MUTUAL EVALUATION/DETAILED ASSESSMENT QUESTIONNAIRE
ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

Chinese Taipei

2006/11/15

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QUESTIONNAIRE FOR MUTUAL EVALUATIONS

1 Overview

1.1 General information on the country and its economy

（Information source: MOJ, MOFA, MOEA）

Chinese Taipei is formally known as the Republic of China (ROC). Founded in 1912, the ROC is Asia's first constitutional republic. It has presently exercised jurisdiction over the island of Taiwan and its adjacent islets, including Penghu (the Pescadores), Kinmen (Quemoy) and Matsu etc., which all located in the western Pacific. The island of Taiwan is about 160 km (99 miles) off of China's southeast coast, midway between Japan and the Philippines. It measures about 394 km (245 miles) long and 144 km (90 miles) wide and occupies an area of approximately 36,000 sq. km (13,900 sq. miles). The total population was about 22.83 million as of October 2006.

The Constitution of Chinese Taipei is based on the principles of nationalism, democracy, and social well-being. It delineates the rights, duties, and freedoms of the people, the overall direction for political, economic, and social policies, and the organization and structure of the government.

The government is divided into central, provincial/municipal, and county/city levels, each of which has specifically defined powers. The central government consists of the Office of the President and five branches (called "Yuan"), namely the Executive Yuan, Legislative Yuan, Judicial Yuan, Examination Yuan, and Control Yuan. As head of state, the president, starting from the ninth-term, shall be directly elected by the entire populace of the free area of the Republic of China.

The Executive Yuan is the highest organ of the State and there are currently 8 ministries and 28 ministerial-level organizations under the Executive Yuan. The Yuan has a president (usually referred to as the premier), a vice president (vice premier), a number of ministers, heads of commissions, and ministers without portfolio. The president of the Executive Yuan is appointed by the president of the republic. The vice president of the Executive Yuan, ministers and heads of commissions, and ministers without portfolio are appointed by the president of the republic upon the recommendation of the president of the Executive Yuan. In recent years, the government has been implementing a series of organizational reforms aimed at streamlining this administrative body. Once the relevant laws and regulations are passed, the Executive Yuan will be downsized and restructured, enabling the government to improve administrative efficiency and facilitate a highly adaptable system of responsibility.

The Legislative Yuan is the highest legislative body of the state, consisting of popularly elected representatives who serve for three years and are eligible for reelection. The Legislature operates through sessions of the Yuan, committees, and the secretariat. The Yuan holds two sessions each year and convenes of its own accord. Regular meetings of the Legislature require a quorum of one-third of the total membership. Unless otherwise stipulated, resolutions at meetings of the Legislature are adopted by a simple majority vote. In case of a tie, the chairman casts the deciding vote.

The Judicial Yuan (Judiciary) is the highest judicial organ and its chief powers are to interpret the Constitution, to unify the interpretation of laws and orders, and to

adjudicate civil, criminal, administrative cases, cases concerning disciplinary sanctions of public functionaries, and cases concerning the dissolution of political parties violating the Constitution. The judiciary of Chinese Taipei has three levels: district courts and their branches that hear civil and criminal cases in the first instance; high courts and their branches at the intermediate level that hear appeals against judgments of district courts or their branches; and the Supreme Court at the highest appellate level, which reviews judgments by lower courts for compliance with pertinent laws or regulations. Issues of fact are decided in the first and second levels, while only issues of law are considered by the Supreme Court. However, there are exceptions to this system. Criminal cases relating to rebellion, treason, and offenses against friendly relations with foreign states are handled by high courts, as the court of first instance; and appeals may be filed with the Supreme Court.

For matching the judiciary system, the procuratorial organ in Chinese Taipei also has three levels. The first level is the Prosecutor's Office of Supreme Court. The intermediate level are the prosecutor's offices of high courts and their branches, and the third level are the prosecutor's offices of district courts. Based on the principle of the unity of the procuratorial organ, the attorney general of the Supreme Court directs and supervises all the prosecutors from different level of prosecutor's offices to investigate criminal activities, carry out public prosecution, assist private prosecution, command the execution of criminal punishment and execute other functions which vested by laws and decrees.

In recent years, the global economic situation has been sustained to grow stably under the driving momentum from the economic recovery of U.S. and Asia which is beneficial to the performance of Chinese Taipei's domestic economy. Moreover, Chinese Taipei has been speeding up various public constructions. It is expectable that the domestic economy will be continually maintained to spread stably. The annual growth of economy still reached 4.03% in 2005 due to the strong growth of external trade, the remarkable achievements of exports. The situation of employment has been improving and the unemployment rate is obviously descending. Concerning the finance and prices of commodities, the money on capital market is sufficient, the valuation of NTD is slightly appreciating and consumer prices remained stable, however, with an index recording a slight increase of 2.3%.

Major Economic Indicators

Item	*Unit*	*2002*	*2003*	*2004*	*2005*
Economic growth rate (real GDP increase)	%	4.25	3.43	6.07	4.03
Gross national product (GNP)	US$ billion	301.8	309.3	333.4	355.4
Per capita GNP	US$	13,476	13,752	14,770	15,690
Changes in consumer price index (CPI)	%	-0.20	-0.28	1.62	2.30
Exchange rate (average)	NT$ per US$	34.58	34.42	33.43	32.18
Unemployment rate	%	5.17	4.99	4.44	4.13
Foreign exchange reserves (year end)	US$ billion	161.7	206.6	241.7	253.3
*Preliminary figures					
Source: Directorate-General of Budget, Accounting and Statistics, CBC					

Chinese Taipei is the world's 16th largest economy and 15th largest trading nation and it has the third largest foreign exchange reserves in the world. The

economic profile of 2005 is listed as following, GDP: US$346.4 billion; GNP: US$355.4 billion; Per Capita GNP: US$15,690; Per Capita GDP: US$15,291; Economic Growth Rate: 4.03%; Natural Resources: Small deposits of coal, natural gas, limestone, marble, and asbestos; Agriculture: 1.7% of GDP; Industry: 24.9% of GDP; Manufacturing: 21.04% of GDP; Service: 73.33% of GDP. The service sector consists chiefly of wholesale and retail (18.27% of GDP), finance and insurance (10.72%), as well as real estate and leasing (8.31%). The total trade volume is US$381 billion which including exports US$198.4 billion and imports US$182.6 billion. The major export markets include China (21.99%), Hong Kong (17.15%), United States (14.67%), Japan (7.62%), Singapore (4.05%), and the major import countries include Japan (25.22%), United States (11.59%), China (11.0%), Korea (7.25%) and Germany (3.38%). The approved inward/outward investment is US$4.22 billion/ US$2.45 billion. The foreign exchange reserves isUS$253.29 billion.

1.2 General Situation of Money Laundering and Financing of Terrorism

（Information source: MJIB, MLPC, CIB）

Money Laundering Control Act (MLCA) is the dedicated law on AML in Chinese Taipei. According Article 3 of the MLCA, the so called “serious crimes”, predicate crimes of money laundering, include the crimes of which the minimum punishment is 5 years or more imprisonment and some specific listed crimes. The serious crimes can be classified into 5 major categories of economic crimes, corruption, drug related crimes, racketeering and others.

Shown from the statistic of past few years prosecuted cases, the money laundering threads from serious crimes are orderly listed as follow (from serious to light level): economic crimes, corruption, drug related crimes, racketeering and others. Taking the statistic of 2005 as an example, there are 1,173 prosecuted money laundering cases, which including 1,081 cases from economic crimes, 7 cases from corruption, 2 cases from drug related crimes, 2 cases from organized crimes and 78 from others. There are 1,678 suspects in total, about NT$ 7.7 billion (US$240 million) being laundered and NT$213 million (US$6.6 million) being seized.

In general speaking, there are many industries being used as money laundering channels and banking industry is the most common way. In 2005, there are 871 money laundering cases that the illegal proceeds were laundered through banks, 287 cases through postal offices, 6 cases through credit unions, 2 cases through Farmers’ & fishermen’s credit associates, 2 cases through securities companies and 5 cases through non financial industries (underground banking, real estate or precious stone stores).

The usually methods to launder money in this jurisdiction include cash couriers, structuring, purchasing portable valuable commodities, wire transfers, alternative remittance systems, using offshore shell companies/corporations, using offshore banks and offshore businesses, using family members or third parties, using foreign bank accounts and using false identification etc. The emerging trends of money laundering threads include utilizing new technological methods, cross border financial transactions and currency movement, and increasing of mule accounts. It has shown the new threads from the mentioned methods in many money laundering cases happened recent years.

From the statistics of analyzing STRs and CTRs and tracing illegal funds in many criminal cases, the MLPC, FIU of Taiwan, has found many non-profit organizations

might be abused to engage in illegal activities, including money laundering, breach of trust, embezzlement, tax evasion etc.

Shown from a lot of money laundering cases, most alternative remittance systems are operated by jewelry stores in the past and usually use couriers to move currency cross border for operating business. For reducing the money laundering thread from ARS, the Ministry of Justice has designated jewelry stores as being likely financial institutions on October 1, 2003. Pursuant to the provision of Paragraph 2, Article 5 of the MLCA, the provisions governing financial institutions set forth in the Act shall apply to all jewelry stores. Therefore, all jewelry stores are required to ascertain the identity of customers and keep the transaction records as evidence, and report CTR or STR to the MLPC for any currency transaction exceeding NTD$ 1 million or any financial transaction suspected to be a money laundering activity. In addition, the cross border currency movement declaration system is also in place. All passengers and crew of transportation vehicles carrying over USD$10,000 (or the equivalent in other foreign currencies) cross border should declare the amount to the Customs Service, and from September of 2003, the Customs Service began to forward the reports which the declared money exceeding NTD$1.5 million equivalence to the MLPC by electronic media per month. The forwarding threshold has been revoked from July 1, 2006 and then all the declared reports have to be forwarded to the MLPC.

Chinese Taipei deeply recognized the threads from terrorist activities especially after the event of September 11, 2001 terrorist attack in the United States. On October 9, 2001, the president presided, and the heads of related authorities attended, a project meeting for seeking combating measures. A series of plans on curbing terrorist activities immediately being taken, including legislation of combating terrorism, interruption of terrorism financing, enhancement of international cooperation, prevention of terrorist attack, compliance the requirements from international community and an office named “Anti-terrorism Action Control and Supervision Office” in charge of the coordination and project control has been established under the Executive Yuan.

Chinese Taipei has repeatedly certified its full support for the global counter-terrorism efforts, including compliance to various UN anti-terrorism conventions, resolutions and relevant agreements, standards from related international organizations.

For curbing the new threads from emerging trends of money laundering and complying with the new standards of international community on AML/CFT, Chinese Taipei passed the amendments of the MLCA in 2003 by adding clauses to allow the freezing and confiscating assets related to money laundering. The second time amendment was accomplished in May of 2006 for matching up with the amendments of Criminal Code that abolished the regulation of treating the offenders who make the commissions of an offense as occupation with committing a crime but heavier punishment and replaced with one criminal behavior one punishment. The new amendment of MLCA is undergoing. In addition, the drafted “Anti Terrorist Activities Act”, which still under legislation, also includes a clause of freezing and confiscating assets related to terrorist financing.

