

Content

Title : Guidelines for the Ministry of Economic Affairs' Letter of Opinion of Opinions on the Marketability of Science and Technology Enterprises or Cultural and Creative Industries **Ch**

Date : 2017.05.04

Legislative : 1. Full Text (15 articles), promulgated per Ministry of Economic Affairs Decree No. Jing-Gong-10604601870 dated May 4, 2017, and coming into force from the date of promulgation.
2. Some of the Guidelines amended and promulgated per Ministry of Economic Affairs Decree No. Jing-Gong-10704605530 dated October 8, 2018, and coming into force from the date of promulgation.

Content : Article 1

These Guidelines are promulgated to govern the Ministry of Economic Affairs' ("Ministry") provision of comments on the applicants' marketability to help the Financial Supervisory Commission process applications for listing on Taiwan Stocks Exchange .Co (TWSE) and Taipei Exchange (TPEx) by domestic or foreign science and technology enterprises or cultural and creative enterprises overseen by the Ministry.

Article 2

Where an applying company is in the manufacturing industry overseen by the Ministry or an industry providing relevant technical services to the manufacturing industry, the applicant shall meet the following respective requirements:

- (1) For a company having successfully developed products of the biotechnological industry, the pharmaceutical industry, or the medical or healthcare industry:
 1. The applicant has the permit of the competent authority to conduct first-in-human clinical trials or field trials, or is engaged in R&D regarding the biotechnological industry or the medical or healthcare industry, and has manufactured relevant biotechnological, medical or healthcare products or provided relevant technological services.
 2. The applicant is engaged in relevant R&D activities and obtained R&D results, and its R&D expenses for the year before the year of application reach 3 percent of its total net operating revenue from in that year, or its R&D expenses for the year before the year of application reach 10 percent of its paid-in capital, and it hires at least five full-time R&D employees each with a college or higher degree.
 3. The applicant's products are products of an emerging industry, and the extent of its relevant technical services has reached a level enabling it to make products or provide services. However, where the applicable laws or regulations require the applicant to obtain the competent authority's permission or certification before selling any of its products or conducting first-in-human clinical trials or field trials of such products, the applicant shall obtain such permission or certification for selling or testing the products.
 4. The applicant's products or technical services already have sales in the market or are likely to be commercialized within the coming three years, and the applicant can present market survey reports as proof.
- (2) For a company having successfully developed Internet products:
 1. Its net revenue from Internet-related (or cultural and creative) operations for the year before it files the application accounts for 50 percent or more of its total net operating revenue in that year.

2. Its management team is capable of continuous innovation and development.
3. Its products are creative and are based on operating process systems, tools, contents or knowledge bases developed or integrated by itself.
4. The utilization rates of its products must have potential for growth and its products are attractive for reutilization.

(3) For a company having successfully developed products other than those set forth in the preceding two paragraphs:

1. Its net operating revenue from products of emerging industries and the relevant technical services in the year before it files the application accounts for 50 percent or more of its total net operating revenue from in that year.
2. It has an R&D department and has gained R&D results, and its R&D expenses for the year before it files the application accounts for 3 percent or more of its total net operating revenue in that year or reach NT\$70 million.
3. It has reached a level enabling it to make the products or provide services, and the products or services already have sales in the market or are likely to be commercialized within the coming three years, and the company can present market survey reports as proof.

(4) For a company having successfully developed certain technologies:

1. The technologies it has developed are for making products of emerging industries, or technical services regarding those products.
2. It has an R&D department, and its R&D expenses for the year before it files the application account for 10 percent or more of its paid-in capital in that year or reach NT\$40 million.
3. It hires at least fifteen full-time R&D employees each with a college or higher degree or having the relevant experiences.
4. The technologies it has developed are visionary technologies and have market value, and it has obtained legitimate patents on, intellectual property rights to, or other marketable results for the technologies, as proved by the relevant market value assessment reports issued by colleges, universities, research institutes, intellectual property service companies or experts.

