

# **“Anti-Money Laundering and Anti-Terrorism Financing Guidelines for the Banking Sector (Template) and Related Regulations: Q&A for the General Public”**

Dated September 5, 2017; Financial Supervisory Commission

FSC Banking Act Tzi No. 10600208780 Letter

Q1: What is a temporary cash transaction?

A1: It refers to cash transactions, including cash remittances, money exchanges, and payments made by individuals, with a bank where there is no established business relationship.

Q2: Starting from January 1, 2015, if a cash transaction (cash remittance, money exchange, payment, or other contingent transaction) is arranged by an individual on behalf of his/her family or a company for: a) an amount more than NT\$500,000 (including the equivalent value in foreign currency), b) multiple related cash transactions for an amount more than NT\$500,000 (including the equivalent value in foreign currency), or c) a cross-border remittance for an amount more than NT\$30,000 (including the equivalent value in foreign currency), all with a bank where there is no established business relationship, what documents must be presented?

A2: (1) Personal account: An identification document or passport for the principal and the agent, and supporting documents for the agency.

(2) Non-personal account: Related corporate or group registration certificate or establishment certificate and documents (e.g. establishment or alteration registration form for the company); Articles of Association; business address; shareholder/investor list; identity information for the substantial beneficiary (whether a natural person, shareholder/investor, or other controller with more than 25% of the corporate shares or capital);

identification documents of the agent; and supporting documents for the agency.

- (3) Supporting documents for the agency refers to power of attorney and proxy issued by the agent or the principal.

Q3: Continuing from Q2, if a cash transaction (cash remittance, money exchange, payment, or other contingent transaction) is arranged by an individual on behalf of his/her family or a company for: a) an amount more than NT\$500,000 (including the equivalent value in foreign currency), or b) multiple related cash transactions for an amount more than NT\$500,000 (including the equivalent value in foreign currency), both with a bank where there is an established business relationship, what documents must be presented?

A3: An identification document for the agent, and supporting documents for the agency. Foreign exchange transactions are subject to the relevant provisions of the central bank.

Q4: Why do banks sometimes ask customers to produce proof of identity documents for a cash transaction (cash remittance, money exchange, payment, or other contingent transaction) of less than NT\$500,000 (including the equivalent value in foreign currency)?

A4: In order to reduce the risk of money laundering and terrorism financing arising from a contingent cash transaction, banks may request that customers produce proof of identity when necessary for enhanced transaction monitoring.

Q5: Why do banks sometimes ask customers to explain the source of funds and intended use (e.g. providing a list of major suppliers, main customer lists etc.), or provide transaction-related supporting documents?

A5: In order to prevent the bank's financial services from being used for money laundering or terrorism financing, banks must confirm customer transactions are reasonable and match the customer's identity. If necessary, banks may request that customers provide relevant supporting documents to confirm their identity.

Q6: I have multiple accounts and often allocate funds to different accounts or transfer funds between accounts. Will that be considered money laundering?

A6: Banks will check whether the account transactions are consistent with the customer's identity, income, scale and nature of business operations, whether the transactions are reasonable, and whether the source of funds is legitimate in order to identify suspected money laundering or terrorism financing.

Q7: What happens if an individual does not meet the bank's requirements for providing relevant information, or is otherwise unwilling to explain the nature of the transaction, the purpose, or the source of the funds?

A7: For uncooperative customers, banks may decline or suspend transactions or the business relationship (e.g. account cancellation or card suspension) in accordance with the relevant contracts, laws and regulations.

Q8: Under what circumstances will banks refuse to do business with a customer, refuse to establish a business relationship, refuse to trade, or terminate an existing business relationship?