1.3 Overview of the Financial Sector and DNFBP

a. Overview of Chinese Taipei’s financial sector（Information source: FSC, MOJ, MOI,

MOEA, BOAF)

The financial sector has played an important role in the economic development of Chinese Taipei and accounts for an increasing share of the economy. In the past, Chinese Taipei does not have a single financial regulator; instead, there are different authorities to supervise the banking, insurance, futures and securities industries. Furthermore, on-site examinations of banks were carried out by three different agencies - the Central Bank, the Ministry of Finance and the Central Deposit Insurance Corporation. In order to integrate the supervisory authority of the financial industry and meet the need for a single financial regulator, the “Organic Act Governing the Establishment of the Financial Supervisory Commission, Executive Yuan” (hereafter referred to as the FSC Organic Act) was passed by the Legislative Yuan and promulgated by the President on July 23, 2003. The Financial Supervisory Commission (“FSC”) was set up on July 1, 2004 as a single financial regulator that consolidates the functions of monitoring and rule setting for the banking, securities, futures, and insurance industries. Pursuant to Article 2 of the FSC Organic Act, the FSC is in charge of the development, supervision, administration, and examination of the financial markets and financial service industry. The above-mentioned financial markets comprise the banking market, bills market, securities market, futures and derivatives market, insurance market, and clearance system; the financial service industry includes financial holding companies, the Financial Restructuring Fund, Central Deposit Insurance Corporation, the banking industry, securities industry, futures industry, insurance industry, electronic financial transactions, and other financial service industries. However, the Central Bank shall be the competent authority in charge of the financial payment system. In sum, the FSC is the competent authority in charge of laws and regulations governing the financial institutions and financial businesses of Chinese Taipei. In addition, the Agricultural Finance Act was officially implemented on 30th January 2004. The Bureau of Agricultural Finance (BOAF), COA, Executive Yuan, as prescribed in the "Organizational Act of the Bureau of Agricultural Finance, Council of Agriculture, Executive Yuan" was established on the same day. The BOAF shall be responsible for supervising agricultural finance institutions, planning and promoting agricultural loan in policy aid.

Financial sector in Taiwan mainly includes banking institutions, securities & futures institutions, insurance institutions and agricultural finance institutions.

(1) Banking industry:

As of the end of December 2005, Chinese Taipei had 45 domestic banks, 36 foreign bank branches, 29 credit cooperatives, 253 farmers' association credit departments, 25 fishermen's association credit departments, 2 trust investment companies, 14 bills finance companies, and 1 Postal Savings System of Chunghwa Post Co.. The financial sector had 5,853 branch units, more than 160,000 bank service employees, assets of NT$36,970.7 billion, deposits of NT$23,923.5 billion, loans of NT$17,198.4 billion, and an average NPL ratio of 2.19%.

The term "banking enterprise" includes banking institutions, credit cooperatives, bills finance companies, credit card companies, trust enterprises, the Postal Saving and Remittance Services of Chunghwa Post Co., and other businesses and institutions providing banking services.

(2) Securities & futures industry

Chinese Taipei defines "securities enterprise" and "futures enterprise" as follows:

— The term "securities enterprise" includes securities exchanges, OTC exchanges, securities firms, securities investment trust enterprises, securities finance enterprises, securities investment consulting enterprises, centralized securities depository enterprises, urban renewal investment trust enterprises, and other businesses and institutions providing securities services.

— The term "futures enterprises" includes futures exchanges, futures commission merchants, leveraged transaction firms, futures trust enterprises, futures consulting enterprises, and other businesses and institutions providing futures services.

(3) Insurance industry

As of the end of 2005, Chinese Taipei had 24 non-life insurance companies (15 domestic, 9 foreign; not include 2 reinsurance companies), with aggregate premium income of NT$118,502 million for the year; and 30 life insurance companies (21 domestic, 9 foreign), with aggregate premium income of NT$1,457,632 million for the year, and aggregate assets of NT$6,784,607 million.

The term "insurance enterprise" includes insurance companies, insurance cooperatives, insurance agents, insurance brokers, insurance surveyors, the simple life insurance business of Chunghwa Post Co., and other businesses and institutions providing insurance services.

b. Overview of designated non-financial businesses and professionals (DNFBPs)

1. **Casinos:** Chinese Taipei has no law to allow the operation of casino in the jurisdiction. According Article 268 of the Criminal Code, any person who furnishes a place to gamble or assembles persons to gamble for the purpose of gaining benefits shall be punished with not more than 3 years imprisonment; in addition thereto, a fine of not more than 3,000 *yuan* may be imposed.

2. Real estate agents:

(1) Land Administration Agent:

Land administration agent is a kind of professional occupation. Its major work is to represent clients to register the rights of real estate, and it is deeply concerned to the property rights of public. Based on the consideration of maintaining the security of real estate transactions and protecting the property rights of public, the Land Administration Agent Act regulates all land administration agents have to be qualified of professional knowledge and operate business based on sincerity and honesty. According to the Act, all land administration agents have to pass the qualification examination, own the certificate of land administration agent, get business operation license and join the membership of the Association of Land Administration Agent before its business operation. Since September 1, 1990 till the end of January 2006, there are 25,579 persons who have passed the qualification examination and received the certificate, and there are 16,411 persons who own the business operation license.

(2) Real Estate Broking Agency:

According to the regulations of the Real Estate Broking Management Act, all real estate broking agencies, including real estate intermediators and dealers, need to get license from authorities, register to set up company to operate business, and join the membership of local trade association before its business

operation. In addition, all real estate broking agencies are required to deposit a sum of money as business guarantee and have to employ a certain number of qualified real estate agents to operate the business. The employees of real estate broking agency can be classified into two categories: 1) real estate agents who have passed the national qualification examination; 2) business practicians who own the qualification of real estate agent or complete the professional training course and have registered /received certificate from authority. Up to the end of January 2006, the authorities have issued 5,602 certificates to real estate agents and 63,946 certificates to the business practicians.

According to the statistics from the real estate administration authorities which in charge of the registration of real restate transactions, the market scale of real estate is listed as follow:

i In 2001, there are 517,900 transactions of land and 259,494 transactions of housing.
ii In 2002, there are 654, 745 transactions of land and 320,285 transactions of housing.
iii In 2003, there are 639,550 transactions of land and 349,706 transactions of housing.
iv In 2004, there are 727,537 transactions of land and 418,187 transactions of housing.

The business of Land Administration Agent and Real Estate Broking Agency has been strictly regulated by laws and decrees and the specific mechanism of real estate registration that all real estate transactions have to register in this jurisdiction. The real estate business actually exposes comparatively low risks to the treads from ML/FT. (Information source: DLA)

3. **Precious metals and stones distributors (jewelry shops):**

Based on the verified historical biographies and excavated artifacts, during the Chinese Shang and Zhou Periods, ancient China had entered The Bronze and Metallurgy Age. At that time, people used gold and silver products as the currency for common trade. The skill of manufacturing gold and silver artifacts had been remarkable during Spring and Autumn period (770B.C.～476B.C.), and exquisite bronze weapons and personal ornaments were produced by that time. Meanwhile, jewelry and jade artifacts had been discovered. Business dealing in jewelry is ranked as the top 1 wealthy business to engage of all the various kinds of industries in ancient China.

Aug. 15, 1945, Japanese officials signed the act of unconditional surrender and Taiwan ended up being ruled by Japanese and returned to its own the reins of government. All the industries emerged prosperous and decorated the shops. The whole society and situation were in a state of chaos, the domestic price index was unstable and the price index of gold fluctuated according to the situation at that time due to the ending of the war. To stabilize the finance, the government once imposed an embargo on gold commerce. Till April 23, 1947, Executive Yuan issued the “Regulations for Jewelry Shops Permission” according to the Directive Lin-Zhon-Ren-Zi-No.1522. November 8, 1947, Taiwan Provincial began to comply with the directive and applied for the jewelry business license. On December 23, 1957, Provincial Government issued the directives to revoke the restrictions of the establishment of the jewelry shops. Since then Jewelry Shops and the silversmiths continuously applied for the jewelry business license.

The regulation for the management of supply and commerce of ornaments and precious metals was issued by the government on January 6, 1959 and the alloy of ornaments and precious metals was defined to be alloys 875. In the autumn of 1971, Taiwan withdrew from the UN and also encountered the international sudden shift in economy, therefore the price of gold in the black market was soared and it made the gold unmarketable. The situation was quite serious. During that period of time, the government accepted public opinion, raised the alloys of gold and implemented the policy of alloys 945 on October 12, 1971. The raw gold was supplied by the state-run Central Trust of China. The government announced that gold, gold bar, gold nuggets, gold ingots, gold slices and gold coins were duty-free on July 1, 1988. Since the cancellation of the import tax for gold and gold nuggets was officially conducted on August 9, 1989, all the foreign traders gathered in Taiwan and stimulated the gold market prosperously. It made Taiwan's gold market kept pace with Hong Kong and was regards as the two pioneers in East-Southern Asia. The government abolished the Martial Law in 1990 and announced to terminate the period of mobilization for the suppression of communist rebellion in the next year. The trading of gold was excluded from the Foreign Exchange Control Act since then and the regulation of managing gold import and trade was greatly modified. The goals of the regulation includes the following items: open the free-market for gold export, allow the banks to run the business of gold passbook and trade gold bars and gold nuggets, establish gold trade center and draft the relevant Regulations etc. When the Fair Trade Act came into force on February 4, 1992, The Executive Yuan approved to stop using the regulation of managing gold import and trade on April 30, 1992, and announced to abolish it on August 1, 1992.

Due to owning high confidentiality and based on the mutual benefits consideration, some jewelry shops are pleased to play the substitute of formal financial institutions to exchange large amount of money to foreign currency, precious metals and stones for customers. This situation has become a big challenge for law enforcement agencies on preventing money laundering and terrorism financing. (Information source: DOC)

4. **Lawyers, notaries and other independent legal professionals:** (Information source: MOJ)

Lawyers: In Chinese Taipei, attorneys play the role of non-governmental jurists who are charged with the responsibility for safeguarding human rights, ensuring social justice and promoting democracy and the rule of law. They should discipline themselves and fulfill their duties honestly so that they can contribute to law and order in society and the improvement of the legal system. This is provided for in Article 1 of the nation's Attorney Regulation Act. As soon as one passes the bar examinations and obtains an attorney certificate issued by the Ministry of Justice, he/she can engage in the practice of law as an attorney. An attorney must be a member of a Bar Association to enable him to the practice. Besides, he/she must apply for registration with the court. Before application for registration, he has to go through pre-service training. These are provided for in Article 7 and Paragraph 1 of Article 11 of the Attorney Regulation Act. Still, Paragraph 1 of Article 20 of the same law states: "An attorney may engage in the practice of law when so employed by a client or appropriated by a court." In this context, all things that belong to legal affairs are in the business scope of the nation's attorneys.

Notaries: Matters of notarization shall be within the exclusive jurisdiction of court

notary or civil notary as provided in Article 1, Paragraph 1 of the Notary Law. By the end of July 2006, the number is 47 for the court notaries, who perform their duties according to the Notary Law as well as those public servant personnel regulations and the number of the civil notaries is 178, which include 121 lawyer-notaries, who perform signatures and private writings authentication only, and 57 single-profession notaries, who perform all functions of a notary. The performance of a notary for the notarial affairs is governed by the Notary Law and related rules.

