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期货交易管理暂行条例

(1999年5月25日国务院第18次常务会议
通过 1999年6月2日中华人民共和国国务院令
第267号发布 自1999年9月1日起施行)

第一章 总 则

第一条 为了规范期货交易行为,加强对期货交易的监督管理,维护期货市场秩序,防范风险,保护期货交易各方的合法权益和社会公共利益,制定本条例。

第二条 从事期货交易及其相关活动的,必须遵守本条例。

第三条 从事期货交易活动,应当遵循公开、公平、公正和诚实信用的原则。禁止欺诈、内幕交易和操纵期货交易价格等违法行为。

第四条 期货交易必须在期货交易所内进行。禁止不通过期货交易所的场外期货交易。

第五条 中国证券监督管理委员会(以下简称中国证监会)对期货市场实行集中统一的监督管理。

第二章 期货交易所

第六条 设立期货交易所,由中国证监会审批。

未经中国证监会批准,任何单位或者个人不得设立或者变相设立期货交易所。

第七条 期货交易所不以营利为目的,按照其章程的规定实行自

Interim Regulations on Administration of Futures Trading

(Adopted at the 18th Executive Meeting of the
State Council on May 25, 1999, promulgated by Decree No. 267
of the State Council of the People's Republic of China on
June 2, 1999, and effective as of September 1, 1999)

Chapter I General Provisions

Article 1 These Regulations are formulated in order to regulate the conduct of trading in futures, enhance the supervision and administration of futures trading, maintain order in the futures market, prevent and minimize risks, and protect the legitimate rights and interests of the parties trading in futures and the public interests of society.

Article 2 The conduct of any trading in futures and its related activities shall comply with these Regulations.

Article 3 In conducting futures trading activities, the principles of openness, fairness, impartiality, honesty and good faith shall be observed. Illegal behaviors such as fraud, insider dealing and the manipulation of trading prices of futures are prohibited.

Article 4 Trading in futures must be conducted on a futures exchange. Any dealing in futures outside of a futures exchange is prohibited.

Article 5 The China Securities Regulatory Commission (hereinafter referred to as the "CSRC") shall exercise unified and centralized supervision and administration of the futures market.

Chapter II Futures Exchanges

Article 6 The establishment of a futures exchange shall be subject to examination and approval by the CSRC.

No unit or individual may establish or establish in a disguised form a futures exchange without obtaining the approval of the CSRC.

Article 7 A futures exchange shall not be established for the purpose of

律管理。期货交易所以其全部财产承担民事责任。

第八条 期货交易所会员应当是在中华人民共和国境内登记注册的企业法人。取得期货交易所会员资格，应当经期货交易所批准，并交纳会员资格费。

期货交易所会员由期货经纪公司会员和非期货经纪公司会员组成。

第九条 期货交易所设理事会。理事长、副理事长由中国证监会提名，理事会选举产生。

期货交易所设总经理、副总经理，由中国证监会任免。总经理为期货交易所的法定代表人。

第十条 有证券法第一百零一条规定的情形或者中国证监会规定的其他情形的，不得担任期货交易所的高级管理人员、财务会计人员。

第十一条 期货交易所的工作人员应当忠实履行职务，不得以任何方式为自己从事期货交易，不得泄露内幕信息或者利用内幕信息获得非法利益。

第十二条 期货交易所的工作人员履行职务，遇有与本人或者其亲属有利害关系的情形时，应当回避。

第十三条 期货交易所的工作人员在任职期间或者离开期货交易所未满1年的，不得在该期货交易所的会员单位任职。

国家公务员不得在期货交易所任职。

第十四条 期货交易所履行下列职能：

- (一) 提供期货交易的场所、设施和服务；
- (二) 设计期货合约、安排期货合约上市；
- (三) 组织、监督期货交易、结算和交割；
- (四) 保证期货合约的履行；
- (五) 制定和执行本条例第三十五条规定的风险管理制度；

profit and shall be self-regulated in accordance with its articles of association. A futures exchange shall use all of its assets to bear its civil liabilities.

Article 8 Members of a futures exchange shall be enterprise legal persons registered in the People's Republic of China. The acquisition of the qualification as a member of a futures exchange requires the approval of the futures exchange and the payment of a membership fee.

The membership of a futures exchange shall be made up of those members which are futures brokerage firms and those members which are not futures brokerage firms.

Article 9 A futures exchange shall establish a board of directors. The chairman and vice-chairman of the board of directors shall be nominated by the CSRC and elected by the board of directors.

A futures exchange shall have a general manager and a deputy general manager who shall be appointed and removed by the CSRC. The general manager shall be the legal representative of the futures exchange.