Article 3

The applying company is in a cultural and creative industry overseen by the Ministry, and its net revenue from products or services in the industry in the preceding year accounts for 50 percent or more of the company's total net operating revenue in that year, and it meets one of the following requirements:

- (1) Its management team is capable of continuous innovation and creation.
- (2) Its products or services are creative or are integrated, cross-industry, or otherwise with marketable results.
- (3) The use or reading/listening of its creations has market potential, and steady operating and marketing models have been established for the creations.

Article 4

The applying company is a renewable energy based power generation company overseen by the Ministry and engaged in operating a renewable energy based power plant and the planning, design, installation, construction, supervision over the construction, and operation and maintenance of such power plant and its equipment and systems, and meets the following requirements:

- (1) Its registered business scope at least covers electrical power generation (Item D101011) or manufacture of self-used power generation equipment utilizing renewable energy (Item D101060).

- (2) It has a total domestic installed capacity of over 40,000 kilowatts at the time of application, and has obtained certification of wholesale tariff for the power it generates.
- (3) In the year of application or the preceding year, its revenue from domestic renewable energy based power generation must reach NT\$200 million, and its net operating revenue from domestic or overseas renewable energy based power generation and the relevant technical services accounts for 50 percent or more of its total net operating revenue. Of the power purchase/sale contracts it has entered into, the remaining duration of the contracts that cover at least three-fourths of the total installed capacity of renewable energy based power generation shall account for at least one-half of the duration of such contracts.
- (4) The applicant proposes a plan for installing domestic renewable energy based power generation equipment within the coming five years and presents relevant financial forecasts and analysis reports to prove its potential of future profits, and within the coming three years, its pre-tax net profit would account for at least 5 percent of its capital stock in two consecutive years, or its average pre-tax net profit would account for 5 percent or more of its capital stock and its profitability would grow year by year.

Article 5

An applying company shall provide the following documents in Chinese for evaluation of its application:

- (1) Fifteen duplicates of its self-evaluation report.
- (2) Where a company files an application as a successful technology developer or a company in the cultural and creative industry, it shall also present the relevant market assessment reports issued by colleges, universities, research institutes, intellectual property service companies, or experts.
- (3) Other documents designated by the Ministry.

Article 6

If, during the evaluation of its application, an applicant adjusts its operations, terminates part of its business, splits its business to form a new company, is transferred to another company, or is merged with another company, its net revenue from products or services of technology enterprises or cultural and creative industries, its total net operating revenue, and its R&D expenses in the preceding year may be calculated on the basis of its remaining business scope.

Article 7

The Ministry shall organize evaluation panels comprising the following members to review applicants in respective industries:

- (1) The evaluation panel for manufacturing enterprises or relevant technical service enterprises shall comprise 15 to 20 standing members, including the director general or the deputy director general of the Industrial Development Bureau as an ex officio member, and experts from the relevant government agencies, academic institutions and research institutions. The panel for evaluating a project in a particular industry shall comprise 10 to 16 project members, including industrial experts and/or standing members of the evaluation panel.
- (2) For evaluation of applications by cultural and creative enterprises or renewable energy based power generation enterprises, the evaluation panel shall be organized and convene meetings, depending on the characteristics of individual applications.

The members of the evaluation panel shall be adjusted from time to time in light of the industry concerned. If a panel member can no longer perform his/her duty after he/she is employed by a private enterprise or for other reasons, the relevant agency under the Ministry may discharge him/her.

Article 8

In order to issue evaluation opinions, the Ministry shall convene evaluation meetings to evaluate applications in light of the industry concerned. Each evaluation meeting shall have six to eleven members selected in accordance with the following provisions:

(1) For evaluating the application from a manufacturing enterprise or relevant technical service enterprise, the members shall comprise the director general or the deputy director general of the Industrial Development Bureau as the chairperson, and two to four selected standing members and four to six selected project members.