5. **Accountants:** Article 1 of the CPA Act provides that "a citizen of Chinese Taipei who has passed the CPA examination and holds a CPA certificate may practice as a CPA." And Article 9 of the same Act provides that "to file an application for registration, a CPA must have worked in the accounting field with a public or a private institution or as an assistant with a CPA firm, for at least two years." As of 31 December 2005, there were 2,398 practicing CPAs in Chinese Taipei. Article 15 of the CPA Act provides as follows: "A CPA may perform the following types of professional services within the area in which he is registered -- (1) To perform, upon assignment by government agencies or judicial authorities or engagement by a client, services with regard to planning, management, auditing, verification, arrangement, liquidation, appraisal, financial statement analysis, and evaluation of assets as may be required in connection with accounting. (2) To perform services with regards to examination and certification of financial reports. (3) To serve as an inspector, liquidator, bankruptcy administrator, or executor of a will, or in any other fiduciary capacity. (4) To serve as an agent in cases involving taxation. (5) To serve as an agent in cases in connection with registration of business firms or trademarks, and in other cases relevant to such registration. (6) To perform services regarding other accounting matters. (Information source: FSC)

6. **Trusts and company service providers:** The legal framework for Chinese Taipei's trust business is provided by the Trust Act (promulgated on 26 January 1996) and the Trust Enterprise Act (19 July 2000). Trust enterprises conducting a trust business are required to abide these two laws and related regulations. At this point in time, all trust business in Chinese Taipei is conducted by banks. As of 31 December 2005, Chinese Taipei had 54 trust enterprises, including 43 operated concurrently by domestic banks, and 11 concurrently operated by the Taiwan branches of foreign banks. The types of trust business operated by trust enterprises include money trusts, securities trusts, chattel trusts, and real estate trusts. As of 31 December 2005, the size of the trust market in Chinese Taipei was NT$2.86 trillion, with money trusts accounting for far and away the greatest share (NT$2.46 trillion). In addition, Chinese Taipei promulgated the Financial Asset Securitization Act on 24 July 2002 and the Real Estate Securitization Act on 23 July 2003 to provide a legislative framework for the securitization activities of trust enterprises. (Information source: DOC)

1.4 Overview of commercial laws and mechanisms governing legal persons and arrangements

A trust enterprise in Chinese Taipei is defined as an institution that has applied with and obtained permission from the competent authority, pursuant to the provisions of the Trust Enterprise Act, to conduct a trust business. It may be organized as a trust company, or conducted concurrently by a bank. All trust businesses in Chinese Taipei at this time are concurrently operated by banks. They are subject primarily to the Trust Act and the Trust Enterprise Act.

The Financial Asset Securitization Act provides that Chinese Taipei trust enterprises may engage in financial asset securitization by means of either a special purpose trust (SPT) or a special purpose company (SPC). All financial asset securitization in Chinese Taipei at this time is carried out by SPTs, with the SPT acting as trustee. No SPCs exist at this point.（Information source: FSC, MOI, MOJ, MOEA）

1.5 Overview of strategy to prevent money laundering and terrorist financing

a. AML/CFT Strategies and Priorities（Information source: MOJ, FSC ,CBC , MLPC, CIB）

i. What are the current control policies and objectives of your government for combating money laundering or terrorist financing? Describe which aspects of the anti-money laundering policies and/or programs have the highest priority? Why?

Article 1 of the MLCA stipulates “This Act is explicitly enacted to regulate unlawful money-laundering activities and to eradicate related serious crimes” and Article 1 of the Anti-terrorism Activities Bill stipulates “this Act is formulated to prevent and control terrorist acts, ensure national security, promote international cooperation against terrorism, and jointly maintain world peace”. Both of the laws have clearly described the objectives of Chinese Taipei government on AML/CFT.

Recognizing the threads of money laundering and terrorist financing to financial activities and economic growth and for complying with the requirement from international community, the government of Chinese Taipei spares no effort on AML/CFT. The highest priority policies of Chinese Taipei on AML/CFT include criminalization of money laundering and terrorist financing, freezing, seizing and confiscating the proceeds related to ML/FT, preventive measures taken by financial institutions and enhancement of international cooperation.

Based on the development of technology, ML/FT typologies continue to evolve on and go. Chinese Taipei has noticed this trends and actively to introduce new technology into its intelligent and law enforcement systems. In the past few years, the MLPC, FIU of Chinese Taipei, set up an integrated computer application system to assist analyzing financial transactions of ML/FT cases and related law enforcement agencies also established various kinds of criminal databases that have effectively led to the success on combating money laundering, terrorist financing and other associated criminal activities in this jurisdiction.

On the view of financial supervision, The FSC has required that transactions involving a party that has been named by a foreign government as a terrorist or terrorist organization must be treated by financial institutions as suspicious transactions of money laundering. Financial institutions are required to report such transactions to the designated organization, the MLPC, as required by the MLCA.

The National Police Administration (NPA), Ministry of the Interior enforces the Government’s policies for combating money laundering as set out in the “Major Objectives for Prevention of Money Laundering by the Police Administration”. Under these guidelines, the relevant police units currently focus on “investigating crimes leading to money laundering”, “strictly monitoring criminal organizations and preventing whitewashing of criminal proceeds”, “establishing investigation units dedicated to economic crimes”, “raiding underground money lenders and eliminating

underground money exchange channels", "preventing the opening of money laundering accounts with forged IDs", and "holding professional training programs for investigation of money laundering and predicate offenses". Other major strategies and objectives also include "investigation and prosecution of money laundering crimes by drug selling organizations", "strictly monitoring terrorist activities and preventing raising of funds for such activities", "actively participating in international cooperation for money laundering intelligence", and "enhancing professional expertise of police authorities in investigating money laundering crimes".

Chinese Taipei will put the following programs into the recent priorities on AML/CFT:

- Legislation: pushing new amendment of MLCA and promoting the legislation of Counter Terrorism Act.
- Preventive measures of financial institutions: promoting the knowledge of financial institutions' employees on compliance with the laws, regulations, detecting abnormal financial transactions related to ML/FT; reporting STRs and CTRs to MLPC in time; enhancing the concepts and practical measures of Customer Due Diligence.
- Reinforcing law enforcement on ML/FT cases: law enforcement agencies including MJIB and CIB will take the probes of ML/FT cases as one of working priorities in the future, especially the emerging trends of underground banking and remittance, identity theft, front/mule banking accounts and the associated criminal activities. In addition, the capability building of law enforcement agents on detection ML/FT cases will also a working priority.
- International cooperation: actively participating in the related international meetings and events, signing bilateral MOU or Agreement of information exchange or mutual legal assistance on AML/CFT.

ii. Have you measured the effectiveness of your policies and programs? If so, describe how this was done, and what the results are.

Effectiveness is the best method to present and measure the results of the policies and programs on AML/CFT. Beginning from the inception of MLPC, the Center has published "Anti-Money Laundering Annual Report" every year which collects statistics of effectiveness of various measures being taken on AML/CFT in this jurisdiction and also contains some strategies & projects research papers, case studies. Referring to the performance statistics of past four years, please see the description of 1.6.

After the legislation of the Counter Terrorism Act is completed, an effective mechanism will be established under the integration of the Executive Yuan to make comprehensive evaluations on policy goals and achievements on countering terrorism financing.

The FSC has incorporated the implementation of anti-money laundering and combating terrorism financing among the items to be checked in financial examinations and conducts on-site financial examinations on a regular basis. Any irregularities discovered from the financial examinations will be incorporated into the examination opinion. In addition to taking action in a manner commensurate with the

seriousness of the circumstance as required by law, the FSC will prod the examinees to take corrective actions toward the designated irregularities in order to improve the business soundness of financial institutions.

The NPA conducts timely evaluations and analyses of the types of major economic crimes, predicate crimes of money laundering and the money laundering channels in accordance with the "Major Objectives for Prevention of Money Laundering by the Police Administration". These results are raised at the relevant inter-departmental meetings and conferences for discussion, so as to evaluate and revise the related plans, and to formulate principal strategies and objectives. （Information source: MOJ, FSC, CBC, MLPC, CIB）

iii. Describe any new initiatives that your government is planning for combating money laundering or terrorist financing?

1) **Pushing the amendment of MLCA:** The anti money laundering law in Chinese Taipei promulgated on 1997 and experienced the first time amendment in 2003. The second time amendment was accomplished in May 2006. The Act is undergoing the third time amendment and the drafted scope of amendment including:
   a. To revise the scope of the so called serious crimes, the predicate crimes of money laundering.
   b. To add in some new Articles for establishing an integrated international cooperation mechanism on AML/CFT.
   c. To legislate the declared information of cross border currency movement being forwarded to MLPC and expand the declaration scope to bearer financial instruments.
   d. To prolong the period of freezing the proceeds of money laundering from 6 months to 1 year.

2) **Promoting the legislation of Counter Terrorism Act:** Although Chinese Taipei is not a member of the United Nations at present, there is no effort spared in maintaining the peace of international community. To be a member of the global village, no country is exempted from the responsibilities of complying with the requirements set forth by the international community on combating terrorist activities. It is necessary to establish an integrated legal system, and this is the rationale to push the legislation of anti-terrorism in this country. Article 2 of the Bill clearly defines the so called terrorists as people who perpetrate any terrorist act or join or finance any terrorist organization. Any individual who finances terrorist organization will be regarded as terrorist and has to face criminal sanction, which is in line with the requirements of international standards on criminalization of terrorism financing.

3) **Setting up unified command and coordination mechanism:** The "Anti Terrorism Activities Control and Command Office" has been established under the Executive Yuan for coordinating the National Security Bureau, the Ministry of Defense, the Ministry of Justice, the Financial Supervisory Commission, Ministry of the Interior and integrating the resources from the above mentioned departments. Moreover, the NPA has formed "Counter-Terrorism Response Program" and anti-money laundering prevention has been included in the chapter of the "Operation Program of Criminal Investigation Taskforce", so as to

prevent terrorist organizations from funding their activities through money-laundering.

4) **Promoting the legislation of Undercover Investigation:** The draft of Undercover Investigation Act has been submitted to the Executive Yuan for further review and it will be transferred to the Legislative Yuen for completing the legislation in the near future. After the Act comes into force, it will provide the legal basis for undercover investigation and it will be helpful to detect concealed and organized crimes and protect the rights and benefits of undercover investigators.

5) **Reinforcing the probes on underground remittance cases:** The law enforcement agencies in Chinese Taipei always regard the enforcement on underground remittance cases as a key work on combating economic crimes and has received fruitful results. The Investigation Bureau has broken 29 underground remittance cases counted from 2002(8 cases), 2003(7 cases), 2004(7 cases) and 2005(7 cases) in total, which illegally engaging in foreign exchange and remittance business without getting license from government. For continuing the action to combat underground remittance, the MLPC raised a proposal named "strengthening detection underground remittance for interrupting the money laundering channel" in the 105th meeting of the "Economic Crime Prevention Forum" held in the April of 2006. The proposal has suggested the following initiatives would be considered in the future for interrupting the money laundering channel:
   a. Guiding related financial constitutions to provide a speedy, convenient and low cost remittance service for attracting customers to use the regulated financial constitutions to transact foreign exchange and remittance that can partly compress the existing space of underground remittance businesses.
   b. Pleading prosecutor's offices and law enforcement agencies to reinforce detection on illegal activities of foreign exchange, remittance and money laundering.
   c. Requiring prosecutor's offices and courts to speed up the process of prosecution and adjudication and consider heavier punishment for interrupting the related crimes.
   d. Assisting financial institutions to recognize the financial transaction characters of underground remittance businesses utilizing regulated financial institutions to operate their business and promptly file STR to the MLPC when any financial transaction match the suspicious indicators. The MLPC has published the "Preventing Underground Remittance Guidance for Banks" in May 2006 that clearly describe the background, threads, criminal responsibilities, operating profile, financial transaction indicators of underground remittance and case study. The guidance has been delivered to related financial institutions for reference.

6) **Assisting financial institutions to establish an integrated mechanism of money laundering prevention:** The financial supervisory authorities and the MLPC shall continuously to undertake proper measures including the improvement of financial supervision, publication of related guidance and education to the employee of financial institutions for strengthening the recognition and implementation of the related laws and regulations about CDD,

STR and CTR.

