

Appendix A:

TAIFEX Rules as Required in CFTC Regulation 39.6(b), (c) and (d)

As set out in CFTC Regulation 39.6(b), (c), and (d), an applicant for exemption from registration as a derivatives clearing organization (DCO) is required to set out rules on the participation of U.S. persons and FCMs, open access and swap reporting. To satisfy these requirements, TAIFEX has revised the Taiwan Futures Exchange Corporation OTC Derivative Clearing Enforcement Rules ("the Enforcement Rules"), which obtained the Competent Authority's approval on February 25, 2022. Notably, several articles were recently amended to encompass TAIFEX's second phase clearing service for USD/TWD NDF and client clearing, which the FSC approved on April 7, 2023. Relevant rules are illustrated below.

1. Rules on the participation of U.S. persons

The CFTC Regulation 39.6(b)(1) requires that the exempt DCO shall have rules that limit swaps clearing services for U.S. persons and futures commission merchants. TAIFEX has set out its rules accordingly as below.

(1). §1.3 of the Enforcement Rules - Definition

- A. U.S. Person: U.S. person generally includes, but not be limited to definition under 17 CFR 23.23(a)(23).
- B. U.S. Futures Commission Merchant: Futures commission merchant registered under Commodity Futures Trading Commission (CFTC).

(2). §4.2.4 of the Enforcement Rules - Submission Relates to the Foreign Competent Authority

TAIFEX may, in accordance with the regulations required by the foreign competent authority, restrict the scope of the clearing business for certain persons. According to CFTC's rules on Exempt DCO, TAIFEX limits its Clearing Business for U.S. Persons and Futures Commissions Merchants to the following circumstances:

- A. A U.S. person that is a clearing member of TAIFEX may clear swaps for itself and those persons identified in the CFTC's definition of proprietary account;
- B. A non-U.S. person that is a clearing member of TAIFEX may clear swaps for any affiliated U.S. persons identified in the CFTC's

definition of proprietary account; and

- C. An entity that is registered with the Commission as a futures commission merchant may be a clearing member of TAIFEX, or otherwise maintain an account with an affiliated broker that is a clearing member, for the purpose of clearing swaps only for itself and those persons identified in the CFTC's definition of proprietary account;

The proprietary account in this rule refers to a proprietary account that complies with Article 1.3 of Title 17 of the United States Code of Federal Regulations (CFR). (The following paragraphs are omitted)

2. Rules on open access

The CFTC Regulation 39.6(b)(2) requires that the exempt DCO shall have rules with respect to swaps to which one or more of the counterparties is a U.S. person that shall: (i) Provide that all swaps with the same terms and conditions, as defined by product specifications established under the exempt DCO's rules, submitted to the exempt DCO for clearing are economically equivalent within the exempt DCO and may be offset with each other within the exempt DCO, to the extent offsetting is permitted by the exempt DCO's rules; and (ii) Provide that there shall be nondiscriminatory clearing of a swap executed bilaterally or on or subject to the rules of an unaffiliated electronic matching platform or trade execution facility. TAIFEX has set out its rules accordingly as below.

- (1). **Position offsets:** TAIFEX allows market participants, including U.S. persons and Non-U.S. persons, to offset identical positions. Relevant rules are set out in TAIFEX's OTC Derivative Clearing Enforcement Rules as below.

A. §8.2.1 of the Enforcement Rules - Netting Methods

TAIFEX adopts the following netting methods:

- (A). **Basic Netting:** means that the cleared transaction in a netting application must, except for notional amount and trade direction which may vary, have identical designated terms of transaction as announced by TAIFEX.
- (B). **Blended Netting:** means that the cleared transaction in a netting application must, except for notional amount, trade direction,

and fixed interest rate or FX forward rate which may vary, have identical designated terms of transaction as announced by TAIFEX.

B. §8.2.2 of the Enforcement Rules - Netting Application

The netting application procedure for clearing members is as follows:

- (A). Application shall be submitted between 9:00 and 17:00 on TAIFEX business days.
- (B). Clearing members shall submit applications to TAIFEX for netting of products in the same categories, and the application methods are as follows:
 - a. Specify each of the positions to be netted as well as the netting method.
 - b. Apply for netting for eligible positions in clearing account, whereby TAIFEX will perform netting procedures for the positions in that clearing account on each business day.
- (C). The netting application date and the following business day must not be a payment date for the cleared transactions.
- (D). If a position transfer or compression is effected for the clearing account provided in a netting application on the netting application date, the netting application will be invalid.

C. §8.2.3 of the Enforcement Rules - Procedure for Effecting Netting

TAIFEX executes netting between 17:00 and daily closing on the day when clearing member making the application.

Once cleared transactions are netted, the rights and obligations between the clearing member and TAIFEX regarding the cleared transactions will be extinguished immediately and the cleared transactions terminated. Where a net cash flow remains after netting, the clearing member will create a new cleared transaction for the cash flow with TAIFEX at the same time.

If the old cleared transaction in the preceding paragraph is a client cleared transaction, the rights and obligations between the clearing

member and the client regarding the client cleared transaction will be extinguished immediately and the cleared transaction terminated. Where a net cash flow remains after netting, the clearing member will create a new client cleared transaction for the cash flow with the client at the same time.

The new cleared transaction created under Paragraph 2 and Paragraph 3 must, except for notional amount, trade direction, and fixed interest rate or FX forward rate which may differ from the netted old cleared transactions, have identical designated terms of transaction as announced by TAIFEX.

(2). Nondiscriminatory clearing of a swap: TAIFEX sets out rules as below to ensure that it will provide a nondiscriminatory clearing service to all participants.

A. §4.1.1 of the Enforcement Rules - Approved Trade Affirmation Platforms

The counterparties in each transaction shall submit the transaction for clearing through an approved trade affirmation platform announced by TAIFEX and complete the affirmation procedure before submitting the transaction for clearing.

The counterparties may appoint a third party to submit the transaction for clearing through an approved trade affirmation platform on their behalf.

TAIFEX shall not discriminate against the submission of an eligible transaction executed bilaterally or on or subject to the rules of an unaffiliated electronic matching platform or trade execution facility without rational reasons during the clearing operation.

3. Rules on swap reporting

The CFTC Regulation 39.6(d) requires that if an exempt DCO accepts for clearing a swap that has been reported to a swap data repository pursuant to CFTC Regulation part 45, the exempt DCO shall report to a swap data repository data regarding the two swaps resulting from the novation of the original swap. The exempt DCO shall also report the termination of the original swap to the swap data repository to which the original swap was reported. In order to avoid duplicative reporting for such transactions, the exempt DCO shall have rules that prohibit the reporting, pursuant to CFTC

Regulation part 45, of the two new swaps by the counterparties to the original swap. TAIFEX has set out rules as below.

(1). §4.2.4 of the Enforcement Rules - Submission Relates to the Foreign Competent Authority

(The above paragraphs are omitted) When a clearing member requests TAIFEX for clearing eligible transaction that was reported to the Swap Data Repository (SDR), TAIFEX shall report to the relevant SDR the information on the cleared transactions established as a result of the novation. In such cases, the clearing member does not make the duplicative report for the cleared transactions that have been reported to the SDR by TAIFEX.

The foreign natural person or foreign juridical person submitting a contract to TAIFEX for centralized settlement shall comply with the regulations of the foreign competent authority. The company may announce relevant matters separately when it deems it necessary.