

MEMO# 29557

December 18, 2015

Taiwan - New Offshore Funds Regulations Effective 15 October 2015

[29557]

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TO: ICI GLOBAL ASIA PACIFIC SENIOR LEADERS No. 8-15
ICI GLOBAL ASIA-PACIFIC CHAPTER No. 13-15
ICI GLOBAL REGULATED FUNDS COMMITTEE No. 75-15
INTERNATIONAL COMMITTEE No. 61-15 RE: TAIWAN - NEW OFFSHORE FUNDS REGULATIONS
EFFECTIVE 15 OCTOBER 2015

On 15 October 2015 new regulations regarding the offering of offshore funds in Taiwan became effective following consultation by the Taiwan Financial Supervisory Commission (FSC) earlier in the year. [\[1\]](#) The new regulations require offshore fund houses to have their asset management businesses in Taiwan reach a certain scale and depth; otherwise, they will not be allowed to register their funds for retail sale in Taiwan. The main purpose of the amendments is to raise the entry barriers for offshore fund launches in Taiwan in an effort to grow the onshore asset management market.

Summary of New Regulations

Under the new rules, found in Article 24 of the Regulations Governing Offshore Funds, [\[2\]](#) international fund companies will be classified into three groups as follows:

- Group 1: An international fund house for which the last annual 12-month average offshore fund AUM generated from Taiwan is greater than, or equal to, NT\$50 billion (US \$1.54 billion) and the international fund company owns over 50% of a local securities investment trust enterprise (SITE) or securities investment consulting enterprise (SICE).
- Group 2: An international fund house for which the last annual 12-month average offshore fund AUM generated from Taiwan is greater than, or equal to, NT\$50 billion (US \$1.54 billion) and the international fund company owns less than 50% of a local SITE or SICE.
- Group 3: An international fund house for which the last annual 12-month average offshore fund AUM generated from Taiwan is less than NT\$50 billion (US \$1.54 billion).

International fund companies falling under each of the three groups above will be required to meet the criteria as summarized in the below table.

Group

Conditions

Reference

Criteria (must meet at least one)

Group 1

Last annual offshore fund average AUM \geq NT \$50 billion, and

Holding $>50\%$ stake of a local SITE/SICE

1.1

SITE with latest 12-month average total AUM (including funds and discretionary mandates) \geq NT \$5 billion

1.2

SICE with latest 12-months average discretionary AUM \geq NT \$3.5 billion

1.3

Outsourcing discretionary mandates to local SITEs and SICEs to manage with latest 12-month average total AUM \geq NT \$3.5 billion

1.4

Latest 12-month average direct investing in onshore funds \geq NT \$5 billion

Group 2

Last annual offshore fund average AUM \geq NT \$50 billion, and

Holding $< 50\%$ stake of a local SITE/SICE

2.1

Same as 1.3

2.2

Same as 1.4

2.3

Allocate annual donation equivalent to 0.01% of last-annual offshore fund average AUM for training and industry development purpose, up to a cap amount of NT\$15 million

Group 3

Last annual offshore fund average AUM $<$ NT \$50 billion

3.1

Same as 1.1

3.2

Same as 1.2

3.3

Same as 1.3

3.4

latest 12-month average direct investing in onshore Fund \geq NT \$3.5 billion

3.5

Latest 12-month average portfolio AUM sub-advised by Taiwanese SITEs and SICEs \geq NT \$14 billion AUM

3.6

Same as 2.3 except without cap

These new criteria are in addition to the existing criteria for launching new offshore funds in Taiwan, which are: (1) having at least US \$2 billion in assets under management, excluding assets from pension funds and discretionary investment accounts; (2) being free of sanctions in the past two years; and (3) having been in operation for at least two years.

Compliance and Next Steps

In the comment letter submitted by ICI Global, we encouraged the FSC to consider the following (1) extending the grace period for compliance from 1 year to 3 or more years; (2) permitting a waiver of requirements for firms that otherwise show commitment to the Taiwan market; and (3) recognizing other offshore fund domiciles that currently serve an important role in the Taiwan market.

The new regulations provide offshore fund companies with a one-year grace period to comply (until 15 October 2016), during which, they will still be able to launch new offshore funds. According to the FSC, during this grace period, companies that fail to meet the new criteria but inform the regulator of their plans to do so will be granted an extra one year on top of the grace period to execute the plans. Thus, international fund companies may have up to two years to comply with the new criteria. The new requirements, together with the existing criteria for launching offshore funds in Taiwan, have proved to be challenging for international fund companies to implement, particularly in the contemplated time frame.

As many ICI Global members have operations of various scales in Taiwan, ICI Global has initiated several meetings with the FSC since the announcement of the new regulations. During the meetings, we talked to the FSC about the concerns and difficulties faced by our members while they are re-adjusting their existing operations in Taiwan to meet the new requirements. The FSC has responded by saying that these new regulations are important measures designed to balance the development of the domestic and international asset management companies in Taiwan. Nevertheless, the FSC is open to meet with

representatives of offshore fund companies to further discuss the new requirements, and might consider extending flexibility regarding compliance with the rules on a “case-by-case” basis.

ICI Global will continue to work closely with members to address their issues and concerns and will continue to raise such concerns to the Taiwan regulators as appropriate.

Eva M. Mykolenko
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endnotes

[1] ICI Global submitted a response to the consultation issued by the Taiwan Financial Supervisory Commission on 24 April 2015, which is available at <https://www.iciglobal.org/pdf/28921.pdf>. See also Memorandum to ICI Global Regulated Funds Committee No. 14-15, dated April 24, 2015, available at <https://www.iciglobal.org/portal/site/ICI/menuitem.9ad35c6866c5fcca09ce3110b52001ca/?vgnextoid=162462bacd1ec410VgnVCM1000001c0210acRCRD&vgnextchannel=304db7b54e26b310VgnVCM1000005a0210acRCRD&vgnextfmt=global>.

[2] The regulations, which are only available in Mandarin, are available here http://www.fsc.gov.tw/ch/home.jsp?id=128&parentpath=0,3&mcustomize=lawnew_view.jsp&dataserno=201510150001&aplistdn=ou=newlaw,ou=chlaw,ou=ap_root,o=fsc,c=tw&toolsflag=Y&dtable=NewsLaw.

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