7) **Pushing international cooperation:** In addition to actively participate in the activities held by the APG and the Egmont Group for implementing the member's responsibilities, Chinese Taipei will positively seek any opportunity to sign mutual legal assistance treaty, agreement or MOU with foreign counterparts based on the principles of equality and reciprocity.（Information source: MOJ, FSC, CBC, MLPC, CIB）

b. The institutional framework for combating money laundering and terrorist financing

- ***Ministry***

The Ministry of Justice (MOJ): is the central competent authority of the legislation of MLCA and in charge of the formulation of policies and affairs regarding mutual legal assistance with other nations on AML/CFT, and is also the competent organization of judicial administration, including the administrative affairs of all prosecutors' offices in this jurisdiction. With these, the MOJ can carry down the line criminal investigations under the criminal judicial system. Currently, the MLPC under the Ministry's Investigation Bureau also acts as the nation's FIU, which is in charge of the collection and analysis of domestic financial intelligence and information exchange with other nations' counterparts.（Information source: MOJ）

The Ministry of Finance (MOF): MOF is responsible to draw up the strategies on establishing cross border currency movement declaration mechanism and supervise the effectiveness of implementation.（Information source: Directorate of Customers）

The Ministry of Foreign Affairs (MOFA): MOFA plays an important role in coordination with the international community on AML/CFT, especially by promoting such mechanisms to sign MOUs or other agreements with its counterparts in other countries. It also assists domestic authorities and private institutions to join international organizations and attend relevant activities and meetings on anti-money laundering crimes.（Information source: MOFA）

Ministry of the Interior (MOI): MOI is responsible to draw up the developing strategies on AML/CFT and supervise the operations of NPO (the Department of Social Affairs and the Department of Civil Affairs) and Real Estate Agents (the Department of Land Administration).（Information source: MOI）

- ***Criminal Justice and Operational Agents***

District Prosecutors' Offices: The prosecutorial offices under the Ministry of Justice include the Supreme Prosecutors Office (which commands the prosecutorial affairs of all prosecutors offices in the nation), the Taiwan High Prosecutors Office (which has four branch offices and 19 district prosecutors offices), the Kinmen Branch of Fujian High Prosecutors Office (which oversees the Kinmen District Prosecutors Office and the Lienchiang Prosecutors Office). There are a total of more than 1,000 prosecutors, in charge of field criminal investigations, indictments and execution of criminal penalties in accordance with the Criminal Procedure Code and the Organic Law of Courts.（Information source: MOJ）

Investigation Bureau: is one of the major law enforcement agencies in Chinese Taipei and is responsible for the investigation on violations against national security and interests, and matters concerning internal security. Its functions include following nine items that cover crime-prevention and investigation: 1) Sedition; 2) Treason; 3) Unauthorized disclosure of national secrets; 4) Corruption and bribery during election; 5) Drug trafficking; 6) Organized crime; 7) Major economic crime and money laundering; 8) National security; 9) Other matters relating to national security and interests, specifically assigned by superior government authorities.（Information source: MJIB）

State and local police forces: In accordance with Articles 4 and 9 of the "Criminal Investigation Bureau Organization Act", the Criminal Investigation Bureau of the NPA has established various responsible departments including the "Criminal Investigation Affairs Section", the "International Criminal Affairs Section", the "Interpol Radio Station", the "Electronic Monitoring and Surveillance Center" and the "Investigation Brigade". The "Crime Investigation Affairs Section" is responsible for prevention of money laundering, and cooperates with other relevant governmental authorities in handling prevention of money laundering, and detecting economic crimes such as underground money exchange and lending. The International Criminal Affairs Section is responsible for cooperating with the counterparts of other countries for investigating transnational crimes. Criminal police liaison officers have also been deployed in the Philippines, Thailand and Vietnam, with the expectation of creating an international law enforcement network through cross-border cooperation. The "Interpol Radio Station" maintains contact with the headquarters of Interpol through ARQ and X400 with over 10,000 electronic messages a year, so as to obtain prompt intelligence about international crimes, and the Station also provides the greatest assistance and cooperation possible regarding "prevention of money laundering and terrorist financing". The police units may apply to a public prosecutor for the "Electronic Monitoring and Surveillance Center" to undertake monitoring of communications involved in "serious crimes punishable by a minimum of 3 years imprisonment", and other crimes endangering national security or social order. The relevant telecommunication businesses and postal authorities are also obligated to assist with such monitoring and surveillance; therefore their systems must be equipped with monitoring and surveillance abilities, which should enter into effect when the system begins operating. These are highly effective in investigating and prosecuting "prevention of money laundering and terrorist financing cases". In order to quickly crack down on relevant crimes, "the 7th Investigation Brigade" is specifically designated for investigation of economic crimes.（Information source: CIB）

Directorate General of Customs: is the border control agency with four Customs Offices separately located in the harbor or airport of Keelung, Taipei, Taichung and Kaohsiung, and is responsible to receive and examine the declarations from passengers carrying foreign currency cross border, to implement the confiscation of false or failing declaration, to key in the declaration records into computer data base, to forward the declaration records which exceed the threshold of NTD $1.5 million equivalence to the MLPC per month. The threshold of forwarding declaration records has been revoked. Since July 1, 2006, all declaration records have to be forwarded to the MLPC.（Information source: Directorate General of Customs）

Money Laundering Prevention Center (MLPC): MLPC, which affiliated to the

Investigation Bureau, was established to operate its functions in 1997. It performs the role of FIU in Chinese Taipei and its main functions include: 1) Researching AML/CFT strategies; 2) Receiving STRs, CTRs and cross border currency movement declaration reports; 3) Analyzing and disseminating ML/FT information; 4) Supporting authorities to investigate ML/FT cases and coordinating related matters; 5) International cooperation on ML/FT information exchange and related matters; 6) Creating and Maintaining ML/FT computer database.（Information source: MLPC）

- ***Financial sector bodies - government***

Financial Supervisory Commission: To achieve the objective of integrated financial supervision, Chinese Taipei on 1 July 2004 established the Financial Supervisory Commission (FSC) as the competent authority for development, monitoring, regulation, and examination of financial markets and financial service enterprises. The FSC provides guidance to banks, securities firms, insurers, and other financial institutions and helps them properly abide by the MLCA. To keep abreast of the measures that financial institutions have adopted to comply with the MLCA, and to track the effectiveness of such measures, the FSC regularly dispatches personnel to conduct on-site financial examinations. Where legal infractions are discovered, the FSC will impose administrative fines in accordance with the provisions of the MLCA.（**Information source: FSC**）

Central Bank: The primary operating objectives of the Central Bank of China (CBC) include: to promote financial stability; to guide sound banking operations; to maintain the stability of the internal and external value of the currency, and to foster economic development within the scope of the above objectives. After the establishment of FSC on July 1, 2004, the CBC no longer supervises or regulates any individual financial institutions regarding anti-money laundering and combating terrorism financing.（Information source: CBC）

The Ministry of Economic Affairs (MOEA): is the supervisory authority of precious metals and stones distributors and in charge of the strategic planning, implementation and monitoring the effectiveness on AML/CFT.（Information source: DOC）

The Bureau of Agricultural Finance (BOAF): is responsible for supervising agricultural finance institutions, planning and promoting agricultural loan in policy aid. The core value of BOAF is to construct a complete, safe and autonomous agricultural finance system and the priorities include establishing Agricultural Bank of Taiwan, supporting the operation of credit departments of Farmers' and Fishermen's Associations, improving supervisory and inspection systems for agricultural finance, constructing a statistical database and information networks for agricultural finance, improving information disclosure and transparency of agricultural finance, raising capability of professionals in agricultural finance and promoting management performance of agricultural finance institutions.（Information source: BOAF）

- ***Financial sector bodies - associations***

Bankers Association: The Bankers Association was established in 1983. Its articles of incorporation state that the Association's purpose is to help the government promote its financial policies, spur economic development, coordinate relations between banks,

and promote the common interests of all banks. The Bankers Association had 64 member institutions as of the end of 2005. As required under Article 6 of the MLCA, the Bankers Association has issued a “Checklist of Money Laundering Prevention Guidelines and Procedures for Banks”, which member institutions are to use as a basis for formulating their internal AML rules. Such rules are implemented upon approval by the institution's board of directors, and are also reported to the FSC for recordation; the same applies to any amendments.（Information source: FSC）

Credit Cooperative Union: The Credit Cooperative Union was established in July 1982 with the approval of the Ministry of Finance as a non-profit organization to provide services to credit cooperatives. Its main purpose is to safeguard the rights and interests of its members and guide them in their efforts to develop their business. All credit cooperatives in Chinese Taipei are currently members of the Credit Cooperative Union. As credit cooperatives are financial institutions, they are required to abide by the applicable provisions of the MLCA and adopt their money laundering prevention guidelines and procedures, i.e. the checklist. The checklist has to be submitted to the board of directors for approval prior to implementation and report it to the FSC for recordation; the same applies to any amendments.（Information source: FSC）

Agriculture Training Association: The missions of the Association are to train the cadre members of farmer’s groups for promoting professional knowledge, enthusiasm of work, business service, research and development, sound organization, rural development and public benefits. The Association has taken many measures on AML/CFT including establishing a “Checklist of Money Laundering Prevention Guidelines and Procedures” for its members to develop their own money laundering prevention guidelines. In addition, the Association organizes “Money Laundering Prevention Seminar” for its members and has held 5 times since 1999 to the end of April, 2006. （Information source: BOAF）

Securities Investment Trust& Consulting Association: As required under Article 6 of the MLCA, the Securities Investment Trust & Consulting Association (SITCA) has adopted a “Checklist of Money Laundering Prevention Guidelines and Procedures for Securities Investment Trust Enterprises and Securities Investment Consulting Enterprises", which SITCA members are to use as a basis for formulating their internal AML rules.（Information source: FSC）

Trust Association: The Trust Association was established on 7 March 2001 for the primary purposes of educating the public about the basic concept of trusts, safeguarding the rights and interests of trust settlors and beneficiaries, coordinating relationships between Association members, and promoting the common interests of all trusts. The Association supports government policymaking by studying and formulating regulations and related measures pertaining to trust business, and it also handles matters relating to audits of its members' financial and business activities. In the area of anti-money laundering, the Trust Association has adopted a "Checklist of Money Laundering Prevention Guidelines and Procedures for Trust Enterprises”. Because all trust enterprises in Chinese Taipei at this point are concurrently operated by banks, the Trust Association formulated its checklist with reference to the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks”. The checklist for trust enterprises sets forth account opening requirements and AML internal control mechanisms, requires trusts to periodically organize or arrange employees to take part

in on-the-job AML/CFT training, and provides rewards to employees who make notable contributions in the fight against money laundering and terrorism financing.（Information source: FSC）

Taiwan Securities Association: In order to help monitor the implementation of AML rules, the Taiwan Securities Association adopts a "Checklist of Money Laundering Prevention Guidelines and Procedures for Securities Firms" which requires members to (1) incorporate AML measures into their procedures for the handling of securities-related matters (account opening, transactions, settlement); (2) set forth AML internal control procedures; (3) to hold or arrange for their employees to attend an annual AML-related training course or lecture; and (4) appoint assistant general managers (or personnel of equivalent rank) who have attended AML training to take charge of AML work.（Information source: FSC）

Taiwan Futures Association: As required under Article 6 of the MLCA, the Chinese National Futures Association (CNFA) has adopted a "Checklist of Money Laundering Prevention Guidelines and Procedures for Futures Commission Merchants", which CNFA members are to use as a basis for formulating their internal AML rules.（Information source: FSC）

Life Insurance Association: The Taipei Life Insurance Association was established on May16, 1964. Following an amendment to the Commercial Group Act on November 10, 1997, the Association set about reorganizing itself, and as a result was renamed the Life Insurance Association of the Republic of China on September 10, 1998. As required under Article 6 of the MLCA, the Life Insurance Association has issued a "Checklist of Money Laundering Prevention Guidelines and Procedures for Life Insurance Companies", which member institutions are to use as a basis for formulating their internal AML rules. The checklist has to be submitted to the board of directors for approval prior to implementation and report it to the FSC for recordation; the same applies to any amendments.