(2) For evaluating the application from an enterprise in the cultural and creative Industry, the members shall comprise a staffer nominated by an agency under the Ministry as the chairperson, and five to seven members who are representative(s) of the authorities overseeing the industry, or scholars or experts, and such scholars or experts shall be selected from among senior officers overseeing marketing, publication, marketing channels, or distribution in government agencies, academic institutions, research institutions or relevant industries.

(3) For evaluating the application from a renewable energy based power generation enterprise, the members shall comprise the director general or the deputy director general of the Bureau of Energy of the Ministry as the chairperson, and five to seven experts.

If the chairperson under any of the preceding paragraphs is unable to preside over an evaluation meeting, a member nominated by the chairperson shall act in his/her stead. In the absence of such a nominee, the members present shall elect a member from among themselves to preside over the meeting.

Article 9

The chairperson under the preceding article shall preside over the evaluation meeting. Each member shall attend the meeting in person. An evaluation meeting for an application shall not start unless it is attended by more than one-half of the total members responsible for evaluating the application. The agency concerned under the Ministry shall have its representatives attend the meeting to give explanations. Resolutions at the evaluation meeting shall be adopted by sealed name-bearing ballot cast by the members. The chairperson shall cast his/her vote. A resolution at an evaluation meeting shall be adopted by a majority vote of the members present at the meeting.

Article 10

Before holding an evaluation meeting for an application, the Ministry shall make a preliminary review of an application based on the industry concerned.

(1) Where the applicant is in the manufacturing industry or a relevant technical service industry, and is applying as a successful technology developer, preliminary review of the application shall be conducted by experts. Where the applicant is applying as a successful product developer, the necessity for preliminary review of the application shall be decided on a case-by-case basis. To conduct the preliminary review, two of the selected project members shall join the representatives of the relevant agency under the Ministry in field survey.

(2) Where the applicant is in the cultural and creative industry, the preliminary review shall be conducted by having two experts in cultural and creative publication, brokerage or marketing, or relevant fields join the representatives of the in-charge agency under the Ministry in field survey.

(3) Where the applicant is renewable energy based power generation enterprise, the preliminary review shall be conducted by having two or more experts join the representatives of the in-charge agency under the Ministry in field survey.

Where the applicant is a foreign company, the field survey may be conducted at no more than two places. After a preliminary review is concluded, the experts shall present a preliminary review opinion for the reference of the members of the evaluation meeting.

Article 11

The members attending an evaluation meeting shall comprehensively review all the documents submitted by the applying company and the preliminary review opinion presented by the experts.

Article 12

If a member about to attend an evaluation meeting is related to an applying company or its responsible person are as set forth under Article 32 of the Administrative Procedure Act or is otherwise conflicted, the member shall recuse himself/herself from the meeting. And the applying company may apply for recusing the member from the meeting in accordance with Article 33 of the Administrative Procedure Act.

Staffers of the Ministry, members of the evaluation meeting, and preliminary reviewers each shall be responsible for keeping confidential all the information coming to their knowledge in performance of their duties under these Guidelines. Members attending evaluation meetings or conducting preliminary reviews shall each sign a non-disclosure agreement.

Article 13

If necessary to understand the status of the developments or sales of an applying company's products or services, or whether the company's operational model is novel and marketable, the personnel concerned in the company may be invited to attend the evaluation meeting and give explanations and answer questions or supplement information in Chinese.

Article 14

The Ministry shall deliver written outcomes of the evaluations to Taiwan Stock Exchange Corporation or Taipei Exchange for reference. If the evaluation meeting decides to give an applicant a time limit for supplementing its application for further evaluation, the applicant shall be notified of the time limit for submitting the supplemental information. Where the applicant fails to make the supplemental submission within the time limit, the Ministry will forthwith deliver the written outcome of the evaluation to Taiwan Stock Exchange Corporation or Taipei Exchange.

Article 15

Where a company has withdrawn an application or its application has failed the evaluation, it may file a new application by submitting its CPA-audited financial statements for one new year or CPA-reviewed financial statements for one new half year.