# FAQ of "Model Guidelines Governing Anti-Money Laundering and Combating the Financing of Terrorism by the Banking Sector" and Related Requirements - Financial Institutions

Reference:

1. Letter No. Jin-Guan-Yin-Fa-Zi No. 10702163490 issued by the Financial Supervisory Commission on September 10, 2018
2. Letter No. Jin-Guan-Yin-Fa-Zi No. 10500097120 issued by the Financial Supervisory Commission on July 4, 2016

## 1. Terminology

**Q1: What is the definition of a state-owned enterprise?**

A1:

(1) For definitions of a state-owned enterprise, financial institutions may refer to Article 3 of "Statute of Privatization of Government-Owned Enterprises."

(2) Financial institutions may also refer to the list of state-owned enterprises published on the website of the National Development Council and in the Central Bank's Financial Data Preparation Manual. However, care must be taken to check whether or not the data has been updated. For entities that are not included in the above lists, refer to Article 3 of Statute of Privatization of Government-Owned Enterprises for definition.
https://www.ndc.gov.tw/cp.aspx?n=F76D008BCCD327E4&s=855C223482EE983B
http://www.cbc.gov.tw/ct.asp?xItem=24669&ctNode=894&mp=1

**Q2: What is the criteria for determining "potential customers" as mentioned in Article 3 of the "Model Guidelines Governing Anti-Money Laundering and Combating the Financing of Terrorism by the Banking Sector" (referred to as Model Guidelines below)?**

A2:

According to Sub-paragraph 9, Article 3 of the "Regulations Governing Anti-Money Laundering of Financial Institutions," financial institutions are not

allowed to establish a business relationship or engage in one-time transactions with customers until the due diligence procedures are completed. As a result, "potential customer" shall refer to any customer with whom the bank has yet to establish a business relationship and is currently conducting due diligence.

**Q3: What is the purpose of the new requirements introduced in Sub-paragraph 7, Article 4 of the Model Guidelines, to identify customers as "NPO"? How to define "NPO" and "corporate entity"?**

A3:

Considering the fact that organizations such as family associations, temples and townsfolk associations engage banks in business relationships or transactions as neither corporate entities nor natural persons, a new term - "non-profit organization" (NPO) was added as a result. "NPO" and "corporate entity" are non-natural persons that are in possession of property and are eligible to establish business relationships with banks.

**Q4: Item 2, Sub-paragraph 3, Article 4 of the Model Guidelines outlines "relationship or transaction established through agent." What is the definition of the "agent" mentioned here? Does this include authorized signatories of a corporate entity? For example: would all people shown on the list of authorized derivative traders meet the definition of "agent" here? If a transaction request is submitted through an agent, how should financial institutions verify the existence of an agency arrangement? Does a letter of authorization serve as adequate proof?**

A4:

(1) An agent is a person who has been fully authorized to act on behalf of the authorizer, within the duration and scope specified, when the authorizer is unable to personally establish a relationship or transaction at the bank. For this reason, an authorized signatory of a corporate entity is not necessarily an "agent." Whether or not an authorized derivative trader is considered an "agent" as outlined in Item 2, Sub-paragraph 3, Article 4 of the Model Guidelines shall depend on whether or not the person satisfies the above definition.

(2) When verifying the existence of an agency arrangement, a financial institution shall at least obtain authorization documents in writing and adopt additional methods of verification as deemed necessary, such as contacting customers by phone.

## 2. Internal control system

**Q5: What types of internal AML/CFT policies should banks implement? Which details need to be reported to the FSC?**

A5:

(1) Required policies:

According to Article 2 of the Model Guidelines, a bank's internal control system should include the following:

①Policies and procedures for the identification, assessment and management of ML/TF risks, established in accordance with the "Guidelines on Money Laundering and Terrorism Financing Risk Assessment and Prevention Plans for Banks" (referred to as the Guidelines below).

②AML/CFT Program established based on the Guidelines, the risk assessment results and the scope of business. Contents of the AML/CFT Program shall be established in accordance with Paragraph 3 of the same Article, and include the following policies, procedures and controls:

A. Confirm the identity of the customer.
B. Check of customer's name and name of counterparty.
C. Ongoing monitoring of account and transaction.
D. Correspondent banking.
E. Keep records.
F. Report of transactions exceeding a certain amount.
G. Report suspected money laundering or terrorism financing transactions in accordance with the Terrorism Financing Prevention Act.
H. Designate the functional head for the compliance matters related to anti-money laundering and counter terrorism financing.
I. Employee Recruitment and Appointment Procedures
J. Ongoing employee training program.

K. An independent audit function for testing the effectiveness of anti-money laundering and counter terrorism financing systems.

L. Other matters enacted in accordance with the Money Laundering Control Act, Terrorism Financing Prevention Act and the requirements of the Financial Supervisory Commission.

③Standard operating procedures for monitoring compliance with AML/CFT regulations and execution of the AML/CFT Program.

④Banks are required to establish an AML/CFT Program at the group level and implement throughout all branches (or subsidiaries) within the group. In addition to the policies, procedures and control mechanisms stated in Item 2, the following measures should also be developed in compliance with the data confidentiality requirements of Taiwan and the foreign countries where the branches (or subsidiaries) are located:

A. Intra-group information-sharing policies and procedures for the confirmation of customers' identity and the management of ML/TF risks.

B. Group-level compliance, audit and AML/CFT functions that demand foreign branches (or subsidiaries) to provide information on customers, accounts and transactions, when necessary, to facilitate AML/CFT.

C. Security measures for the protection of exchanged information.

(2) Information to be reported to the FSC (other than the mandatory documents mentioned below, banks are not required to report details of internal policies they have established):

①Pursuant to Article 19 of the Model Guidelines, guidelines established by banks with reference to this Model Guidelines are subject to FSC's acknowledgment.

②Pursuant to Article 9 of the Guidelines, policies established by banks with reference to the Guidelines are subject to FSC's acknowledgment, along with the above.

③Pursuant to Paragraph 2, Article 2 of the Model Guidelines and Paragraph 6, Note 8 of the Guidelines, banks are required to submit risk assessment reports to the FSC for acknowledgment as soon as they are completed or updated.

**Q6: With regards to Note 8 of the Guidelines, how frequently should banks execute regular ML/TF risk assessments on a full scale and how often should they make risk assessment reports?**

A6:

Banks should determine the frequency based on their risk assessment policies. However, based on the prevailing foreign practices, banks should conduct full-scale ML/TF risk assessments and prepare risk assessment reports at least once every 12 ~ 18 months.

**Q7: With respect to the "risk assessment report" mentioned in Sub-paragraph 4, Paragraph 2, Article 2 of the Model Guidelines:**

**(1) What is the due date for the first-time submission to FSC?**

**(2) If risk assessments are to be performed on a yearly basis, does it mean that every report has to be submitted to the FSC once finished? What is the submission deadline?**

**(3) If the risk assessment report is written in a foreign language, is it necessary to translate the report into Chinese?**

A7:

(1) As mentioned in Q6, banks should conduct full-scale ML/TF risk assessments at least once every 12 ~ 18 months, therefore the due date of the first report to the FSC should not exceed 18 months from the day of the previous risk assessment.

(2) According to Sub-paragraph 4, Paragraph 2, Article 2 of the Model Guidelines, banks are required to submit a risk assessment report to the FSC for acknowledgment as soon as it is completed. In practice, banks should submit the report to FSC for acknowledgment in the shortest time possible once the report has been internally approved by the board of directors.

(3) Chinese is the nation's official language. If the risk assessment report is drafted in a foreign language, the main results of the assessment must be translated into Chinese.