Non-Life Insurance Association: The Taipei Non-life Insurance Association was established in August, 1964. Following an amendment to the Commercial Group Act on November 10, 1997, the Association set about reorganizing itself, and as a result was renamed the Non-life Insurance Association of the Republic of China on June 17, 1998. As required under Article 6 of the MLCA, the Non-Life Insurance Association has issued a "Checklist of Money Laundering Prevention Guidelines and Procedures for Non-Life Insurance Companies". The member institutions are to use as a basis for formulating their internal AML rules. The checklist has to be submitted to the board of directors for approval prior to implementation and report it to the FSC for recordation; the same applies to any amendments.（Information source: FSC）

- ***DNFBP and other matters***

Bar Association:

1. Paragraph 1 of Article 11 of the Attorney Regulation Act stipulates that an attorney at law is not entitled to practice until he/she has become a member of a bar association. Therefore, bar association is an essential organization by law for attorneys to practice business, and all bar associations have to meet the legal

requirements. In this jurisdiction, there are two forms of the associations, including national bar association and county/city (local) bar association.

2. A national bar association can be established in compliance with Paragraph 3 of the same Article. The national bar association has to be initiated by at least seven local bar associations and as concurred in by a majority of votes in all bar associations. In this context, the members of the national bar association are those county/city bar associations. At present, there is a national bar association named Taiwan Bar Association.

3. As for the establishment of a county/city (local) bar association, Paragraph 2 of the same article states that when the registered number of attorneys in any district court exceeds 15, the attorneys shall be required to form a bar association within the geographical jurisdiction of the district court. If the number of registered attorneys in any district court is less than 15 members, those attorneys should join the existing bar association in the district closest to them or form a multi-district bar association in cooperation with attorneys from a contiguous district. At present, there are 16 local bar associations in this jurisdiction.（Information source: MOJ）

Certified Public Accountants Association: If a CPA engages in improper conduct, violates or neglects his professional duties, is sentenced to punishment for a criminal offense, receives administrative sanction for a legal infraction that is serious enough to affect the CPA's reputation, or otherwise violates any provision of the CPA Act, Articles 17, 39, and 41 of the CPA Act empower the Certified Public Accountants Association to report the pertinent facts and evidence to the local competent authority, which must refer the case to the central competent authority, i.e. the FSC, for disciplinary action against the CPA named.（**Information source: FSC**）

Real Estate related Associations:

Associations of Land Administration Agent: there are two different levels of the associations including local level and national level. At present, the local level has 22 associations which are scattered in various municipalities, counties and cites and there is a national association called Association of Land Administration Agent of R.O.C. According to the regulations of Land Administration Agent Act, all land administration agents have to join one of the local associations before beginning the business. For respecting the autonomy of associations, the Association of Land Administration Agent is vested the power to establish the Ethic Guidance of Land Administration Agent. Any member of the associations violates the Ethic Guidance or the Terms of Reference of Association will be punished from oral warning to suspend the operation of business depending on the consequence of the violation.

Associations of Real Estate Broking agencies: According to the regulations of the Real Estate Broking Management Act, the real estate intermediators and dealers can separately organize their own local associations and a national association. The real estate intermediators have established 21 associations at local level and there is a national association. The real estate dealers have established 11 associations at local level and no national association. For fully implementing the autonomy of associations and following the regulations of the Act, all real estate broking agencies should join the local association of the business entity location and comply with the Ethic Guidance which is established by the national association and approved by the national authority.

All these measures are aimed to guide the norms of business operation, keep the transparency and credibility of transactions and maintain the discipline of market. Any member of the associations violates the Ethic Guidance shall be punished according to related laws and regulations.（Information source: DLA）

Jewelry Shops related Association: The number of jewelry shops in Taiwan is very large and all the individual dealers run their business in various ways. Due to there has not an exclusive competent authority in charge of supervising the business operation of jewelry shops, only the Department of Commerce, Ministry of Economic Affairs and local governments are respectively in charge of the registration and the management. Moreover, there is no decree to regulate the business to act as banks to require customers to open accounts for getting related information before conducting transactions. At present, although jewelry shops are unable to ascertain customer's identity and keep transaction records as evidence, and report STRs and CTRs to the designated authority, the local jewelry associations have required members to actively cooperate with law enforcement agencies to investigate crimes and take proper measures on AML/CFT including law compliance training. Jewelry associations are legal persons which are established according to the regulations of the Business Group Act, Enforcement Rules of Business Group Act and other relevant laws in order to promote the modernization of commerce and service industry to couple with overall economic development, coordinate the confrere relationship and increase the common interests. In addition to coordinating the business development of confrere, jewelry associations also have the function for correcting improper behaviors and assisting government to implement decrees. Businesses dealing in jewelry including manufacture and trade of all kinds of jewelry and stones have to joint the local jewelry association in one month after initiating the business. Jewelry associations are organizations managed by the jewelry shops and play good roles on regulating member's behaviors and assisting government to implement decrees. Besides promoting internal business, Jewelry associations also provide consulting services in connection with the administrative business for members and service members, and act as a bridge between government and jewelry industry. Moreover, when the industry has difficulty in running business, jewelry associations will gather all the suggestions and feed back to government to take proper measures.（Information source: DOC）

c. Overview of policies and procedures

The overview should describe the authorities' overall philosophy towards a risk-based approach (e.g. does it form an integral part of its regulatory framework?), and should indicate how the relevant risk assessments are undertaken to help determine the policy and its practical application. Finally, there should be a description of the mechanism by which any permitted variations from the generally applicable standards are promulgated, and what arrangements, if any, are in place to monitor the continuing suitability of the exceptions.

The measures and priorities taken on AML/CFT are based on the considerations of identified risks. From the legislation of MLCA, it can be identified that the three main strategies of Chinese Taipei on AML/CFT include criminalization of ML and FT, preventive measures taken by the so called financial institutions for avoiding from being used as ML/FT channels and enhancement of international cooperation. According Article 6 of the MLCA, every financial institution has to establish compliance guidance based on the threads of ML/FT and summit it to the FSC and the business supervisory authority for

recordation. In addition, Article 7 and Article 8 of the MLCA require the FSC to coordinate with the Ministry of Justice, the Central Bank and Ministry of the Interior for establishing the authorized regulations about verifying the identification of customer, keeping records of transaction and reporting CTRs and STRs. There are some exceptions in the authorized regulations that permit financial institutions to exempt from reporting CTRs under certain patterns of currency transactions which expose almost no risk to ML/FT and the exemption will be reviewed by the MLPC every year according the requests from financial institutions.

At the strategic level on AML/CFT, there is a specific forum called "Public Security Coordination Forum" which is organized by the Executive Yuan and directly hosted by the Premier. In the forum, the Ministers from relevant Ministries and the CEO of law enforcement agencies will discuss the emerging criminal trends, typologies and the addressing methods including on AML/CFT. Then the authorities including judicial, law enforcement and financial supervisory agencies have to take measures for effectively implementing the strategies.

At operation level on AML/CFT, there is a specific forum called "Economic Crime Prevention Forum" which is organized by the Investigation Bureau and attended by the representatives from judicial, law enforcement, financial supervisory, immigration, international trade and intelligence agencies. In the forum, all operational problems on economic crimes and money laundering will be discussed and seek solutions as possible. （Information source: MLPC）

d. Progress since the last mutual evaluation or assessment

Where a country has undergone a previous mutual evaluation or detailed assessment, the country should summarize the key findings and/or recommendations that were made in the previous report (a copy of which should be made available to assessors), and set out the measures that the country had taken to address the recommendations in the period up to the date of the on-site visit or immediately thereafter.

The first mutual evaluation report of Chinese Taipei (of May 2001) listed some recommendations as following.

- **Money Laundering Control Act and related matters（Information source: MOJ）**

The MLCA could be enhanced by clearly stating what criminal intent is necessary to violate the law.

The definitions of "money laundering" has been redefined in the new MLCA, amended in 2003, as "knowingly disguises or conceals the property or property interests obtained from a serious crime committed by themselves or knowingly conceals, accepts, transports, stores, intentionally buys, or acts as a broker to manage the property or property interests obtained from a serious crime committed by others."

Authorities should consider including statutory provisions for administrative, civil and criminal seizure and forfeiture of the proceeds and instrumentalities of money laundering with clearly defined rules of procedure, proof, duties of law enforcement, the prosecutor, and the courts.

The Criminal Procedure Code provides clear guidelines for seizures. In addition, §8-1, §12, §12-1of the new MLCA clearly define the procedures and duties of law

enforcement agencies, prosecutor offices and courts for freezing, seizing, confiscating and sharing the proceeds of crime related to money laundering.

Procedures for the transfer of title to the government upon confiscation should be addressed, along with consideration of the rights of innocent owners.

§38 of the Criminal Code clearly define the objects that can be confiscated in criminal cases. §12-1 of the MLCA stipulates the sharing regulations of confiscated assets. In terms of forfeiture procedure, §470.1 of the Criminal Procedure Code clearly define the confiscating orders can only be issued by prosecutors and the regulations for safeguarding the interest of bona fide third parties can be found in §801 and §948 of the Civil Code.

Consideration should be given to the creation of an "assets forfeiture fund" into which confiscated funds are deposited, and to restrict the funds to certain uses, such as for law enforcement.

According to the Budget Law, there is no legal basis to establish such assets forfeiture fund. Nevertheless, §12-1 of the MLCA provides similar functions by stipulating that the property or property interests confiscated, other than cash, investment securities or negotiable instruments, may be distributed by the MOJ to the prosecutor offices, the police departments, or other government agencies assisting the investigation of the money laundering activities for official use. The “Regulations Governing the Management, Delivery and Reasonable Uses of Property Confiscated for Being Used in an Offense.” has been stipulated by the MOJ and promulgated on July 28, 2004.

Provisions should be introduced which allow for the freezing of assets at the request of another jurisdiction, facilitate the confiscation of property subject to confiscation in another jurisdiction and enforce value-based confiscation order obtained in another jurisdiction. Laws or practices regarding the issue of sharing or receiving confiscated assets should be developed.

§12-1 of the new MLCA stipulates “The MOJ may distribute the confiscated property or property interests in whole or in part to a foreign government, foreign institution or international organization which enters a treaty or agreement in accordance with Article 14 of this Act to assist this government in confiscating the property or property interests obtained by an offender from his or her commission of a crime or crimes”. Chinese Taipei may appropriate all or part of the forfeited property to the requesting governments, agencies, or international organizations after the forfeiture, but it needs MLAT or MLAA as premise.

Article 8 of the MCLA, which allows for "tipping off" of the customer when a financial institution files a suspicious transaction report with the designated agency, is in clear breech of the spirit and letter of FATF Recommendation 17 and should be removed.

The “tipping off” clause had been abolished in the amended MLCA in 2003.

§9 of the Act (“…. the preceding provision does not apply to the representative of a legal person or a natural person who has made best efforts to prevent the commission of offence”) might provide a loophole for enterprises or employees to avoid criminal liabilities.

When the representative of a legal person or a natural person is the defendant in a case, and the said person claims best effort to oversee (its subordinates) or prevent

money laundering from happening. The court, upon reviewing the case, shall take into account all objective circumstances and determine the followings: (1) whether or not the defendant has exercised best effort to oversee (his subordinates) or prevent such crime; (2) whether or not the defendant was aware of the crime; and (3) whether or not the defendant had the criminal intention to commit such crime. In other words, the court cannot exempt the defendant from liabilities based solely on the defendants' claims. Moreover, as the revised Criminal Procedure Code requires criminal litigation proceedings to be adversary system, any evidence cannot be admissible in court without a cross-examination process by both parties and an approval by the judges presiding over the case.

The Act fails to provide a safe harbor from civil or criminal liability for financial institutions which file suspicious transactions reports in good faith. The Evaluation Team recommends that this be added to the legislation.

