



U.S. COMMODITY FUTURES TRADING COMMISSION

Three Lafayette Centre
1155 21st Street, NW, Washington, DC 20581
Telephone: (202) 418-5000
www.cftc.gov

Division of Clearing and Risk

September 11, 2023

Mr. Tzu-Hsin Wu
Chairman
Taiwan Futures Exchange Corporation
14F, No. 100, Sec. 2, Roosevelt Rd.
Zhongzheng Dist., Taipei City 100404
Taiwan

Re: No-Action Letter with Regard to Section 5b(a) of the Commodity Exchange Act and Commission Regulations Thereunder

Dear Mr. Wu:

This is in regard to CFTC Letter No. 22-12,¹ which expires on September 15, 2023. In the letter, the Division of Clearing and Risk (“Division”) of the Commodity Futures Trading Commission (“Commission”) stated that it will not recommend that the Commission take enforcement action against Taiwan Futures Exchange Corporation (“TAIFEX”) for failure to register as a derivatives clearing organization (“DCO”) pursuant to the requirements of Section 5b(a) of the Commodity Exchange Act (the “CEA”) and Commission regulations thereunder, subject to certain conditions described in the letter.

Under the terms of the letter, TAIFEX is permitted to clear certain swaps for the proprietary trades of TAIFEX clearing members that are U.S. persons or affiliates of U.S. persons while its application for exemption from DCO registration is pending.

TAIFEX has submitted to the Commission an application for exemption from the requirement to register as a DCO, pursuant to Commission Regulation 39.6.² The Division is reviewing TAIFEX’s petition and has not yet made a recommendation to the Commission as to whether or not TAIFEX should be granted an exemption. Before the Commission grants an exemption from DCO registration, the requirements and conditions in Commission Regulation 39.6(a) and (b) must be satisfied. Regulation 39.6(a)(2) requires that a memorandum of understanding (“MOU”) or similar arrangement satisfactory to the Commission is in effect

¹ CFTC Letter No. 22-12 (September 15, 2022).

² 17 C.F.R. § 39.6.

between the Commission and the clearing organization's home country regulator. To permit time for an MOU to be finalized and for a determination on the application, while providing sufficient regulatory certainty to permit U.S. persons to pursue clearing membership and to clear products through TAIFEX, the Division is extending the no-action position initially provided in CFTC Letter 22-12.

Extension of No-Action Position

Based on the facts presented and the representations TAIFEX has made, the Division will not recommend that the Commission take enforcement action against TAIFEX for failure to register as a DCO pursuant to the requirements of Section 5b(a) of the CEA, subject to the conditions specified in CFTC Letter No. 22-12. This letter shall expire at the earlier of: (i) March 15, 2024, or (ii) the date on which the Commission grants TAIFEX an exemption from registration as a DCO under Section 5b(h) of the CEA.

The position taken herein concerns enforcement action only and does not represent a legal conclusion with respect to the applicability of any provision of the CEA or the Commission's regulations. In addition, the Division's position does not necessarily reflect the views of the Commission or any other division or office of the Commission. Because this position is based on the representations contained in TAIFEX's original request letter, any different, changed, or omitted material facts or circumstances may require a different conclusion or render this letter void. Finally, as with all no-action letters, the Division retains the authority to condition further, modify, suspend, terminate, or otherwise restrict the terms of this letter, in its discretion.

Should you have questions regarding this matter, please contact Eileen Chotiner, Senior Compliance Analyst (echotiner@cftc.gov, 202-418-5647), or Eileen Donovan, Deputy Director (edonovan@cftc.gov, 202-418-5096).

Sincerely,

M. Clark Hutchison
Director