**Q8: With regards to the AML/CFT guidelines and policies that banks are required to establish in accordance with the Guidelines:**

**(1) The Guidelines have been included as an attachment of the Model Guidelines. What is the purpose of separating the two?**

**(2) With regards to the internal control system stipulated in Sub-paragraphs 1 ~ 3, Paragraph 1, Article 2 of the Model Guidelines, can banks consolidate its risk management policies and procedures, AML/CFT Program, AML/CFT compliance monitoring and AML/CFT Program execution procedures all within a single "program"?**

A8:

(1) The purpose of the Guidelines is to provide banks with references on the identification, assessment and management of ML/TF risks and development of related policies and procedures, whereas the purpose of the Model Guidelines is to provide examples on the customer acceptance procedures, ongoing monitoring procedures and risk control mechanisms that banks may establish to control ML/TF risks.

(2) Banks are required to develop AML/CFT policies and procedures to guide the identification and assessment of ML/TF risks. The "AML/CFT Program" mentioned in Subparagraph 2, Paragraph 1, Article 2 of the Model Guidelines represents internal AML/CFT system of the highest authority within a bank, which, according to Paragraph 3, Article 2 of the Model Guidelines, shall at least include customer acceptance procedures, ongoing monitoring procedures and risk control mechanisms that are customized for the control of ML/TF risks. Furthermore, banks are required to develop their own "AML/CFT Programs" based on the outcomes of the ML/TF risk identification/assessment and control measures to be adopted for the mitigation of identified risks. If a bank has established "AML/CFT Guidelines" in accordance with Paragraph 3, Article 2 of the Model Guidelines based on the outcomes of its own ML/TF risk identification/assessment, the "AML/CFT Guidelines" can be considered a valid equivalent to the "AML/CFT Program" mentioned in Subparagraph 2, Paragraph 1, Article 2 of the Model Guidelines.

(3) The "AML/CFT Compliance Monitoring and AML/CFT Program Execution

Procedures" mentioned in Sub-paragraph 3, Paragraph 1, Article 2 of the Model Guidelines are detailed operating procedures developed by banks for the execution of the "AML/CFT Program" and to ensure compliance with relevant laws, and therefore carry a different level of internal authority from the "AML/CFT Program."

**Q9: According to Paragraph 4, Note 7 of the "AML/CFT Internal Control Guidelines for Banks, Electronic Payment Service Providers and Stored Value Ticket Issuers" (referred to as the Internal Control Guidelines below) and Paragraph 4, Article 2 of the Model Guidelines, "Banks, electronic payment service providers and stored value ticket issuers that have foreign branches (or subsidiaries) are required to establish an AML/CFT Program on a group level and implement throughout all branches (or subsidiaries)."**

**(1) To which industry categories do the abovementioned branches (subsidiaries) apply?**

**(2) Where it says "...implement throughout all branches (or subsidiaries...," do they include 2nd-tier subsidiaries?**

A9:

(1) According to Paragraph 4, Note 7 of the "Internal Control Guidelines," branches (or subsidiaries) within a group shall be governed by financial institution AML/CFT regulations applicable at the place of operations. Therefore, if a branch (or subsidiary) is located overseas, the overseas financial institution AML/CFT regulations shall apply.

(2) The group-level AML/CFT Program shall be implemented at least on all entities in which the group exercises material control, as disclosed in the financial statements.

**Q10: According to Article 19 of the Model Guidelines, establishment and amendment of AML/CFT Guidelines are subject to the approval of the bank's board of directors. Would approval from the board of managing directors conform with the above requirement?**

A10:

The board of directors mentioned in this Model Guidelines is not the same as the board of managing directors, therefore the establishment/amendment of AML/CFT Guidelines is still subject to the approval of the board of directors.

**Q11: Sub-paragraph 3, Paragraph 1, Article 2 of the Model Guidelines says that "AML/CFT compliance monitoring and AML/CFT Program execution procedures" (collectively referred to as "Standard Procedures" below) are subject to the approval of the board of directors, which also applies to subsequent amendments. In practice, however, most "Standard Procedures" have implications on an operational level only, and the establishment or amendment of which do not involve the board of directors. Is it still necessary to have the above "Standard Procedures" approved by the board of directors?**

A11:

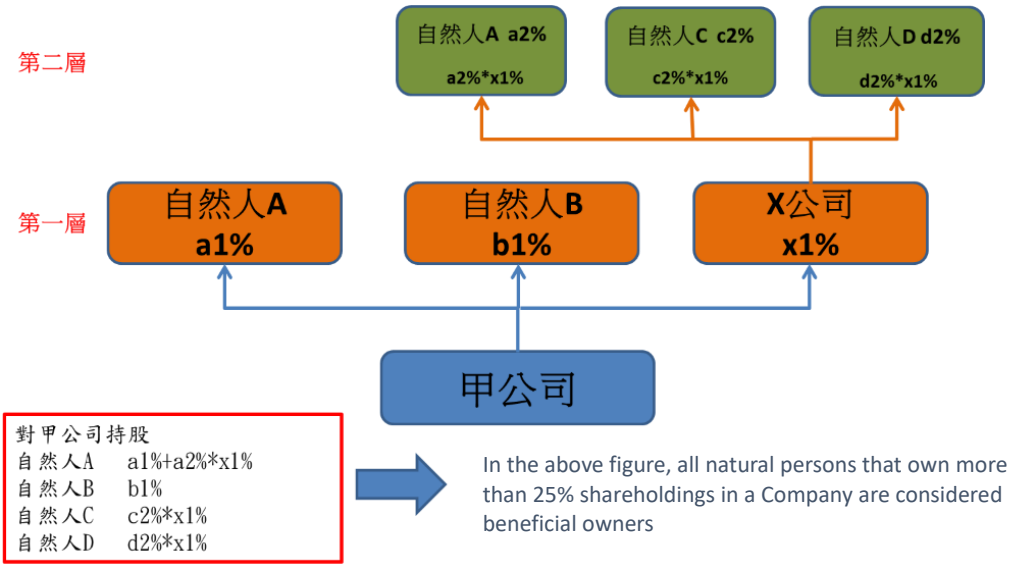
The emphasis of this requirement is to have supervisory procedures approved by the board of directors; it does not require the board of directors to approve AML/CFT operations in detail. Banks are free to decide which Standard Procedures are subject to the board of directors' approval.

## 3. Customer identity confirmation and verification

**Q12: In the first step of identifying the beneficial owner, what is the method for calculating the 25% direct or indirect shareholding or capital contribution in a corporate customer?**

A12:

The 25% shareholding/capital contribution shall take into account all direct and indirect shareholdings or capital. Refer to the following figure for the detailed calculation method.




| | | | |
|---|---|---|---|
| Layer 2 | Legal Person A a2%<br>a2%*x1% | Legal Person C c2%<br>c2%* x 1% | Legal Person D d2%<br>d2%* x1% |
| Layer 1 | Legal Person A<br>a1% | Legal Person B<br>b1% | Company X<br>x1% |
| Company A | | | |
| Shareholding holding by company A<br>Legal Person A a1%+a2%*x1%<br>Legal Person B b1%<br>Legal Person C c2%* x 1%<br>Legal Person D d2%*x1% | | | |

Note: Non-natural person shareholders (such as Company X shown in the above Figure) with less than 25% shareholding interest/capital contribution may be considered as non-beneficial owners if they exercise no significant influence over the corporate customer (such as Company A shown in the above Figure), provided that the bank has undertaken reasonable efforts to establish its findings.

**Q13: In the first step of identifying the beneficial owner, which documents should be obtained from corporate entities or NPOs in order to identify natural persons with more than 25% shareholdings/capital contribution?**

A13:

(1) Basically, banks should obtain a shareholder's registry, a proof of capital contribution or any documents sufficient enough to establish equity ownership

or capital contribution in the corporate or NPO customer and maintain trails of all identification steps taken.