Paragraph 2 of Article 8 of the amended MLCA stipulates "The reporting financial institution will be discharged from its confidentiality obligation to the customer if the institution can provide proof that it was acting in good faith when reporting the suspect financial transaction to the designated authority in compliance with the preceding paragraph of this Article."

The Evaluation Team recognizes the societal reasons behind Article 10 of the MCLA, which provides for a reduction of sentence for money laundering involving blood and other relatives, but believes that this provision undercuts the effectiveness of the law.

The condition of "reduction of sentence" in Article 10 of the MLCA had been revised in 2003. Whether reducing the penalty of blood and other relatives as an accomplice in money laundering offence depends on judge's decision after considering the criminal intention, balancing of means and ends of the criminal activity, and related factors. In other words, a reduction of penalty is not applicable to every case.

§14 of the MLCA should be amended to spell out the procedures necessary to provide the mechanisms to make and receive mutual legal assistance requests and, in appropriate circumstances, to exchange information with law enforcement and regulatory authorities (see FATF Recommendations 33-35 and 37, 38, 39, 40).

§14 of the MLCA stipulates that the government, based on the principle of reciprocity, can sign treaties or other international written agreements with foreign governments, institutions or international organizations on AML/CFT, and the Law in Supporting Foreign Courts on Consigned Cases has detailed the procedures and needed documents for providing mutual legal assistance requests. In addition, Chinese Taipei signed MLAA with US in 2002, which also provide appropriate mechanism for both Parties making and receiving mutual legal assistance requests. It encourages the authorities to actively exchange information with counterparts from international community.

- **Co-ordination of Law Enforcement and Prosecution:** （**Information source: ※MOJ,MJIB,NPA,FSC**）

  In regarding to the cooperation mechanism combining financial intelligence agencies and financial institutions.

  The MOJ is the competent authority of the MLCA, whereas its Investigation Bureau acts as the Financial Intelligence Unit which is in charge of coordinating and

evaluating the operations of the law-enforcement agencies, financial supervisory agencies, and the Customs. To meet the standards proposed by the FATF and APG, the MOJ regularly calls the related government agencies into meetings to coordinate the operations on AML/CFT.

The MLPC maintains close cooperation with financial institutions through following measures: 1) hosting "Forum for Compliance Officers of banks"; 2) delivering the prints which published by the MLPC; 3) assisting financial institutions to educate employees to comply with the AML/CFT requirements; 4) maintaining an updated website for providing the newest information to financial institutions; 5) providing online consultations to financial institutions for AML/CFT compliance.

Law enforcement agencies should hold regular meetings to review whether cases that are currently under investigation involve money laundering activities and/or properties that may be subjected to forfeiture.

Article 12 of the MLCA stipulates "The property or property interests obtained from the commission of a crime by an offender violating the provisions set forth in Article 9 of this Act, other than that which should be returned to the injured party or bona fide party, shall be confiscated, regardless of whether the property or property interests belong to the offender or not. Whenever the above property or property interests can not be confiscated in whole or in part, the value thereof shall be indemnified either by demanding a payment from the offender or by offsetting such value with the property of the offender. The offender's property may be seized, if necessary, to protect the property or property interests obtained from the commission of a crime by an offender violating of the provisions set forth in Article 9 of this Act". In addition, there is a specific forum called "Economic Crime Prevention Forum" which is organized by the Investigation Bureau and attended by the representatives from judicial, law enforcement, financial supervisory, immigration, international trade and intelligence agencies. In the forum, all operational problems on economic crimes and money laundering will be discussed and seek solutions as possible including the review of investigation of money laundering activities and/or properties that may be subjected to forfeiture.

Law enforcement agencies, financial supervisory agencies, and bank unions shall review, on a regular basis, the latest money laundering prevention patterns and trends in neighboring countries and the world at large.

The MLPC has periodically held AML/CFT seminars which inviting scholars, judges, legislators, prosecutors, law enforcement agents, financial supervisors and private sector representatives to get together for researching the emerging trends of money laundering and terrorism financing and countering measures. In addition, the authorities and bank unions have offered a lot of training programs, seminars and workshops which invite speakers from other countries to deliver lectures on AML/CFT.

Utilizing coordination mechanism to build and strengthen Chinese Taipei's abilities to conduct investigation and crackdown on money laundering activities.

The Prosecutors' Office of the MOJ established the "Financial Crimes Investigation and Supervision Team" in November 2002 to assist District Prosecutors Offices, law enforcement agencies and financial supervisory agencies in their efforts to investigate major financial crimes and money laundering activities

related to such crimes.

In addition, for effective enforcement on combating financial crimes and maintaining financial market order, the FSC is working actively with the MOJ to establish an interagency communications mechanism. On 11 May 2005, for example, the resident prosecutors' office of MOJ at the FSC was set up for integrating the expertise from justice and finance on deterring financial crimes. Furthermore, the FSC also established a special investigation unit under the Examination Bureau, which is dedicated to investigate and collect evidences of financial crimes. When financial examinations reveal any possible criminal activity, the special investigation unit is on the ready to collect and preserve evidence. On March 16, 2005, the FSC and the Judicial Yuan established a Consulting Group for trials on major financial crime cases. The Consulting Group is composed of 12 financial professionals dispatched by the FSC to help judges examine account books, interpret financial statements, audit money flows, and process other relevant information.

- **Undercover Operations**（**Information source: ※MOJ**）

Legislative amendments that would provide the necessary authority to conduct undercover operations and controlled deliveries in money laundering matters should be introduced. Legislative immunity and plea agreements and the guidelines for the conduct of undercover operations including the use of controlled deliveries should also be considered.

In terms of undercover investigation mechanism, the Legislative Yuan of Chinese Taipei is still reviewing the draft proposals on criminal immunity and the assessment of undercover investigators. As to the legislation of controlled delivery, §32-1 of the Statute for Narcotics Hazard Control is the dedicated legislation for the operation, and the guideline called "Coordination and Operation Guideline for Detecting and Controlling Transnational Narcotics Cross-border Movement" has been stipulated on January 7, 2004 to provide the detailed guidance for authorities.

- **Underground Banking**（**Information source: ※FSC,CBC,MOJ,ECPC of MJIB,ECD of NPA,CIB**）

The governments should conduct thorough investigation on underground banking Activities because black market currency exchanges are still rampantly unabated.

According to the regulation of Article 29 of the Banking Act, unless otherwise provided by law, any organization other than a Bank shall not Accept Deposits, manage Trust Funds or public property under mandate or handle domestic or foreign remittances. Upon a violation of paragraph 1 of this Article, remedial action shall be taken by the Competent Authority or the competent authority in charge of the particular enterprise, together with the juridical police authority, and the case shall be referred to the court for action. If the organization concerned is a juridical person, the responsible person shall be jointly and severally liable for repayment of the relevant obligations.

The government has added jewelry stores, a type of business most frequently associated with black market currency exchange, into the category of financial institutions regulated by the amended MLCA (2003). Furthermore, as black market currency exchangers usually use couriers to carry foreign currencies cross border for

conducting business, starting from September 2003 and on a monthly basis, the Directorate General of Customs provides the declaration records of passengers carrying foreign currency exceed NT$1.5 million equivalence in a single trip in/out of the country to MLPC by using electronic files. The threshold of forwarding declaration records has been revoked. Since July 1, 2006, all declaration records have to be forwarded to the MLPC. Regulations governing the cross border currency transportation are as follows:

1. On 1 January 2003, the Central Bank set NT$60,000 as the maximum amount of passengers to carry in or out of the country.
2. On 21 March 2003, the Ministry of Finance regulated that passengers or members of transportation crews are required to make a customs declaration when carrying the equivalence of US$10,000 in foreign currency in or out of the country.
3. Since 28 September 2005, passengers or members of transportation crews have been required to declare to customs when carrying RMB 20,000 in or out of the country. Any amount over RMB 20,000 shall be kept in custody by customs and returned to the passengers when leave the country.

The CBC is the competent authority for supervising foreign exchange operations in Chinese Taipei. All foreign exchange transactions operated by financial institutions shall be reported to the CBC for keying into the computer database. If any irregular cross-border currency movement to be found, the CBC will send the remittance information to law enforcement agencies for further investigation and will lend its cooperation with authorities to investigate financial crimes.

The CBC ever contacted the Consulting and Coordination Committee of the Taiwan High Prosecutors Office Economic Crimes Investigation Center twice to suggest that prosecutors and police should step up efforts to crack down illegal exchange transactions and remittances as well as underground cross-strait banking activities that involve money laundering. The Central Bank has also urged the courts to speed the trials of financial and foreign exchange criminal cases and mete out heavy punishments.

The CBC submitted the aforementioned suggestions to the Executive Yuan Financial Reform Task Force and the Financial Crimes Investigation Unit in 2002, and the MOJ and the NPA of MOI subsequently sent out circulars instructing their subordinate agencies to crack down harder on illegal foreign exchange and remittance operations as well as underground cross-strait money laundering cases.

The MLPC has especially published the Guidelines for Banks to Prevent Underground Banking and delivered to financial institutions for reference.

- **Regulations/Guidelines for the Financial Sector**（**Information source: ※FSC**）

The Evaluation Team makes some recommendations regarding the sample set of guidelines issued by the Bankers Association. **Responding to the recommendations, many improvements have been taken, including enhancement of CDD, know-your-customers, monitoring unusual financial transactions, suspicious financial transaction indicators and reporting mechanism which will be described more detail in the related parts of this document.**

Upon the instruction of the FSC, the Bankers Association introduced major amendments to the Checklist of Money Laundering Prevention Guidelines and

Procedures for Banks in March 2004 and again in January 2005. Drafted with reference to the criteria adopted by FATF and APG, key amendments to the Checklist include the following:

1. When opening an account (either individual or non-individual), a financial institution must ask for double identification documents and keep copies. When opening an individual account, in addition to a national ID card, the institution must also ask for other proof of identity, such as a health insurance card, passport, driver's license, or student ID. When opening a non-individual account, the institution, in addition to an incorporation certificate, the financial institution must also obtain the minutes of board meetings, the articles of incorporation, financial statements, and the like.
2. When the aggregate same-day deposits and/or withdrawals in a single account top NT$1 million (or its equivalent in foreign currency) and the amount involved is clearly out of keeping with the customer's status or income level, or with the nature of the customer's business, it must be reported as suspected money laundering.
3. If a customer is suspected of using false name, nominee, or shell organization to open account, or if its documentation appears suspicious or vague, the financial institution must not open an account for the customer.
4. Some new suspicious financial transaction indicators have been added to the Checklist, such as depositing multiple promissory notes or checks to a single account, selling large quantities of financial bonds and demanding payment in cash, frequently using traveler's checks or foreign currency for big-ticket transactions without any reasonable ground, opening letters of credit for high amounts without giving plausible data on quantities or prices, or attempting to open an account using an interbank check for a high amount (tens of millions of New Taiwan Dollars).
5. Know-your-customer provisions have been added to the Checklist. Financial institutions are required to: (1) take special care to confirm the identity of an individual or organization that opens a brokerage account, conducts transactions via a professional intermediary, or poses high risk to a bank's reputation; (2) deal extra cautiously with non-local customers and understand why they have chosen to set up an account outside their home country; (3) conduct more thorough background checks on customers seeking personal wealth management services; (4) and check more closely on customers that have been blacklisted by other financial institutions.
6. The amended Checklist includes new provisions regarding tighter scrutiny of high risk customers and other matters pertaining to "ongoing monitoring of accounts and transactions." Financial institutions are required, for example, to make use of information systems to discover suspicious transactions, and exercise closer monitoring of high risk customers. Financial institutions should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings should be established in writing, and be kept on file for at least five years.
7. Bank employees are required to refuse service and report to their immediate

superior when customers attempt to persuade them to waive the reporting forms that must be filled out upon completion of the transactions, when customers ask about the possibility of evading reporting requirements, or when customer's description is clearly different from the actual transaction.