Article 10 Persons who fall within the categories specified in Article 101 of the Securities Law, or whose circumstances are such that they fall within those specified by the CSRC, shall not be eligible for the positions in the senior management of a futures exchange or as its financial accounting staff.

Article 11 Personnel of a futures exchange shall faithfully perform their duties, shall not in any way trade in futures on their own account and shall not disclose inside information or use inside information to obtain illegal benefits.

Article 12 In the performance of their duties, personnel of a futures exchange shall recuse themselves whenever encountering circumstances of material relevance to themselves or their relatives.

Article 13 Personnel of a futures exchange shall not, during their term in office or within one year after leaving employment with the futures exchange, hold any post in any member unit of that futures exchange.

Civil servants shall not hold any post in a futures exchange.

Article 14 A futures exchange shall carry out the following functions:

- (1) provide premises, facilities and services needed for trading in futures;
- (2) work out the form of futures contracts and introduce futures contracts to the market;
- (3) organize and supervise futures trading, settlement of accounts and clearing;
- (4) ensure the performance of futures contracts;
- (5) establish and implement the risk management systems required under Article 35 of these Regulations; and

(六) 中国证监会规定的其他职能。

第十五条 期货交易所不得从事信托投资、股票交易、非自用不动产投资等与其职能无关的业务。

禁止期货交易所直接或者间接参与期货交易。

第十六条 当期货市场出现异常情况时，期货交易所可以按照其章程规定的权限和程序，决定采取下列紧急措施，并应当立即报告中国证监会：

- (一) 提高保证金；
- (二) 调整涨跌停板幅度；
- (三) 限制会员或者客户的最大持仓量；
- (四) 暂时停止交易；
- (五) 采取其他紧急措施。

前款所称异常情况，是指在交易中发生操纵市场并严重扭曲价格形成的行为或者不可抗力的突发事件以及中国证监会规定的其他情形。

异常情况消失后，期货交易所应当及时取消紧急措施。

第十七条 期货交易所下列情形之一的，应当经中国证监会批准：

- (一) 制定或者修改章程、业务规则；
- (二) 上市、中止、取消或者恢复期货交易品种；
- (三) 上市、修改或者终止期货合约；
- (四) 中国证监会规定的其他情形。

第十八条 期货交易所的所得收益应当按照国家有关规定管理和使用，不得分配给会员，不得挪作他用。

期货交易所的税后所得按照国家有关规定提取公益金后，应当全部转作公积金，用于弥补以后年度发生的亏损。

第十九条 期货交易所的合并、分立，由中国证监会审批。

(6) carry out such other functions as may be prescribed by the CSRC.

Article 15 A futures exchange shall not engage in trust investment, securities trading, investment in real property not for its own use or other business unrelated to its functions.

A futures exchange is prohibited from directly or indirectly participating in futures trading.

Article 16 In the event of an abnormality arising in the futures market, a futures exchange may decide to adopt the following emergency measures within the limits of its powers and according to the procedures as stipulated in its articles of association, and shall immediately report thereon to the CSRC:

- (1) increase margin accounts;
- (2) adjust the range between the price parameters for suspending trades of futures;
- (3) restrict the maximum hold position volume of members or clients;
- (4) suspend trading; and
- (5) take other emergency measures.

The abnormality as referred to in the preceding paragraph means any behavior which is found in the trading to manipulate the market and seriously distort the price quotations, or any sudden force majeure event, or any other circumstances prescribed by the CSRC.

Immediately after such abnormality disappears, the futures exchange shall promptly terminate the emergency measures taken.

Article 17 In any of the following circumstances, a futures exchange shall require the approval of the CSRC:

- (1) where it adopts or amends its articles of association or its business rules;
- (2) where it commences, suspends, discontinues or resumes a variety of futures trading;
- (3) where it introduces, amends or terminates a futures contract; or
- (4) any other circumstances prescribed by the CSRC.

Article 18 Income gained by a futures exchange shall be managed and used in accordance with relevant provisions of the State and shall not be distributed to its members or diverted to any other purposes.

After the deduction of the public welfare fund in accordance with relevant provisions of the State, the amount of after-tax profits of a futures exchange shall be transferred in full to the accumulation fund and used to make up losses to be incurred in the following years.

Article 19 The merger or split of a futures exchange shall be subject to examination and approval by the CSRC.