(2) For corporate customers with non-natural person shareholders (referred to as NNPS below), banks may identify beneficial owners using the following methods or other reasonable measures:

A. Banks may obtain the shareholder's registry, proof of capital contribution or other acceptable documentary proofs on the NNPS and shareholders thereof until they are certain of the existence or absence of natural persons with more than 25% shareholdings or capital contribution in the corporate customer (refer to Q13 for more details on the 25% rule).

B. Banks may adopt a risk-based identification approach by having customers issue a declaration (the declaration may include information such as company name, company's registered location, ownership/control chart, list of beneficial owners with more than 25% direct/indirect holding, and reasons for the multi-layered shareholding structure). When adopting this solution, banks should assist customers in the construction of an organizational chart and have customers confirm the final result.

**Q14: In the first step of identifying the beneficial owner, what to do if there is no single beneficial owner with more than 25% shareholdings/capital contribution?**

A14:

Subparagraph 7, Article 4 of the Model Guidelines states that if the customer is a corporate entity or NPO with no identifiable natural-person controller (meaning that no person has more than 25% shareholding interest or capital contribution in the corporate entity/NPO), banks should try to identify the natural persons who exercise control over the customer through other methods. If banks remain unable to identify the natural-person controllers from the above, they shall identify the senior managers, instead.

Measures for identifying beneficial owners, as outlined in Sub-items 1~3, Item 1, Sub-paragraph 7, Article 4 of the Model Guidelines, are not selective. They must be followed in the stated order, and only when the method stated in

Sub-item 1 fails may banks have recourse to the next available alternative for identifying the beneficial owner.

**Q15: For the known beneficial owners, what types of personal information should be obtained from the corporate or NPO customer?**

A15:

(1) According to Sub-item 1, Item 1, Sub-paragraph 7, Article 4 of the Model Guidelines, banks are required to establish the identity of natural persons with ultimate control, "including their name, date of birth, nationality and identity document number."

(2) Sub-item 1, Item 1, Sub-paragraph 8, Article 4 of the Model Guidelines states that the above information can be verified using an ID card, passport or other credible documents or sources. The above information need not be presented in the original documents. Alternatively, banks may have corporate entities, NPOs and representatives thereof issue declarations about the identities of their beneficial owners; however, at least some part of this declaration must be verifiable using company registration, annual report or other credible documents or sources.

**Q16: What to do if the customer is unable to provide details of the beneficial owner?**

A16:

(1) Banks are required to identify and confirm the beneficial owners of a corporate entity, NPO or trustee when establishing a business relationship for the first time or creating new account.

(2) Sub-paragraph 15, Article 4 of the Model Guidelines states that, if existing customers are unable to provide information relevant to the identification of the beneficial owner, whether as part of the bank's regular review or in other situations deemed necessary, the bank may suspend or terminate the transaction or business relationship according to the terms of the underlying contract. Banks that choose not to suspend the transaction in the situation described above shall adopt other appropriate risk mitigation measures.

**Q17: Is there a need to re-identify the beneficial owner if an existing customer opens a new account or establishes a new business relationship?**

A17:

(1) According to Paragraph 3, Note 6 of the Guidelines, banks are required to review the identity of its existing customers and prioritize the exercise based on the customers' significance and risk level. Based on the adequacy of information obtained in previous reviews, banks shall review existing banking relationships and adjust customers' risk grades at an appropriate time. The "appropriate time" mentioned above shall at least include the time when the customer opens a new account or engages in a new business relationship.

(2) According to Sub-paragraph 3, Article 5 of the Model Guidelines, banks may identify and verify the customers' identity based on the information retained from previous executions. There is no need to re-establish and verify the customer's identity from scratch for every transaction. However, banks are required to re-confirm the customers' identity according to Article 4 if they have any doubts regarding the correctness or appropriateness of the customers' information, or if they suspect the customers' involvement in ML/TF, or if the customers exhibit significant changes in transaction behavior or uses an account that does not conform with their business profile.

(3) If the bank has already identified and verified the customer's beneficial owners, reviewed customer's profile and found no information that was out-of-date, inappropriate or doubtful, the bank will not be required to obtain further information on the customer's beneficial owners when the customer opens an additional account or establishes a new business relationship.

**Q18: How to identify the beneficial owner if the customer is a charitable organization or a social organization?**

A18:

(1) Sub-paragraph 7, Article 4 of the Model Guidelines states that if the customer is a corporate entity or NPO with no identifiable natural-person controller (meaning that no person has more than 25% direct/indirect shareholding

interest or capital contribution in the corporate entity), banks should try to identify the natural persons who exercise control over the customer through other methods, or identify the senior manager.

(2) Therefore, if the customer is a charitable organization or social organization with no identifiable shareholder or capital contributor, banks shall adopt alternative means to establish the identity of the natural persons who exercise control over the customer (*e.g.* based on the authorized managers or authorized signatories outlined in the corporate entity's Articles of Incorporation or related documents) or the identity of the senior manager.

**Q19: With regards to Sub-paragraph 2, Article 4 of the Model Guidelines, are banks required to adopt reasonable measures to identify a customer's beneficial owner if a corporate customer is suspected of involvement in ML/TF transaction (*e.g.* receiving inward remittances from a country or region with high ML/TF exceeding a certain amount)?**

A19:

According to Sub-paragraph 8, Article 9 of the Model Guidelines, banks shall determine the rationality of the alerted transactions that they have identified based on the profiles of the individual customers (examples of rationality assessment: whether or not the transaction presents an apparent mismatch with the customer's identity, income, scope of business, business activities or commercial model; whether the transaction lacks economic sense, reasonable explanation, purpose, or undetermined or unexplained source of capital). Banks shall follow the latter part of Sub-paragraph 3, Article 5 of the Model Guidelines if they suspect the customers of involvement in ML/TF transactions. Furthermore, banks are required to re-establish customer's identity in accordance with Article 4 if they have doubts about the truthfulness or appropriateness of the customer's profile, or if they discover the customer's involvement in suspicious ML/TF transactions, or when a customer exhibits a significant change in transaction or account activities that does not conform with the customer's business characteristics.

**Q20: If the customer is the trustee of a trust arrangement, should the bank**

**establish and verify the identity of the trustor, trustee, trust supervisor, trust beneficiary, etc. as beneficial owners instead of "customers" (meaning that the bank gathers identity information and does not necessarily require them to produce ID documents)? If the trustee, trustor, trust supervisor, etc. is also a corporate entity, is there a need to identify their beneficial owners?**

A20:

(1) Sub-paragraph 7, Paragraph 1, Article 4 of the Model Guidelines states that, "Where the customer is a corporate entity, NPO or trustee of a trust arrangement, banks must develop an insight into the ownership and control of the trust arrangement and adopt reasonable measures to identify and verify the customer's beneficial owners using the following information." Item 2 of the same Sub-paragraph also states that, "Where the customer is the trustee of a trust arrangement: banks are required to identify the trustor, the trustee, the trust supervisor, the trust beneficiary and any other persons who exercise effective control over the trust account or parties of equivalent or similar status to those mentioned above." In other words, if the customer is the trustee of a trust arrangement, the trustor, trustee, trust supervisor, trust beneficiary, any other persons who exercise effective control over the trust account, and parties of equivalent or similar status to those mentioned above would be considered as the beneficial owners of the customer. As for suitable methods for verifying the identity of the customer, the agent and beneficial owners, Sub-item 1, Item 1, Sub-paragraph 8, Article 4 of the Model Guidelines states that, "Verifying identity or date of birth: Obtain official, unexpired photo identity document, such as ID card, passport, residency permit, driving license, etc. If there is any doubt as to the validity of the aforementioned documents, the certification or declaration of the embassy or notary shall be obtained. In addition, the above information of the beneficial owner need not be presented in the original documents. Alternatively, banks may have corporate entities, NPOs and representatives thereof issue declarations about the identities of their beneficial owners; however, at least some part of this declaration must be verifiable using company registration, annual report or other credible documents or sources." For this reason, banks are free to decide whether or not to obtain the original

copy or photocopy of the beneficial owner's ID card depending on the actual circumstances.