A8: According to the "Anti-Money Laundering and Anti-Terrorism Financing Guidelines for the Banking Sector (Template)", banks shall refuse to establish a business relationship or transaction, or shall temporarily suspend or terminate an existing business relationship, in any of the following circumstances:

- (1) Suspected of using anonymous accounts, pseudonyms, dummy accounts, or shell corporations.
- (2) Customers who refuse to provide customer identification documents are not subject to these limitations if the customer identity can be confirmed through a reliable and independent source.
- (3) Matters handled by an agent where it is difficult to verify the agency or identity information.
- (4) Use of false or altered identity documents.
- (5) Proof of identity documents presented as photocopies. Except for businesses that can be processed with proof of identity copies or video files according to the law and regulations, along with the use of other control measures.
- (6) Suspicious or obscure documents provided, and an unwillingness to provide other supporting data or the provided data is unable to be verified.
- (7) Supplementary customer identity documents are provided after an unreasonable delay.
- (8) Business counterparty is an individual, legal person, or group on a sanctions list prepared in accordance with the Terrorism Financing Control Act, or a terrorist or terrorist group identified or investigated by a foreign government or international organization. Except for payments made under Sections 2-4, Paragraph 1, Article 6 of the Terrorism Financing Control Act.
- (9) Other unusual circumstances that a customer cannot reasonably explain when establishing a business relationship or transaction.
- (10) Customers who do not cooperate with reviews, refuse to provide information on substantial beneficiaries, those who exercise control over customers, or those who cannot adequately explain the nature and purpose of a transaction or the source of funds.
- (11) Other matters that are processed in accordance with the bank account-opening agreement or the relevant law and regulations.

Q9: When will banks begin to implement the new law on the preventing money laundering and terrorism financing?

A9: The newly amended Money Laundering Control Act will be implemented on June 28, 2017.

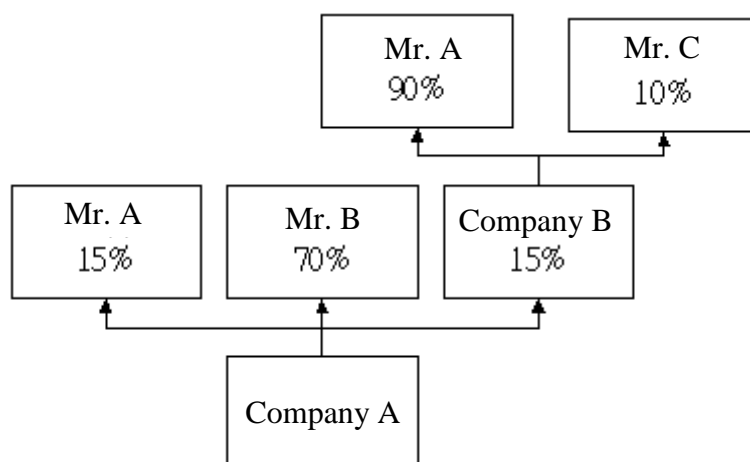
Q10: Who is the “substantial beneficiary” of a legal person or group?

A10: The so-called “substantial beneficiary” of a legal person or group refers to the “natural person who has the ownership or ultimate control” of the legal person or group. Banks shall follow the process below to confirm the substantial beneficiary of the client:

- (1) A natural person who directly or indirectly holds more than 25% of the corporate shares or capital of the legal person or group.
- (2) If a natural person with control is not identified according to Clause (1), or if there is any doubt as to whether the natural person with control is a substantial beneficiary, it is necessary to identify a natural person with control who has controlled the client via other methods.
- (3) If a natural person with control is not identified according to Clause (1) or (2), the identities of high-level managers (e.g. directors, general managers, or those with similar duties) should be provided.

Q11: How is “holding more than 25% of corporate shares or capital” calculated?

A11: In addition to direct share or capital holdings, indirect share or capital holdings shall also be included. For example: The total shareholder ratio of Mr. A in Company A = Direct holdings (15%) + Indirect holdings (15% ×



$$\underline{90\% = 13.5\%) = 28.5\%}$$

Q12: I am in charge of a company, so what documents are needed to open an account on behalf of the firm?

A12: In addition to the change of registration form and identity documents for the person in charge of the company specified in the relevant law and regulations, it is also necessary to provide a list of shareholders or proof of capital, and the identity information (e.g. name, date of birth, nationality etc.) of the natural persons with ultimate control of more than 25% of the corporate shares. In addition, individual authorization signatures, senior management details, Articles of Association, and the business address of the company should also be provided to verify the identity of customers and substantial beneficiaries.