第二十条 期货交易所因下列情形之一解散：

- (一) 章程规定的营业期限届满，会员大会决定不再延续；
- (二) 会员大会决定解散；
- (三) 中国证监会决定关闭。

期货交易所因前款第（一）项、第（二）项情形解散的，由中国证监会审批。

第三章 期货经纪公司

第二十一条 设立期货经纪公司，应当符合公司法的规定，并应当具备下列条件：

- (一) 注册资本最低限额为人民币 3000 万元；
- (二) 主要管理人员和业务人员必须具有期货从业资格；
- (三) 有固定的经营场所和合格的交易设施；
- (四) 有健全的管理制度；
- (五) 中国证监会规定的其他条件。

第二十二条 设立期货经纪公司，必须经中国证监会批准，取得中国证监会颁发的期货经纪业务许可证，并在国家工商行政管理局登记注册。

未经中国证监会批准，任何单位或者个人不得从事期货经纪业务，不得在其名称中使用“期货经纪”、“期货代理”或者其他类似字样。

第二十三条 期货经纪公司根据业务需要可以设立营业部，作为分支机构。设立营业部应当符合中国证监会规定的条件，经中国证监会批准，取得中国证监会颁发的经营许可证，并在国家工商行政管理局登记注册。

营业部在期货经纪公司授权范围内依法开展业务，其民事责任由期货经纪公司承担。

第二十四条 期货经纪公司接受客户委托，以自己的名义为客

Article 20 In any of the following circumstances, a futures exchange shall be dissolved:

(1) where the operating period stipulated in its articles of association expires and a general meeting of its members decides not to extend it;

(2) where a general meeting of its members decides to dissolve the futures exchange; or

(3) where the CSRC decides to close the futures exchange.

The dissolution of a futures exchange under the circumstances set out in subparagraphs (1) or (2) of the preceding paragraph shall be subject to examination and approval by the CSRC.

Chapter III Futures Brokerage Firms

Article 21 The establishment of a futures brokerage firm shall comply with the provisions of the Company Law and satisfy the following requirements:

(1) its minimum registered capital shall be 30 million yuan;

(2) its principal managerial and professional staff must hold the qualifications required to conduct futures trading;

(3) it shall possess fixed business premises and qualified trading facilities;

(4) it shall have a sound management system; and

(5) it shall comply with other requirements prescribed by the CSRC.

Article 22 The establishment of a futures brokerage firm shall be subject to approval by the CSRC, and it shall obtain a licence issued by the CSRC to conduct futures brokerage business and then register with the State Administration for Industry and Commerce.

Without approval of the CSRC, any unit or individual may not engage in a futures brokerage business and may not use “futures brokerage”, “futures agent” or any other similar words in its or his name.

Article 23 A futures brokerage firm may establish an operating department as a branch office where required for its business. The establishment of an operating department shall satisfy the requirements stipulated by the CSRC and be subject to the approval of the CSRC, and it shall obtain an operating licence issued by the CSRC and register with the State Administration for Industry and Commerce.

The operating department shall develop its business within the scope of authorization by the futures brokerage firm and in accordance with the law, and its civil liabilities shall be borne by the futures brokerage firm.

Article 24 A futures brokerage firm accepting the authorization of its clients

户进行期货交易，交易结果由客户承担。

第二十五条 期货经纪公司除接受客户委托，从事期货交易所上市期货合约的买卖、结算、交割及相关服务业务外，不得从事其他业务。

期货经纪公司不得从事或者变相从事期货自营业务。

第二十六条 期货经纪公司有下列情形之一的，应当经中国证监会批准，并在国家工商行政管理局办理变更登记：

- (一) 变更法定代表人；
- (二) 变更注册资本；
- (三) 变更股东或者股权结构；
- (四) 变更住所或者营业场所；
- (五) 变更或者终止营业部；
- (六) 中国证监会规定的其他情形。

第二十七条 期货经纪公司因下列情形之一解散的，应当结清受委托的业务，并依法返还客户的保证金：

- (一) 营业期限届满，股东会决定不再延续；
- (二) 股东会决定解散；
- (三) 因合并或者分立需要解散；
- (四) 破产；
- (五) 中国证监会决定关闭。

期货经纪公司因前款第（一）项、第（二）项、第（三）项情形解散的，由中国证监会审批。

期货经纪公司解散，应当在国家工商行政管理局办理注销登记。

第四章 期货交易基本规则

第二十八条 在期货交易所内进行期货交易的，必须是期货交易所会员。期货经纪公司会员只能接受客户委托从事期货经纪业务，

shall conduct futures trading for its clients under its name, and the consequences of the trading shall be assumed by its clients.

Article 25 A futures brokerage firm shall not carry out any businesses other than those authorized by its clients in buying and selling quoted futures contracts on the futures exchange, settling accounts, clearing and providing other related business services.

A futures brokerage firm may not engage in or in a disguised form engage in futures trading on its own account.