(2) A trust arrangement is defined as "an agreement to manage or dispose of entrusted properties, in which the trustor transfers or disposes property rights in such a way that enables the trustee to manage them for the benefit of the beneficiaries or for other specific purposes...," whereas the beneficiary of a trust arrangement is defined as "a party that benefits from the establishment of the trust." Essentially, the trustor is the party that contributes the property, whereas the beneficiary is the party that benefits from the property. If the trustor and the beneficiary are both corporate entities, the beneficial owners of both parties need to be identified. As for the trustee, trust supervisor and other parties that exercise effective control over the trust account, their duties are limited only to handling the trust affairs, managing the entrusted property and protecting the beneficiaries' interests, therefore if any of the above parties is a corporate entity, the banks shall identify the persons who are authorized to represent the respective corporate entity in performing duties over the trust arrangement.

**Q21: Sub-paragraph 5, Article 3 of "Regulations Governing Anti-Money Laundering of Financial Institutions" states that banks shall at least obtain the name of the "senior manager," whereas Sub-paragraph 6, Article 4 of the Model Guidelines requires at least the senior manager's name, date of birth and nationality. However, if the senior manager's date of birth cannot be found in public records such as the directors/supervisors/managers section of the company registration/change of registration or the public company annual report. Isn't this requirement somewhat difficult to fulfill in practice?**

A21:

Article 10 of Regulations Governing Anti-Money Laundering of Financial Institutions requires banks to determine whether or not the senior manager of a company is a politically exposed person (PEP). The senior manager's name alone is not adequate for banks to determine whether or not the party is a PEP, therefore, the date of birth and nationality are mandatory information to

facilitate the check.

**Q22: Sub-paragraph 6, Article 4 of the Model Guidelines states that, "a senior manager may include a company's director, supervisor, general manager, CFO, representative, manager, partner, authorized signatory, or natural persons of equivalent status as those mentioned above. Banks shall adopt a risk-based approach to determine the scope of senior managers subject to review." In practice, how should banks adopt a risk-based approach to determine the scope of senior managers' subject to review?**

A22:

To enable a better understanding of the customer's controllers and beneficial owners, banks may decide whether or not to investigate the backgrounds of a broader number of senior managers based on the customer's risk profile, which can be determined using a variety of factors such as customer's risk grade, industry characteristics, place of registration and place of operations. In other words, banks should first conduct a risk analysis based on its own understanding of the banking relationship and the customer before deciding on the scope of the customer's senior managers to investigate whether or not they would conform with the bank's internal risk management system.

**Q23: Until the establishment of a nationwide PEP database, is it appropriate for banks to identity customers' PEP status through the use of a questionnaire?**

A23:

The purpose of regulating PEPs is to combat corruption. PEPs who are involved in corruption will have no motive to disclose their PEP status in the questionnaire, therefore questionnaires alone may not be effective for the purpose of identifying PEPs. Database is merely a tool for assisting with the identification process and cannot fully replace customer due diligence procedures. Therefore, in addition to the database, banks may also use public information and "Standard Q&A for Determining the Scope of Politically Exposed Persons, Family Members and Close Associates" published by the Ministry of Justice to aid their decisions. It has been mentioned in the above

Q&A that the key to determining whether or not a customer is a PEP is a robust customer due diligence process, which can be enhanced through proper employee training, effective use of information, timely update of the customer's information, use of the Internet and electronic media, internal sharing of information, etc.

**Q24: Item 4, Sub-paragraph 13, Article 4 of the Model Guidelines states that, for a PEP who is not in active duty in any local government, foreign government and international organization, banks are required to assess the PEP's influence after taking into consideration the relevant risk factors, and adopting a risk-based approach to determine whether or not the PEP is subject to the treatments outlined in the 3 preceding Items. What are examples of relevant risk factors?**

A24:

When evaluating the influence of non-active PEPs, banks may refer to Article 5 of "Standard Q&A for Determining the Scope of Politically Exposed Persons, Family Members and Close Associates" published by the Ministry of Justice for guidance. Whether or not banks should adopt enhanced customer due diligence as a risk mitigation practice after a customer has left public service shall depend on a number of risk factors including: level of influence remaining in the PEP, the duration of time spent in key roles, the PEP's new role and connection between the new role and the previous key role. The duration of time spent in key roles, the PEP's new role, and connection between the new role and the previous key role are all useful factors for assessing a PEP's remaining influence.

**Q25: Item 6, Sub-paragraph 13, Article 4 of the Model Guidelines states that, "For any party listed in Sub-items 1~3 and 8, Item 3, Sub-paragraph 7 that has the beneficial owner or senior manager identified as PEP, Items 1~5 of this Sub-paragraph will not apply." Is it possible to exclude all of Sub-items 1~9, Item 3, Sub-paragraph 7 from Items 1~5 of this Sub-paragraph?**

A25:

Beneficial owners and PEPs are regulated for different purposes. For beneficial owners, the main concern is transparency, whereas for PEPs the main concern is anti-bribery and corruption. Sub-paragraph 13, Article 4 of the Model Guidelines has been drafted with reference to Paragraph 2, Article 10 of the "Regulations Governing Anti-Money Laundering of Financial Institutions," which stated the legal basis as: "Given the fact that senior managers of local government agencies, local state-owned enterprises, foreign government agencies and local government-managed funds (as listed in Sub-items 1~3 and 8, Item 3, Subparagraph 7, Article 3) are mostly PEPs, it is unreasonable to have financial institutions undertake enhanced customer due diligence or review risks on a yearly basis. Paragraph 2 was established as a result. " Apart from local government agencies, local state-owned enterprises, foreign government agencies and local government-managed funds, other customers may still be exploited by PEPs for corruption, and therefore cannot be excluded.

**Q26: Article 10 of "Model Guidelines for Banks Accepting Customers' Digital Deposit Account Opening Online Request" states that digital deposit accounts are subject to rules on high-risk customers of the "Model Guidelines Governing Anti-Money Laundering and Combating the Financing of Terrorism by the Banking Sector." What does this mean?**

A26:

(1) Banks are required to follow the "Model Guidelines for Banks Accepting Customers' Digital Deposit Account Opening Online Request" for the various steps and identity confirmation measures involved in the opening of a digital deposit account. Furthermore, Note 6 of "Guidelines on Money Laundering and Terrorism Financing Risk Assessment and Prevention Plans for Banks" in the "Model Guidelines Governing Anti-Money Laundering and Combating the Financing of Terrorism by the Banking Sector" requires banks to assign a risk grade to this type of customers based on existing policies and procedures at the time when the business relationship is established.

(2) However, regardless of the risk grade that a bank assigns to this type of

customers, banks shall adopt the practices outlined for high-risk customers in the "Model Guidelines Governing Anti-Money Laundering and Combating the Financing of Terrorism by the Banking Sector" for the management and control of digital deposit accounts after they are opened. In other words, banks may adopt the sample control measures outlined for high-risk customers in Note 7 of the above Guidelines (all or part) as enhanced control for this type of customers.

**Q27: Sub-paragraph 1, Paragraph 1, Article 6 of "Regulations Governing Anti-Money Laundering of Financial Institutions" and Sub-paragraph 1, Paragraph 1, Article 6 of the Model Guidelines state that new or additional business relationships with high-risk customers are subject to the approval of the bank's senior manager. Is there any specific requirement to the senior managers mentioned here? Do they have to be one level higher than the authority that approves the transaction/relationship? If the bank has already taken the risks into consideration and involved senior managers or assigned two or more senior managers to the approval of transactions, is there still a need to seek approval one level higher than the authority that approves the transaction/relationship?**

A27:

(1) Banks are required to implement appropriate levels of approval authority, including the involvement of AML Officers or the board of directors whenever deemed necessary, to address customers' ML risks when establishing new or additional relationship.