8. A provision has been added requiring that records on closed accounts be kept on file for at least five years.
9. A provision has been added requiring that banks regularly hold or arrange for employees to participate in anti-money laundering training programs.
10. Financial institutions are required to conduct annual reviews of their money laundering prevention guidelines and procedures.
11. To keep abreast of the latest updates to the list of Non-Cooperative Countries and Territories, financial institutions can visit the website of the MLPC and click on a link to the FATF website to check the latest list.
12. Financial institutions are required to report to the MLPC within ten days of discovering a suspicious money laundering transaction, no matter how large or small the amount.

- **Suspicious Transaction（Information source: ※MOJ, MLPC）**

Review the secrecy provisions in Chinese Taipei law and amend laws where the secrecy provisions inhibit effective investigation of money laundering offences. The review of secrecy provisions should also include removal of any signage in Financial Institutions that may draw attention to potential reporting.

Article 48 of the Banking Act stipulates, “A Bank shall keep confidential all information regarding deposits, loans or remittances of its customers unless otherwise required by law or by order of the Central Competent Authority.” Therefore, information disclosure is allowed under the Banking Act where it is provided for by “other law” and “other regulations of the Central Competent Authority (i.e. the FSC)” Furthermore, Article 8.2 of the amended MLCA (2003) stipulates “When financial institutions report (suspicious transactions) according to the preceding section, such financial institutions shall be exempted from their obligations under the confidentiality agreements.” There should be no law on confidentiality privileges that might hamper the investigation of money laundering activities in this jurisdiction.

- **Role of Central Bank and MLPC（Information source: ※FSC,○CBC,MLPC）**

All financial monitoring programs should include reviewing the regular, newcomer, and annual on-the-job training programs. Also, the financial monitoring personnel should pay extra attention to related regulations concerning the report status of suspicious money laundering activities and opening of accounts. Lastly, the financial monitoring personnel should also pay attention to the quality and quantity of suspicious transactions reported.

After the establishment of the FSC on July 1, 2004, the Central Bank of China no longer conducts the general bank examination to individual financial institution. Concerning the financial monitoring personnel should pay extra attention to related regulations on the report status of suspicious money laundering activities and opening of accounts, the FSC has measures in place to monitor financial institutions through financial examination. The MLPC plays the role of Financial Intelligence

Unit in Chinese Taipei. It was established and began to operate on April 23, 1997. The main functions of MLPC include: 1) Researching AML/CFT strategies; 2) Receiving STRs, CTRs and cross border currency movement declaration reports; 3) Analyzing and disseminating ML/FT information; 4) Assisting authorities to investigate ML/FT cases and coordinating related matters; 5) International cooperation on ML/FT information exchange and related matters; 6) Creating and Maintaining ML/FT computer database.

- **Role of auditors**（**Information source: ※FSC,○CBC**）

The internal auditing mechanism of financial institutions should be able to ensure the appropriateness of various training programs; inspection procedures should be applicable to newcomers and annual on-the-job trainings; and auditing personnel should make sure appropriate newcomer evaluation standards are in place for financial institutions and pay extra attention to related regulations on reporting suspicious money laundering activities and opening bank accounts.

Article 6 of the MLCA requires financial institutions to formulate their own money laundering prevention guidelines and procedures, and to hold or arrange for their employees to participate in regular anti-money laundering training programs focusing on the guidelines. Procedures are set out for the review of account opening, and there are provisions regarding reporting procedures for suspected money laundering transactions. In addition, audit units are required to include the aforementioned matters among items subject to periodic audits.

Also, in a letter sent out in February 2004, the MOF reminded financial institutions to bolster their AML-related internal control procedures, and to step up their AML training and awareness programs for financial services personnel.

In future audits of financial institutions, the competent authority will pay close attention to how well the items listed above are being implemented, and the FSC's Financial Examination Bureau has already revised its financial examination handbooks to include key points and procedures for financial examinations regarding money laundering matters.

- **Significant Currency Reporting**（**Information source: ※FSC, MOEA, BOAF, CBC, MOJ, MJIB**）

Lower the threshold of transactions to be reported to NT$1 million. Such reports shall be directed to the Money Laundering Prevention Center, made within the time limit, and done electronically. The aforementioned threshold should be regularly reviewed/adjusted to comply with international standards and ensure that all non-bank financial institutions to honor their obligation.

The Ministry of Finance on 18 November 2003 issued an amendment to the Regulations Regarding Article 7 of The Money Laundering Control Act (Cash Transactions), lowering the reporting threshold from NT$1.5 million to NT$1 million. Within five business days of a significant currency transaction, the financial institution is required to report it to the MLPC. Currently, about 99.9% of the reports are transmitted to the MLPC through electronic means.

The term "financial institution" is defined to include banks, trust investment companies, credit cooperatives, farmers' association credit departments, fishermen's association credit departments, bills finance companies, credit card companies, postal organizations that operate saving and remittance services, trust enterprises,

securities firms, securities investment trust enterprises, securities finance enterprises, securities investment consulting enterprises, centralized securities depository enterprises, futures commission merchants, and insurance companies.

- **Customs Information / cross border reporting（※Information source: Directorate General of Customs, CBC, MOJ, MJIB）**

Legal concerns about the validity under the MLCA of cross border reports collected by the Customs Service being forwarded to the MLPC should be addressed. All information should form part of a financial database to assist in detecting money laundering and related illegal activity. It would also be advantageous if sanctions could be applied for illegal cross border activity so as to complement efforts to combat money laundering.

The Ministry of Finance reviewed the relevant laws and regulations and made an announcement on July 23, 2003 that customs staff may provide information to the MLPC which limited to the records of carrying over NT$1.5 million equivalence foreign currency by individual passenger and such information shall be provided by the Directorate General of Customs every month through electronic means. The legal issues of cross border currency reporting mechanism will be clearly defined in the coming MLCA amendment. All cross border currency movement declaration records which forwarded by the Directorate General of Customs have been integrated into the computer database in MLPC, and the database can be accessed by authorities for AML/CFT purposes. Anyone who fails to declare or falsely declares to Customs Service will face the all or excess portion of carried foreign currency being confiscated according with the regulations of the Foreign Exchange Control Act.

1.6 Statistics of effective implementation of AML/CFT measures (R 32)

All the statistics presented below are provided on an annual basis of the past 4 years, or where the requirements came into effect less than 4 years, then since the initial time:

(a) STRs received and disseminated

During the past 4 years, the number of Suspicious Transaction Reports received by the MLPC keeps growing steadily. The detail statistics as follow:

Table 1: Statistics of STRs

Year / SARs reported by	2002	2003	2004	2005
Domestic banks	1,036	1,318	4,496	4,773
Foreign banks	49	69	104	90
Credit Cooperatives	1	7	23	14
Credit Departments of Farmers' & fishermen's Associations	5	23	25	17
Securities Institutions	18	15	5	4
Futures Commission Merchants	1	0	4	7
Chunghwa Postal Co., Ltd.	28	33	15	6

Taiwan Securities Central Depository	2	15	17	236
Credit Card Companies	0	5	0	2
Insurance Companies	0	0	0	4
Securities Financing Companies	0	0	0	1
Total	1,140	1,485	4,689	5,154

Table 2: Statistics of disseminating STRs to relevant authorities after analysis:

Year / Receiving Authorities	2002	2003	2004	2005
Investigation Bureau	76	76	213	170
Police and other administrative authorities	132	92	86	69
Total	208	168	299	239

(Information source: MLPC)

(b) CTRs received and disseminated

The currency transaction reporting system initiated from August 6, 2003. At present, except few financial institutions using paper document for the reason of cost-effective consideration, most financial institutions already use electronic media to file CTRs which the ratio has reached 99%. The reported CTRs of the past 3 years did not obviously grow and it is expected to shrink in the future because of the public is gradually accustomed to using banking accounts to transfer money instead of using currency transactions. The detail statistics as follow:

Table 3: Statistics of CTRs

Year / CTRs reported by	2003	2004	2005
Domestic banks	357,918	845,664	853,977
Foreign banks	2,532	7,117	6,330
Credit Cooperatives	26,400	55,834	55,332
Credit Departments of Farmers & fishermen Associations	23,262	65,629	71,676
Trust investment companies	971	2,061	4,067
Chunghwa Postal Co., Ltd.	297,305	26,464	36,975
Others		5,993	477
Total	708,388	1,008,762	1,028,834

Note: the Currency Transaction Reporting system is started on August 6, 2003.

Table 4: Statistics of disseminating CTRs to relevant authorities after analysis:

Year / Received by	2003	2004	2005
Investigation Bureau	2	24	42

Police and other administrative authorities	0	22	72
Total	2	46	114

(Information source: MLPC)

(c) Cross-border currency declaration reports received and disseminated

From September 2003, the Directorate General of Customs began to forward the cross border currency declaration reports which exceeding the threshold of NTD $1,500,000 equivalence (about USD $45,000) to the MLPC by electronic media per month. The detail statistics as follow:

Table 5: Statistics of the forwarded Cross-border currency movement reports:

Year / Forwarded by	2003		2004		2005	
	Inbound	Outbound	Inbound	Outbound	Inbound	Outbound
Keelung Customs	11	0	23	1	3	0
Taipei Customs	153	116	615	355	576	796
Kaohsiung Customs	15	3	46	5	66	12
Total	298		1,045		1,453	

Table 6: Statistics of disseminating Cross-border currency movement reports to relevant authorities after analysis:

Year / Receiving Authorities	2003	2004	2005
Investigation Bureau	Nil	2	6
Police and other administrative authorities	Nil	8	2
Total	Nil	10	8

Note: The Ministry of Finance announced on July 23, 2003 that customs staff may provide information to the MLPC which limited to the records of carrying over NT$1.5 million equivalence foreign currency by individual passenger and such information shall be provided by the Directorate General of Customs every month through electronic means. (Information source: Directorate General of Customs, MLPC)

(d) ML and FT investigations, prosecutions, convictions, property frozen, seized and confiscated

Table 7: Statistics of ML prosecutions, convictions, property frozen, seized and confiscated:

Year	2002	2003	2004	2005
Number of prosecuted cases	89	302	809	1,173
Number of	791	1,140	1,485	1,678

prosecuted persons				
Money laundered	28,056,881,500	1,497,521,108	25,173,894,214	7,709,658,074
Property seized	537,243	22,126122	4,154,117,032	213,253,506
Property confiscated	946,200	55,716,300	33,169,295	57,028,401

(Information source: MOJ, Criminal Department of Judicial Yuan, CIB, MLPC)

(e) Mutual legal assistance or other international requests for cooperation

Table 8: Statistics of information exchange received from and made to International Counterparts:

Year		2002	2003	2004	2005
Ministry of Justice	Number of Requests Received	42 pieces in total			
	Number of Requests Made	19 pieces in total			
Investigation Bureau	Number of Requests Received	22	32	63	62
	Number of Requests Made	2	4	30	37
Criminal Investigation Bureau	Number of Requests Received	Nil	4	2	3
	Number of Requests Made	Nil	1	0	0

(Information source: MOJ, MLPC, CIB)

(f) Administrative sanctions applied to financial institutions for violating MLCA provisions

Administrative sanction statistics of past 4 years:

1. A bank has been fined NT$400,000 in June 2002 for violating Paragraph 1 of Article 7 of MLCA.
2. In July 2005, a precious metals and stones distributor (Jewelry shop) has been sequentially fined NT$400,000 and NT$1,000,000 for violating the regulation of Paragraph 1, Article 7 and Paragraph 1, Article 8 of MLCA.(Information source: FSC, BOAF, DOC)

(g) ML/FT alert raising programs

Table 9: Statistics of providing AML/CFT alert raising programs for financial institutions and DNFBP:

Programs provided by	Year / Statistics	2002	2003	2004	2005

MLPC	Programs	215	166	109	131
	Attendees	17,264	12,833	7,087	15,488
Department of Land Administration	Programs				4
	Attendees				234
MOEA	Programs		7		
	Attendees		307		
BOAF	Programs			4	
	Attendees			300	

(Information source: FSC, CBC, BOAF, DOC, DOSA, DLA, Directorate General of Customs, CIB, MOJ, MLPC)

(h) Other actions

Table 10: Statistics of MLPC assisting related authorities to trace illegal funds flow: (Information source: MLPC)

Year / Requesting authorities	2002	2003	2004	2005
Investigation Bureau	30	26	34	19
Courts and Prosecutor's Offices	10	11	10	10
Law Enforcement Agencies	1	0	4	2
Other related Agencies	5	4	14	0
Total	46	37	48	31

Table 11: Statistics of MLPC suggesting authorities to reward financial institution and its employees for reporting STRs in time which are contributive to criminal investigation

Year	2002	2003	2004	2005
Cases number	5	3	9	14

2 Legal System and Related Institutional Measures

Laws and Regulations

2.1 Criminalization of Money Laundering (R.1 & 2)

Summary

The MLCA was promulgated on October 23, 1996 and came into force on April 23, 1997. The Act experienced the first time amendment on February 6, 2003 and the second time amendment on May 30, 2006. The MOJ has organized several times of meetings which gather representatives from relevant authorities for pushing new amendment of the Act and the amendment will go into legislation in the near future. (Information source: MOJ)

Recommendation 1

1.1 Money laundering should be criminalized

Article 9 of the MLCA stipulates:

"Any person engaging in money laundering activity referred to Subsection 1 of Article 2 of this Act shall be sentenced to imprisonment of not more than five years and, in addition thereto, be fined not more than 3 million NT.

