market.

Chapter VII — Legal Liability

Article 42 — Where a futures exchange, futures company, or other futures business institution is established without approval, it shall be banned, the illegal gains shall be confiscated, and a fine of not less than one time but not more than five times the illegal gains shall be imposed. Where there are no illegal gains or the illegal gains are less than 200,000 yuan, a fine of not less than 200,000 yuan but not more than 1,000,000 yuan shall be imposed. The persons directly in charge and other persons directly responsible shall be fined not less than 100,000 yuan but not more than 500,000 yuan.

Article 43 — Where a futures exchange, futures company, or other futures business institution commits any of the following acts, it shall be ordered to make corrections, and a fine of not less than 100,000 yuan but not more than 500,000 yuan shall be imposed; where the circumstances are serious, its business license shall be suspended or revoked: accepting the entrustment of clients without fulfilling the obligation to inform clients of the risks; making a commitment to clients regarding the proceeds of futures trading or compensation for losses; failing to establish a risk reserve fund in accordance with the provisions; or other violations of the provisions of these Regulations.

Article 44 — Where a futures company commits any of the following acts, it shall be ordered to make corrections and fined not less than 100,000 yuan but not more than 300,000 yuan; where the circumstances are serious, its futures business license shall be suspended or revoked: failing to deposit margins in a

Source: https://www.danyoungcpa.com/futures-trading-regulations-prc-2017/

separate account; misappropriating clients' margins; allowing clients to conduct futures trading on margin in violation of the provisions; or commingling its proprietary business with its brokerage business.

Article 45 — Where an entity or individual engages in insider trading in the futures market, the illegal gains shall be confiscated, and a fine of not less than one time but not more than five times the illegal gains shall be imposed. Where there are no illegal gains or the illegal gains are less than 100,000 yuan, a fine of not less than 100,000 yuan but not more than 500,000 yuan shall be imposed. Where an entity engages in insider trading in the futures market, the persons directly in charge and other persons directly responsible shall be fined not less than 50,000 yuan but not more than 300,000 yuan.

Article 46 — Where an entity or individual manipulates the futures market, the illegal gains shall be confiscated, and a fine of not less than one time but not more than five times the illegal gains shall be imposed. Where there are no illegal gains or the illegal gains are less than 200,000 yuan, a fine of not less than 200,000 yuan but not more than 1,000,000 yuan shall be imposed. Where an entity manipulates the futures market, the persons directly in charge and other persons directly responsible shall be fined not less than 100,000 yuan but not more than 500,000 yuan.

Article 47 — Where a futures exchange or futures company, in violation of the provisions of these Regulations, fails to properly perform its duties or management responsibilities, causing losses to clients, it shall bear corresponding civil liability. Where any staff member of the futures regulatory authority has committed abuse of power, neglect of duty, or malpractice for personal gain, sanctions shall be imposed in accordance with the law; where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Article 48 — Where any violation of the provisions of these Regulations constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter VIII — Supplementary Provisions

Article 49 — These Regulations shall not apply to the trading of financial derivatives conducted between financial institutions in the interbank market, the administration of which shall be separately prescribed by the People's Bank of China in accordance with its functions.

Article 50 — Where institutions or individuals outside the territory of the PRC engage in futures trading activities or provide futures trading services within the territory of the PRC, they shall comply with the provisions of these Regulations and the relevant provisions of the futures regulatory authority under the State Council.

Article 51 — The futures regulatory authority under the State Council shall formulate specific measures for the administration of futures asset management business, futures investment consulting business, and risk management subsidiaries of futures companies.

Article 52 — These Regulations shall come into force on April 15, 2007. The Interim Regulations on the Administration of Futures Trading promulgated by the State Council on June 2, 1999 shall be repealed simultaneously.

Disclaimer: This English translation is provided for informational and reference purposes only. While every effort has been made to ensure accuracy, it is not an official translation and may contain differences from the authoritative Chinese text. The original Chinese text as published by the State Council of the People's Republic of China shall prevail for all legal purposes. This translation does not constitute legal advice, and readers should consult qualified legal professionals for interpretation and application of these regulations. Neither the translator nor the publisher assumes any liability for any loss or damage arising from reliance on this translation.