(2) ML risks may be different from other risks that banks consider from a business perspective (*e.g*. credit risk), and therefore should be approved at a level that reflects the bank's ML risk management. Customers of high ML risk should be approved at the level of authority that is at least one level higher than customers of non-high ML risk.

(3) However, if a bank is already approving business transactions at the level of the approving authority applicable to high ML risk customers, there is no need to escalate the approval authority any further unless otherwise stipulated (*e.g.*

decisions that are subject to approval by the AML Officer or are reported to the board of directors).

**Q28: For companies listed on the TWSE, TPEX or the Emerging Stock Market, is it still necessary to check these companies for issuance of bearer shares? Is it necessary to check companies that are not listed on the TWSE, TPEX and the Emerging Stock Market for issuance of bearer shares?**

A28:

Sub-paragraph 12, Article 4 of the Model Guidelines states that, "If the customer is a corporate entity, banks shall investigate whether or not the customer is entitled to issue bearer shares by reviewing the Articles of Incorporation or having the customer issue a declaration. For customers who have issued bearer shares, banks shall adopt one of the following measures to ensure that the beneficial owners' identities are updated." This requirement does not exclude companies that are listed on the TWSE, TPEX or the Emerging Stock Market. Furthermore, Item 3, Sub-paragraph 7 of the same Article states that, "Customers or controllers of the following identity are exempted from the identification and verification of beneficial owners' identity outlined in Item 3, Sub-paragraph 3, except for the circumstances listed in Sub-paragraph 3, Paragraph 1, Article 6 or companies that have issued bearer shares." The notion of "the following identity" includes "local public companies or subsidiaries thereof." Companies listed on the TWSE, TPEX or the Emerging Stock Market are all considered "local public companies." Those that issue bearer shares still need to have beneficial owners identified according to Item 3, Sub-paragraph 3, Article 4 of the Model Guidelines and updated according to Sub-paragraph 12.

**Q29: Sub-item 2, Item 1, Sub-paragraph 8, Article 4 of the Model Guidelines states that documents such as Certified Articles of Incorporation, government-issued business license, Partnership Agreement, Trust Instrument and Certification of Incumbency need to be obtained if the customer is a corporate entity, NPO or trustee of a trust arrangement. Under**

**which circumstances is the "Certification of Incumbency" required? For example: if the customer is a financial institution governed by local or foreign authority or a listed company (or subsidiary thereof), are banks still required to obtain "Certification of Incumbency" when the Certified Articles of Incorporation and business license are already available?**

A29:

Certification of Incumbency refers to any document, data or information that a bank acquires through reliable and independent sources to ensure that the corporate entity or NPO has not been dismissed, liquidated or terminated. However, after having obtained the Certified Articles of Incorporation and business license does not mean that the corporate entity or NPO still exists, therefore banks are still required to verify the customers' existence by obtaining documents, data or information through reliable and independent sources. If the customer is a financial institution or listed company (or subsidiary thereof) supervised by a local or foreign authority, whose existence can be verified through non-documentary information, banks may forego the acquisition of the Certification of Incumbency in document form.

**Q30: Sub-item 2, Item 2, Sub-paragraph 6, Article 4 of the Model Guidelines mentioned about "NPO customers confirmed to be without Articles of Incorporation or similar documents..." What are the methods that can be adopted to "confirm" the above?**

A30:

Sub-paragraph 6, Article 4 of the Model Guidelines states that, "If the customer is a corporate entity, NPO or trustee of a trust arrangement, banks are required to develop insight into the nature of business of the customer or trust arrangement (including trust-like legal agreements). Banks shall also obtain the following information on the customer or trust arrangement for the purpose of identifying and verifying customer's identity." The purpose of acquiring the Articles of Incorporation or similar documents is to identify and verify the customer's identity. The term "confirm" mentioned in Sub-item 2, Item 2, Subparagraph 6, Article 4 means checking the credibility of information

provided by the customers and therefore may proceed in the manner described in Item 2, Sub-paragraph 8 - “Verification of non-documentary information.”

**Q31: With regards to the review of account-opening documents, some terms have been removed from the Model Guidelines and banks now follow “Regulations Governing the Deposit Accounts and Suspicious or Unusual Transactions.” Do board of directors meeting minutes and financial reports still constitute mandatory documents?**

A31:

Please refer to Letter No. Jin-Guan-Yin-Fa-Zi No. 10400077630 dated May 8, 2015, the over-the-counter DBU account opening section in Sub-paragraph 1, Paragraph 1, Article 13 of Regulations Governing the Deposit Accounts and Suspicious or Unusual Transactions and the “Rules Governing Offshore Banking Branches” amended under Letter No. Jin-Guan-Yin-Wai-Zi No. 10650001370 dated May 22, 2017 for clarifications on the use of dual identity documents.

**Q32: Item 4, Sub-paragraph 3, Paragraph 1, Article 4 of “Model Guidelines Governing Anti-Money Laundering and Combating the Financing of Terrorism by the Banking Sector” states that due diligence procedures must be adequate for establishing an understanding of the purpose and nature of the business relationship, and be able to obtain relevant information under applicable circumstances. How to distinguish “relevant information” and “applicable circumstances?”**

A32:

In addition to the mandatory information listed in the Model Guidelines, banks may adopt a risk-based approach to decide whether or not to ask customers for more supporting proof on a case-by-case basis. For example, banks may consider asking customers for an employment contract if they are looking to open salary accounts; or in cases where customers state insurance payment as the source of capital, banks may consider checking the insurance policy or details of the benefit payment. The Model Guidelines cannot provide an

exhaustive list of possible scenarios; therefore, it is up to the banks themselves to implement appropriate practices for different circumstances.

**Q33: Article 3 of the Model Guidelines lists bill payment as a one-time transaction. However, for customers who have opened accounts or signed service contracts with the bank, is it still necessary to treat them as one-time counterparties and perform due diligence as such? Does a bill payment include cash and fund transfer?**

A33:

The term "one-time transaction" mentioned in Sub-paragraph 5, Article 3 of the Model Guidelines refers to the situation where a person conducts transactions such as cash remittance, notes exchange, bill payment, etc. at a bank that the person has no existing business relationship with. Therefore, if a person approaches a financial institution to make a payment into an account opened with the bank or for a service contract signed with the bank, the payment would not be considered a one-time transaction.

**Q34: For customers that are inactive for a prolonged period of time and lacked the information needed to proceed with risk assessment, can the bank postpone risk assessment and customer due diligence until the time when customer conducts a new transaction or opens a new account personally at the bank?**

A34:

If risk assessments are not performed on inactive customers or accounts that lacked the required information, the bank would not be able to complete full-scale ML/TF risk assessment and devise a prevention plan for the entire bank. For this reason, banks are still required under Description 3(1) in Letter No. Jin-Guan-Yin-Fa-Zi No. 10300328890 issued by the FSC on December 30, 2014 to perform risk assessment on existing customers. If the bank is unable to obtain the information needed to complete risk assessment, it may use reasonable risk indicator estimates for the unavailable information, and take steps to obtain appropriate and timely information depending on customer's significance and risk level.

**Q35: Is the bank required to conduct identity verification or risk assessment if it intends to transact or open an account with a financial peer for an investment or interbank borrowing?**

A35:

If there is a need for banks to transact or open an account with a peer financial institution, whether for investment or interbank borrowing, only the financial institution where the account is opened is required to perform customer due diligence and customer risk grading. Meanwhile, the financial institution where no new account is opened shall adopt the appropriate risk control measures according to its AML/CFT policy.