Article 26 A futures brokerage firm which falls under any of the following circumstances shall obtain the approval of the CSRC and apply for a change in its registration with the State Administration for Industry and Commerce:

- (1) where it changes its legal representative;
- (2) where it alters its registered capital;
- (3) where it changes its shareholders or its share-holding structure;
- (4) where it changes its residence or business premises;
- (5) where it alters or closes its operating department; or
- (6) in any other circumstances stipulated by the CSRC.

Article 27 A futures brokerage firm which is dissolved in any of the following circumstances shall settle its authorized businesses and return to its clients any margin in accordance with the law:

- (1) where its operating period expires and a meeting of its shareholders decides not to extend its operation;
- (2) where a meeting of its shareholders decides on its dissolution;
- (3) where dissolution becomes necessary because of a merger or split;
- (4) where it is bankrupt; or
- (5) where the CSRC decides to close it.

Dissolution of a futures brokerage firm due to the circumstances set out in subparagraph (1), (2) or (3) of the preceding paragraph shall be subject to examination and approval by the CSRC.

On its dissolution, a futures brokerage firm shall cancel its registration with the State Administration for Industry and Commerce.

Chapter IV Basic Rules for Futures Trading

Article 28 The parties conducting futures trading on a futures exchange must be members of the futures exchange. Members which are futures brokerage firms may only engage in futures brokerage business as authorized by their clients,

非期货经纪公司会员只能从事期货自营业务。

期货交易所会员应当委派市代表进入交易场所内进行期货交易。市代表只能接受本会员单位的交易指令，不得接受其他单位、个人的交易指令或者为其提供咨询意见，不得为自己进行期货交易。

第二十九条 期货经纪公司接受客户委托为其进行期货交易，应当事先向客户出示风险说明书，经客户签字确认后，与客户签订书面合同。

期货经纪公司不得向客户作获利保证或者与客户约定分享利益或者共担风险，不得接受公司、企业或者其他经济组织以个人的名义委托进行期货交易，不得将受托业务进行转委托或者接受转委托业务。

第三十条 下列单位和个人不得从事期货交易，期货经纪公司不得接受其委托为其进行期货交易：

- (一) 金融机构、事业单位和国家机关；
- (二) 中国证监会的工作人员；
- (三) 期货市场禁止进入者；
- (四) 未能提供开户证明文件的单位；
- (五) 中国证监会规定不得从事期货交易的其他单位和个人。

第三十一条 客户可以通过书面、电话或者中国证监会规定的其他方式，向期货经纪公司下达交易指令。

客户的交易指令应当明确、全面。

第三十二条 期货经纪公司根据客户的交易指令，为其进行期货交易。期货经纪公司不得未经客户委托或者不按照客户委托范围，擅自进行期货交易。

第三十三条 期货经纪公司向客户提供的期货市场行情应当真实、准确，不得隐瞒重要事项或者使用其他不正当手段诱骗客户发出交易指令。

while members which are not futures brokerage firms may only trade in futures on their own account.

A futures exchange member shall appoint a listing representative to enter the futures exchange and carry out trading in futures. The listing representative may only take trading instructions from his own member unit and shall refrain from taking trading instructions from any other units or individuals, or providing them advice, or trading in futures on his own account.

Article 29 A futures brokerage firm accepting authorization from a client to trade in futures on his account shall provide the client in advance with a written risk disclosure statement, and after the client has signed his confirmation, sign a written contract with the client.

A futures brokerage firm shall not guarantee profits to its clients or agree on profit-sharing or risk-sharing with its clients, nor shall it accept from companies, enterprises or other economic organizations any authorization given in the name of an individual to trade in futures, nor shall it re-authorize its authorized business or accept any re-authorized business.

Article 30 The following units and individuals are not allowed to trade in futures, and any futures brokerage firm may not accept their authorization to trade in futures on their behalf:

- (1) financial institutions, government-sponsored institutions and State organs;
- (2) personnel of the CSRC;
- (3) persons banned from entry into the futures market;
- (4) units failing to furnish documents certifying that they have opened an account; and
- (5) other units or individuals not allowed to trade in futures as prescribed by the CSRC.

Article 31 A client may give trading instructions to its futures brokerage firm in writing, by telephone or by using any other methods prescribed by the CSRC.

Trading instructions given by a client shall be clear and complete.

Article 32 A futures brokerage firm shall trade in futures for a client pursuant to the client's trading instructions. A futures brokerage firm shall not trade in futures without a client's authorization or trade beyond the scope of authorization received from the client.

Article 33 The futures market quotations provided by a futures brokerage firm to its clients shall be truthful and accurate, and shall not withhold any material information or otherwise use improper means so as to induce its clients into giving trading instructions.