Q13: Continuing from Q10, if a company's shareholders are legal persons, what documents are needed to open an account on behalf of the firm?

A13: If a company shareholder is a legal person, the shareholder registry of the legal person, or the proof of investment or supporting documents approved by the bank, should be provided. Such information will then be used to identify the natural person with ultimate ownership or control who, directly or indirectly, holds more than 25% of the corporate shares or capital. If a natural person is identified with ultimate ownership or control who, directly or indirectly, holds more than 25% of the corporate shares or capital, their identity information (e.g. name, date of birth, nationality, and identity document number) should be provided, including any other relevant documents specified in the previous question.

Q14: Continuing from Q11, if the substantial beneficiary of the company is a foreign natural person, is it necessary to provide identity documents (e.g. a passport photocopy)?

A14: The identity information (e.g. name, date of birth, nationality, and identity document number) of the natural person with ultimate ownership or control of more than 25% of the corporate shares or capital should be provided.

Q15: Will documents or information provided by customers to the bank to verify identity (e.g. identity documents, passport photocopies, certificates of registration, corporate establishment documents, Articles of Association, registry of shareholders, list of major suppliers, list of major customers, supporting documents for transactions etc.) be used for other purposes? How will banks secure them?

A15: Private customer information shall be kept in confidence by banks unless otherwise agreed to by customers. Policies and operating procedures to protect the confidentiality of client information should be enacted except in the following circumstances:

- (1) Banks shall declare or report to the MJIB in accordance with the Money Laundering Control Act or Terrorism Financing Control Act.
- (2) Regulations otherwise provided by the competent authorities.

Q16: What are the amended customer identity confirmation measures in response to the new Money Laundering Control Act and Terrorism Financing Control Act?

A16: The amended customer identity confirmation measures for banks are illustrated as follows:

Summary of regulations:

Money Laundering Control Act: Money Laundering Control Act for Financial Institutions

<b>Timing for confirming customer identity</b>	<b>Amended measures</b>	<b><u>Regulatory basis</u></b>
1. When establishing a business relationship with a customer.	Confirmation of the object: The principal,	<u>Paragraphs 2, 5 and 7, Article 3 of the Money</u>

	agents, substantial beneficiaries, and senior management.	<u>Laundering Control Act.</u>
<p>2. For any of the following <u>contingent transactions</u>:</p> <p>(1) A cash transaction for an amount more than NT\$500,000 (including the equivalent value in foreign currency).</p> <p>(2) Multiple related cash transactions for an amount more than NT\$500,000 (including the equivalent in foreign currency).</p> <p>(3) A cross-border remittance for an amount more than NT\$30,000 (including the equivalent value in foreign currency).</p>	Confirmation of the object: The principal, agents, substantial beneficiaries, and senior management.	<u>Paragraphs 2, 5 and 7, Article 3 of the Money Laundering Control Act.</u>
3. Suspected of money laundering or terrorism financing.	Confirmation of the object: The principal, agents, substantial beneficiaries, and senior management.	<u>Paragraphs 2, 5 and 7, Article 3 of the Money Laundering Control Act.</u>
4. When the authenticity or appropriateness of the customer's identity information is in doubt.	Confirmation of the object: The principal, agents (if any), substantial beneficiaries, and senior management.	<u>Paragraphs 2, 5 and 7, Article 3 of the Money Laundering Control Act.</u>

Q17: When will banks perform ongoing reviews of existing customers?

A17: Banks will review the adequacy of the last customer identity information review performed, and the adequacy of the data obtained, before reviewing existing customers at the appropriate time and asking customers to provide

necessary verification information. The aforementioned “appropriate time” includes:

- (1) When an account is opened or new business operations are added by customers.
- (2) Based on regular review times that are scheduled in accordance with the importance of the customer and the degree of risk.
- (3) When there are important changes to the customer’s identity and background information.

In order to ensure that customer transactions with the bank are in line with the customer risk level and the nature of business operations, the bank shall try to identify the source of customer funds if necessary.