**Q36: Sub-paragraph 2, Article 5 of the Model Guidelines requires banks to regularly assess the adequacy of information obtained for identifying customers and beneficial owners, and keeping such information up to date at all times. High-risk customers, in particular, are subject to review at least once a year, while the frequency of review for other customers should be determined using a risk-based approach. Is it necessary to obtain new information from customers for every regular review? Is it necessary to review high-risk customers who are inactive for a prolonged period of time? How often, in general, should medium and low-risk customers be reviewed?**

A36:

(1) The purposes of regular customer review are to refresh the bank's understanding of its customers and to ensure that customers' information is up-to-date. It does not necessarily require a re-submission of all documents needed for identification and review. During the regular customer review, banks should determine the types of document or information to be obtained from customers based on their own risk policies and practices.

(2) Whether or not there is a need to review customers who are inactive for a prolonged period of time should be determined by banks according to their own risk assessment policies. Based on an observation of foreign best practices, it is appropriate for financial institutions to forego a regular review of

customers that have been inactive for a prolonged period of time, as long as the financial institution has clearly defined "inactive customer" in its policies and procedures and adopted relevant control measures.

(3) For medium and low-risk customers, banks should adopt a risk-based assessment policy and determine the frequency of review at their own discretion.

**Q37: The laws have outlined several circumstances in which a bank is entitled to "terminate the business relationship with customers." Is it appropriate to draft the master account opening agreement in such a way that it empowers the bank to close a customer's account after serving notice?**

A37:

Sub-paragraph 15, Article 4 of the Model Guidelines states that, "Banks may enforce contractual terms under the following circumstances: (1) Banks may reject a service request or terminate a business relationship if the customer exhibits any of the signs listed in Item 8, Sub-paragraph 1." For this reason, banks are entitled under Item 8, Sub-paragraph 1, Article 4 to terminate a business relationship with customers according to the terms of the underlying contract. However, as a more robust practice, banks should involve their legal affairs departments in the related procedures.

**Q38: According to Sub-paragraph 2, Paragraph 1, Article 4 of the Model Guidelines, banks are required to verify a customer's identity: "(2) When conducting one-time transaction that meets any the following conditions: 1. Transaction exceeding a certain amount. The same applies to multiple transactions with apparent connections that exceed a certain sum." Multiple transactions with apparent connections are easier to identify when the transactions are made over counter, but it is difficult to identify customers when transactions are conducted using automated channels. Is it appropriate to exclude automated transactions from the review of "multiple transactions with apparent connection"?**

A38:

According to the U.S. Bank Secrecy Act and Currency Transaction Reporting–Aggregation of Currency Transactions section of the AML Examination Manual, “multiple transactions with apparent connections” include transactions conducted over automated equipment. However, they apply only to transactions conducted by the same customer (or the same authorized person) within the same day that the bank has knowledge of. Therefore, if the bank is aware of the identity of the person transacting through automated equipment, the bank shall add up all one-time transactions conducted over-the-counter and using automated equipment by the same customer (or the same authorized person) within the same day to determine whether or not it is necessary to confirm customer’s identity. If a customer initiates a transaction above a certain amount without the use of a card or by using unidentifiable methods such as offshore ATM card on an automated equipment, the bank shall, due to the inability to verify the customer’s identity at that moment, withhold the transaction and instruct the customer to complete the transaction over-the-counter. Customers who conduct transaction using ATM cards issued by other local banks over automated equipment are exempted from identity verification, because their identities have already been confirmed when they established the business relationships with the respective banks.

## 4. Suspicious ML/TF patterns

**Q39: Are the suspicious ML/TF patterns presented in the appendix only as examples? Are financial institutions able to choose suitable patterns at their discretion according to Sub-paragraph 7, Paragraph 1, Article 9?**

A39:

The patterns shown in the appendix should be used as a reference for developing monitoring criteria. According to Sub-paragraph 7, Paragraph 1, Article 9 of the Model Guidelines, banks should choose or develop their own patterns based on asset size, location, business characteristics, customer groups and transaction types in reference to their internal ML/TF risk assessments or daily transactions. As a result, banks should adopt a risk-based

approach in choosing or developing the monitoring criteria that suit them, and retain written records of any analyses made in order to support the rationale behind the monitoring criteria.

**Q40: With regards to the "suspicious ML/TF transaction reporting" mentioned in Paragraph 2, Article 9 of the Model Guidelines, how are transaction amounts determined for the purpose of the report?**

A40:

(1) Transaction amount is determined mainly based on credit entries. From the perspective of criminal proceeds, debit entries are simply ways to launder them, and therefore the report should not comprise a sum of debit and credit entries.

(2) Case examples:

①Shortly after $10 million was credited into account A, a sum of $0.5 million was withdrawn in multiple transactions of less than $5 million each. In which case, the amount of transaction should be $10 million.

②A total of NT$6 million was recently deposited into account A in cash in more than a dozen transactions of less than $0.5 million each, and $5 million were transferred outwards shortly after. In which case, the transaction amount should be reported at $6 million.

③A total of $10 million was recently deposited into account A through cash, remittance and fund transfer, and $9 million was withdrawn shortly after in cash or multiple wire transfers. In which case, the transaction amount should be reported at $10 million.

④On January 1, $5 million was transferred into account A and shortly after withdrawn in cash; on January 2, another $5 million was transferred into the account and shortly thereafter withdrawn in cash; and on January 3, another $5 million was transferred into the account and shortly after withdrawn in cash. In which case, the transaction amount should be reported at $15 million.

⑤Party A has $5 million in cash and later transfers $3 million to Party B in multiple transactions and deposits, another $2 million to Party C's account

in cash. In which case, the transaction amount should be reported at $5 million.

(3) When explaining suspicious reasons, banks should describe the credit entries followed by how the money is being laundered (*e.g.* the debit entries), and the sum of the credit entries shall be reported as the transaction amount.

**Q41: The appendix outlines suspicious transaction patterns for the "Product/Service - Trade Financing" category, including Sub-paragraph 2: "Pricing of product/service or the value stated in invoice is significantly different (over- or under-estimated) from the fair market value."**

**(1) Does the government have any public information platform that can be used to check a product's fair market value?**

**(2) The price of import/export would naturally be lower than the market value, not to mention that factors such as customs duty, market demand, gross margin, etc. are all capable of affecting the final price. How should banks determine whether a product is priced significantly above or below the fair market value? Is there a commonly accepted calculation or formula?**

**(3) Is it mandatory to use government-published information to determine the price rationale? What if the product's fair market value is unavailable from the open information platform?**

A41:

(1) Banks may access the database established by the Customs Administration, Ministry of Finance, and perform searches using appropriate criteria.

(2) The above website can be used as a reference for frequently imported/exported goods, but should not be used in an absolute manner. The process still relies on the employees' subjective judgment. Every merchandise is different; therefore, it is inappropriate to apply one formula for all.

(3) Information that can be used to determine the price rationale is not limited to government sources; banks may also accumulate internal database through daily transactions or use other references to assist in the decision-making.

**Q42: The appendix outlines suspicious transaction patterns for the**

**"Product/Service - Trade Financing" category, including Sub-paragraph 4: "L/C issued for a particular transaction is frequently or substantially amended, or exhibits late payment or change of payment location without a reasonable explanation." Why are these changes considered suspicious patterns?**

A42:

Change of L/C details or forfeiting terms may alter the source of the capital for the underlying trade financing transaction. For example, the payment may originate from a country, region or party with a higher risk after the change.

**Q43: The appendix outlines suspicious transaction patterns for the "Product/Service - Trade Financing" category, including Sub-paragraph 5: "Use of L/C without actual trade activity, note discounting or other services for offshore financing." What is meant by "L/C without actual trade activity" and "offshore financing?"**

A43:

Most L/Cs are issued based on the actual exchange of goods, which means that there are documents that banks can use to check the pricing rationale and the authenticity of the underlying transaction. In practice, however, not all trade financing services involve the use of fully documented L/Cs. Customers that approach banks for trade financing using L/Cs or notes issued abroad without supporting document would make it difficult for banks to establish the underlying transaction.

**Q44: The appendix outlines suspicious transaction patterns for the "Product/Service - Correspondent Banking" category, including rapid increase in the amount and frequency of cash deposit, cash transportation and deposit size of the correspondent bank. However, banks do not necessarily know the size of deposits of their correspondent banking partners (such as the case of RMA), and may not engage in cash transportation at all. Does "correspondent banking" include RMA in the appendix?**

A44:

Section 13 of FATF GUIDANCE ON CORRESPONDENT BANKING SERVICES reads: "Correspondent banking does not include one-off transactions or the mere exchange of SWIFT Relationship Management Application keys (RMA) in the context of non-customer relationships, but rather is characterized by its on-going, repetitive nature." Non-account and non-customer RMA has been excluded from the FATF's guidance on correspondent banking services, and therefore should be excluded from the "Product/Service - Correspondent Banking."

**Q45: The appendix provides no ML pattern on derivatives or treasury transactions. Will they be available in the future?**

A45:

Users may refer to the pattern described in Sub-paragraph 5 of the "Product/Service - OBU" category, where a "Customer makes frequent and substantial purchases of offshore structured products within a certain period that do not conform with the customer's needs," and apply this concept to the monitoring of other financial products.

**Q46: Are banks required to monitor suspicious ML/TF patterns listed in the appendix using an information system or are banks allowed to adopt a manual, risk-based control approach?**

A46:

According to Sub-paragraph 9, Paragraph 1, Article 9 of the Model Guidelines, "Banks shall adopt a risk-based approach to monitoring suspicious ML/TF patterns and develop an information system to assist in the process. Banks that do not use information systems to assist with the process shall adopt other solutions that may help employees identify suspicious ML/TF transactions when dealing with customers. " It means that banks are free to determine the most suitable monitoring approach after analyzing their distinctive risk profiles and taking into account factors such as transaction volume, pattern or effectiveness of monitoring measures.

## 5. Personnel qualification

**Q47: According to Item 2, Sub-paragraph 2, Paragraph 1, Article 17 of the Model Guidelines, one of the qualifying criteria for bank AML/CFT Officers, specialists and domestic business department supervisors is to "Complete at least 24 hours of courses organized by FSC-approved institutions, and pass the required exams to obtain a course completion certificate. Those who have been qualified as a compliance officer, after participating in the 12-hour anti-money laundering and countering terrorism financing courses arranged by the institutions authorized by the Financial Supervisory Commission, are deemed as meeting the eligibility criteria illustrated in this Item." If employees have completed 12 hours of AML/CFT training organized by FSC-approved institutions prior to being qualified for compliance personnel, would they be considered as having met the above condition?**

A47:

Item 2, Sub-paragraph 2, Paragraph 1, Article 17 of the Model Guidelines states that the exception applies only to employees who have completed the 12 hours of AML/CFT training organized by FSC-approved institution to become qualified as compliance personnel.

**Q48: According to Sub-paragraph 2, Paragraph 1, Article 17 of the Model Guidelines, AML/CFT Officers, specialists and domestic business department supervisors are required to fulfill their qualification criteria within 3 months of being assigned to their role. If employees have completed at least 24 hours of courses organized by FSC-approved institutions, passed the required exams and obtained the course completion certificate or undergone relevant training prior to being assigned the role, would they be considered to have met the qualification criteria?**

A48:

The prevailing rules require that AML/CFT Officers, specialists and domestic business department supervisors fulfill their qualification criteria within 3 months of being assigned to their role. Having met the qualification criteria

before their job assignment fulfills this requirement.

**Q49: According to Item 2, Sub-paragraph 3, Paragraph 1, Article 17 of the Model Guidelines, domestic business department supervisors are deemed to have fulfilled their qualification criteria if they meet the conditions listed in Item 2 of the preceding Sub-paragraph within one year of being assigned the role. If the domestic business department supervisor has already been assigned to the supervisory role before this Model Guidelines were published, what will be the deadline for fulfilling this qualification criteria?**

A49:

A domestic business department supervisor who has been carrying out the role of supervisor before December 31, 2016 is required to fulfill the qualification criteria mentioned in Item 2, Sub-paragraph 2, Paragraph 1, Article 17 of the Model Guidelines by no later than December 31, 2017, which is one year away from January 1, 2017.

**Q50: Sub-paragraph 1, Article 15 of the Model Guidelines states that banks are required to allocate an adequate number of AML/CFT specialists and resources based on the scope of business, risk profile, etc. Meanwhile, the board of directors must assign and empower one senior manager to oversee AML/CFT matters. This employee and the direct superior cannot be involved in any concurrent role that is in conflict of interest against the AML/CFT duties. What would be considered a "concurrent role of conflicting interest?" How should banks define and determine a "conflict of interest?"**

A50:

(1) "Conflict of interest" refers to a conflict between an employee's personal interest and the interest of the employee's duties. The conflict can be examined from a number of perspectives, such as an employee's external business involvements (concurrent employment), report of private transactions by specific employees, stakeholder transactions, etc.

(2) As far as "concurrent role of conflicting interest" is concerned, the AML/CFT Officers and specialists are not allowed to assume business responsibilities or

concurrently be involved in the maintenance of customer relations, and neither can they be assigned to audit the effectiveness of the AML program. In addition, they must not report to any manager of general business activities.

(3) However, according to the latter part of Sub-paragraph 1, Article 15 of the Model Guidelines, "Local banks and postal financial service providers shall establish an independent AML/CFT department directly under the general manager, the group compliance unit or risk management unit. This department may not concurrently assume duties other than AML/CFT." For this reason, AML/CFT Officers and specialists of local banks and postal financial service providers must be dedicated.

**Q51: (1) When the business department supervisor is on leave of absence, is the person acting on duty also required to fulfill the qualification criteria mentioned in Paragraph 1, Article 17 of the "Model Guidelines Governing Anti-Money Laundering and Combating the Financing of Terrorism by the Banking Sector?" (2) If an employee obtains the certificate of completion mentioned in Item 2, Sub-paragraph 2, Paragraph 1, Article 17 during the year, will the employee be exempted from the 12-hour training requirement stated in Sub-paragraph 4, Paragraph 1, Article 17 for the given year?**

A51:

(1) The acting business department supervisor can be exempted from the requirement, but banks are advised to develop a system for training persons of acting duty.

(2) Employees who "complete at least 24 hours of courses organized by the FSC-approved institution, and pass the required exams to obtain a course completion certificate" according to Item 2, Sub-paragraph 2, Paragraph 1, Article 17 in a given year are exempted from the requirement stated in Item 4, Paragraph 1, Article 17, which is to complete "12 hours of AML/CFT training organized by internal/external training institutions that are approved by the accountable manager mentioned in Sub-paragraph 1, Article 14" during the year.

## 6. Others

**Q52: Article 9 of the Model Guidelines explains the tests to be performed on the ongoing account and transaction monitoring system. Is it appropriate to have the head office conduct tests collectively (except for tasks that require manual monitoring) and disseminate the results to offshore branches for adjustment afterwards?**

A52:

Tests can be conducted collectively by the head office if the ongoing account and transaction monitoring system is designed and implemented consistently throughout the bank. If there is any difference in the monitoring systems adopted by the offshore branches and the head office, the offshore branches would be required to conduct their own tests.

**Q53: What is the extent of the "model validation" mentioned in Sub-paragraph 4, Article 8 and Subparagraph 5, Article 9 of the Model Guidelines?**

A53:

According to Section V - "Model Validation" of "Supervisory Guidance on Model Risk Management" jointly announced by the Board of Governors of the Federal Reserve System and Office of the Comptroller of the Currency in 2011, the purpose of the model validation is to confirm that the model operates in conformity with expectations, the original design and business requirements. All elements of a model including data input, processing and output must be validated.

**Q54: Please provide examples of how name checks can be conducted in a risk-based approach.**

A54:

When detecting, comparing and checking the name of a customer, customer's senior managers, beneficial owners or transaction-related parties, banks should design procedures based on the risks presented to them and apply checks at various timing and frequency for different groups of customers.

**Q55: Are banks required to check names (such as the sanction list) for NTD domestic wire transfers?**

A55:

Banks shall adopt a risk-based approach to develop their own name-check systems. The scope and method of checks performed shall be prioritized based on the risk assessment outcome, effect of risk mitigation, resource allocation, etc. of each bank.

**Q56: According to Article 12 of the Model Guidelines, remittance applicant's information shall include address/ID card No./date of birth. Does this rule apply to non-natural person customers?**

A56:

According to Article 12 of the Model Guidelines, information to be retained on the applicant of NTD domestic wire transfer includes:

(1) Name;

(2) Debiting account number; and

(3) any of the following:

A. Address

B. ID card number

C. Date and place of birth

For non-natural person customers, input the entity's name in "Name," business ID number in "ID card number," and date of establishment and place of registration in "Date and place of birth."

**Q57: Once a bank has reported a suspicious ML/TF transaction by a customer, should the bank accept the customer's transaction request?**

A57:

Once a bank has reported a suspicious ML/TF transaction by a customer, the bank may still accept the customer's transaction request unless otherwise stipulated by law or if the customer exhibits any of the circumstances listed in Item 8, Sub-paragraph 1, Article 4 of the Model Guidelines.

**Q58: Some government agencies may have the need to regularly deposit cash above a certain amount as part of their operations. Can they be exempted from the transaction-by-transaction reporting after seeking acknowledgment from the Investigation Bureau in accordance with Paragraph 4, Article 13 of the Model Guidelines?**

A58:

According to Paragraph 2, Article 13 of the Model Guidelines, "The following transactions can be exempted from reporting to the Investigation Bureau, Ministry of Justice, even if they exceed a certain amount, but banks are still required to confirm the customers' identity and retain relevant records: 1. Deposit into accounts opened by government agencies, state-owned enterprises, government authorities (to the extent authorized), public/private schools, public utilities and government-established funds. " Therefore, government agencies are exempted from being reported to the Investigation Bureau if they use their accounts in the above manner.

However, for government agencies that have the need to regularly deposit cash above a certain amount into their accounts due to special reasons, banks may present the Investigation Bureau, Ministry of Justice, with a list of parties involved in accordance with Paragraph 3, Article 13 of the Model Guidelines if deemed necessary, and if the Investigation Bureau does not express an objection in 10 days, all subsequent deposits into the account can be exempted from reporting on a transaction-by-transaction basis. Banks shall review their transaction counterparties at least once a year. If the counterparty no longer engages the bank in this relationship, a notification must be issued to the Investigation Bureau, Ministry of Justice.

**Q59: Banks are required to conduct ML/TF risk assessments when introducing new products or services. Does this requirement apply to offshore branches? If that is the case and the home country and the local country have different definitions for a "new product", should the offshore branch adopt the more stringent definition?**

A59:

According to Paragraph 5, Article 2 of the Model Guidelines, “Banks shall ensure that their foreign branches (or subsidiaries) adopt AML/CFT measures that are consistent with the head office (or parent company), subject to compliance with the local regulations. When the minimum requirement differs between the country of the head office (or parent company) and the country of the foreign branch (or subsidiary), the foreign branch (or subsidiary) shall adopt the standard that is more stringent between the two.” This means that offshore branches are also required to assess ML/TF risks for their products. If the country in which the offshore branch is residing imposes a more stringent definition about a new product, the offshore branch shall adopt the more stringent definition for the assessment of the ML/TF product risk. If the country in which the offshore branch is residing imposes a less stringent definition about the new product, the offshore branch shall adopt the definition of the home country and assess ML/TF risks in a manner consistent with the head office.

**Q60: Sub-paragraph 1, Article 14 of the Model Guidelines states that “All mandatory records on domestic and foreign transactions must be retained for at least 5 years. Unless otherwise provided by law for a longer period of time.” For trading room phone recordings, should banks retain such records for the duration specified in the “Foreign Exchange Market Trading Guidelines” or follow the rules outlined in this Article?**

A60:

As explained in the FATF Recommendation 11, the purpose of retaining mandatory records on domestic and foreign transactions is to facilitate quick reconstruction of individual transactions at the authority’s request and use them as evidence for the prosecution of a crime.

If trading room phone recordings are made with a customers’ consent, they shall constitute “mandatory records” described in Sub-paragraph 1, Article 14 and therefore should be retained for at least 5 years. This does not contradict the requirements of the “Foreign Exchange Market Trading Guidelines,” where “Phone recordings must be retained for at least 3 months, and may be

extended due to conservatism for trading of long-term interest rate swaps, forward rate agreements or instruments of similar nature."

**Q61: Sub-paragraph 1, Paragraph 1, Article 15 of "Regulations Governing Anti-Money Laundering of Financial Institutions" states that, "Financial institutions are required to report to the Investigation Bureau any transactions that exhibit the patterns listed in Sub-paragraph 5, Article 9 or are otherwise suspected of involvement with ML/TF, regardless of the amount involved. The same applies to incomplete transactions." For a remittance, when is the transaction considered "incomplete?"**

A61:

Apply the following principles:

(1) An outward remittance rejected by the payee bank is considered "complete."

(2) An inward remittance rejected by the bank before being credited into the internal accounts is considered "incomplete."

(3) An inward remittance rejected by the bank after being credited into the internal accounts is considered "complete."

(4) When a bank reports a suspicious ML/TF transaction to the Investigation Bureau after learning that its customer is placed on the sanction list or reported by media for major criminal involvement, all suspicious transactions previously completed shall be considered "complete."

**Q62: When verifying a customer's identity, financial institutions are required under Sub-paragraph 6, Article 4 of the Model Guidelines to obtain the name, date of birth and nationality of the corporate customer's senior managers. If the customer is a Taiwan branch office of a foreign company, should the financial institution obtain information on the senior managers of the Taiwan branch office or the foreign headquarters? With respect to step 3 in identifying the beneficial owners outlined in Sub-paragraph 7, Article 4, which senior managers should be considered as the beneficial owners? Those of the Taiwan branch office or those of the foreign headquarters?**

A62:

(1) According to FATF Recommendation 24, information on a corporate entity should distinguish between basic profile and beneficial owners. The basic profile mainly refers to proof of existence, legal form, list of directors and company registration. Beneficial owners, on the other hand, refer to natural persons who own or control the corporate entity.

(2) Sub-paragraph 6 of the Article is intended mainly to establish a basic profile of the corporate entity, therefore information on the senior managers of the corporate customer itself *(e.g.* the Taiwan branch office) would suffice.

(3) Sub-paragraph 7 of the Article is intended to identify the beneficial owners of the corporate entity, therefore banks should investigate, on a case-by-case basis, which senior managers (within or outside the Taiwan branch office) possess actual control over the corporate entity.

**Q63: How to calculate on-the-job AML/CFT training hours in Sub-paragraph 4 or 5, Article 17 of the Model Guidelines for employees who came on-board for less than one full year?**

A63:

On-the-job training hours should be pro-rated based on the duration of actual duty (calculated in months). For example: An employee who came on-board since October is required to undergo 2 hours of on-the-job training for the year (12 hours * (1-10/12) = 2 hours).