Any person engaging in money laundering activity referred to Subsection 2 of Article 2 of this Act shall be sentenced to imprisonment of not more than seven years and, in addition thereto, be fined not more than 5 million NT.

Any person engaging in money laundering activities referred to Subsections 1 and 2 of Article 2 of this Act as their major source of income shall be sentenced to imprisonment between three years and ten years, in addition thereto be fined between 1 million NT and 10 million NT.

The representative of a legal entity, the agent, employee or other worker of a legal entity or a natural person engaging within the scope of his or her employment in money laundering activities as set forth in the preceding three paragraphs shall be punished in accordance with the provisions set forth in the preceding three paragraphs of this Article. In addition, the legal entity or the natural person that the offender represents or works for, shall also be fined in accordance with the provisions set forth in the preceding three paragraphs, unless the representative of a legal entity or a natural person has done his or her best to prevent or stop the money laundering activities.

Any person who surrenders himself or herself to the authorities within six months after he or she has engaged in money laundering activities as set forth in the preceding four paragraphs, his or her sentence shall be exempted. Any person who surrenders himself or herself in later than six months after he or she has engaged in any of the money laundering activities set forth in the preceding four paragraphs, his or her sentence shall be reduced or exempted. Any person who confesses during the custodial interrogation or the trial that he or she has engaged in the money laundering activities set forth in the preceding four paragraphs, his or her sentence shall be reduced."

Observing from the above mentioned provision of the MLCA, Chinese Taipei has completely complied with the FATF recommendations to criminalize money laundering. (MOJ)

1.2 Money laundering offences should extend to all property representing the proceeds

of crime

The illicit proceeds of money laundering crime referred to in Article 4 of the current MLCA includes both the direct proceeds (Subparagraph 1) and indirect proceeds (Subparagraphs 2 and 3) (Information source: MOJ)

1.2.1 Determining proceeds of crime should not be subject to a predicate offence conviction

1. According to Article 12 of the MLCA, in an offense of laundering money for one's self or for others, the property or property interests obtained from the commission of a crime, other than that which should be returned to the injured party or a third party, shall be confiscated regardless of whether the property or property interests belong to the offender or not.
2. In the Criminal Code, confiscation is an accessory penalty. Article 40 of the Code provides that confiscation shall be declared at the time of adjudication of the principle offense, and only the confiscation of contraband may be declared separately. But in a case of penalty exemption made according to Article 39 of the Code, confiscation can be made separately. (Information source: MOJ)

1.3 Money laundering predicate offences should extend to all serious offences and the widest range of predicate offences

According to the provisions of Paragraphs 1 and 2 of Article 3 of the MLCA, Chinese Taipei has extended as much as possible the types of predicate offences and prescribed. According to the threshold principle, all the crimes which the minimum penalty is at least five years imprisonment have been listed as the predicate crimes of money laundering. If all the offense proposed by the FATF are to go by, only a few of the crimes are not yet included in the list of predicate offenses of money laundering in this nation including the offense against copy right, racketeering, participation in terrorist activities, and provision of finance to terrorist actions. Nevertheless, the draft Counter Terrorism Act has included clear provisions on combating participation in terrorist activities and terrorism financing. (Information source: MOJ)

1.4 Where a threshold approach is adopted, predicate offences should be all serious offences or offences punishable by a maximum of more than 1 year or minimum of more than six months imprisonment

Article 3 of the MLCA covers most of the major crimes in this nation. All crimes that carry a minimum sentence of five years' imprisonment belong to the predicate offences of money laundering in the MLCA. (Information source: MOJ)

1.5 Predicate offences should extend to conduct overseas which are an offence in that jurisdiction and a predicate offence in the home jurisdiction

In principle, the Criminal Code is based on the territorial principle. Article 2 states that it is applicable to all crimes committed in the territory of this nation. Article 4 says that if either the criminal act or the result of the criminal act happens in the territory, the crime is considered committed in this territory, to which the Criminal Code shall apply. (Information source: MOJ)

1.6 Offence of money laundering should apply to persons who commit a predicate offence

Article 2 of the MLCA provides that any person who knowingly disguises or

conceals the property or property interests obtained from a serious crime committed by himself /herself or knowingly conceals, accepts, transports, stores, intentionally buys, or acts as a broker to manage the property or property interests obtained from a serious crime committed by others are all defined as the crime of money laundering. The offenders of the predicate crimes under the MLCA are considered committing the crime of money laundering if they are involved in money laundering. (Information source: MOJ)

1.7 Money laundering offences should be supported by appropriate ancillary offences

According to the provisions of the Criminal Code, those who have attempted to commit an offense, assisted in an offense, and abetted on somebody to commit an offense shall be all punishable. As for the accomplices, if they have the dominant power in the offense, they shall be punished even if they do not participated in the act of offense. Nevertheless, if they have participated in the planning but have no power to dominate the act of offense, they shall not be punished, that is based on the principle of not punishing ideological offenders. (Information source: MOJ)

Additional elements

1.8 Money laundering offences including proceeds of crime derived from conduct overseas not an offence in a foreign jurisdiction but an offence in home territory

In principle, the Criminal Code is based on the territorial principle, and is applicable only when the offense or its result happens in the territory of this jurisdiction (Articles 3 and 4). But if the offense meets the provisions of the supporting principles of the Criminal Code (Articles 5 and 6), it is also punishable as a money laundering offense under the Criminal Code and MLCA even though it is not considered an offense in foreign nations. (Information source: MOJ)

Recommendation 2

2.1 ML should apply at least to natural persons that knowingly engage in ML activity

The determination of crime under the MLCA is based on the basic principles of the Criminal Code. According to Article 12 of the Code, the penalty on a criminal act is based on the principle of deliberateness, whereas the penalty for a negligent offense is limited to the specifically prescribed. (Information source: MOJ)

2.2 The law should permit the intentional element of the offence of ML to be inferred from objective factual circumstances

Paragraph 2, Article 13 of the Criminal Code stipulates: “An act is committed intentionally if the offender knowingly and willfully causes the accomplishment of the constituent elements of an offense.” (Information source: Criminal Department of Judicial Yuan)

2.3 Criminal liability for ML should extend to legal persons

In principle, a legal person does not have the capacity to bear responsibility in terms of criminal acts, so the Criminal Code cannot apply to a legal person, and only a natural person can be punished under the MLCA. But, according to Paragraph 3 of Article 9 of the Act, The representative of a legal entity, the agent, employee or other worker of a legal entity or a natural person engaging within the scope of his or her employment in money laundering activities as set forth in the preceding three paragraphs shall be punished in accordance with the provisions set forth in the preceding three paragraphs of

this Article. In addition, the legal entity or the natural person that the offender represents or works for, shall also be fined in accordance with the provisions set forth in the preceding three paragraphs, unless the representative of a legal entity or a natural person has done his or her best to prevent or stop the money laundering activities. This indicates that legal persons still bear considerable responsibility for a money laundering act of their representatives, agents, employees, and associates. (Information source: MOJ)

2.4 Making legal persons subject to criminal liability for ML should not preclude the possibility of parallel criminal, civil or administrative proceedings in countries in which more than one form of liability is available

According to Paragraph 3 of Article 9 of the MLCA, The representative of a legal entity, the agent, employee or other worker of a legal entity or a natural person engaging within the scope of his or her employment in money laundering activities as set forth in the preceding three paragraphs shall be punished in accordance with the provisions set forth in the preceding three paragraphs of this Article. In addition, the legal entity or the natural person that the offender represents or works for, shall also be fined in accordance with the provisions set forth in the preceding three paragraphs, unless the representative of a legal entity or a natural person has done his or her best to prevent or stop the money laundering activities. (Information source: MOJ, Criminal Department of Judicial Yuan)

2.5 Natural and legal persons should be subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions for ML.

1. According to Subparagraph 1 of Article 9 of the MLCA, a person who knowingly disguises or conceals the property or property interests obtained from a serious crime committed by themselves shall be sentenced to imprisonment of not more than five years and, in addition thereto, be fined not more than 3 million NT. Subparagraph 2 of the same article stipulates that a person who knowingly conceals, accepts, transports, stores, intentionally buys, or acts as a broker to manage the property or property interests obtained from a serious crime committed by others shall be sentenced to imprisonment of not more than seven years and, in addition thereto, be fined not more than 5 million NT.
2. According to Paragraph 3 of Article 9 of the MLCA, The representative of a legal entity, the agent, employee or other worker of a legal entity or a natural person engaging within the scope of his or her employment in money laundering activities as set forth in the preceding three paragraphs shall be punished in accordance with the provisions set forth in the preceding three paragraphs of this Article. In addition, the legal entity or the natural person that the offender represents or works for, shall also be fined in accordance with the provisions set forth in the preceding three paragraphs, unless the representative of a legal entity or a natural person has done his or her best to prevent or stop the money laundering activities. (Information source: MOJ)

2.2 Criminalization of Terrorist Financing (SR.II)

Summary

Article 2 of the Counter Terrorism Act drafted by the MOJ defines terrorists as people who engage in a terrorist action or participate in or finance a terrorist organization. Those who have financed these terrorists to engage in the organized actions prescribed in Article 2 shall be sentenced to death, life imprisonment, or imprisonment for more than ten years. Therefore, the Act has criminalized terrorist acts. (Information source: MOJ)

Special Recommendation II

II.1 Terrorist financing should be criminalized, in accordance with the Terrorist Financing Convention

The draft Counter Terrorism Act has criminalized terrorist acts. (Information source: MOJ)

II.2 Terrorist financing offences should be predicate offences for money laundering

Article 16 of the draft Counter Terrorism Act considers the crime of financing terrorist organization as a major crime set forth in Paragraph 1 of Article 3 of the MLCA. Therefore, when the draft is legislated into law, financing terrorist organization will become a predicate offense of money laundering. (Information source: MOJ)

II.3 Terrorist financing offences should apply, regardless of whether the person alleged to have committed the offence(s) is in the same country or a different country from the one in which the terrorist(s)/terrorist organization(s) is located or the terrorist act(s) occurred/will occur

According to Article 14 of the draft Counter Terrorism Act, any citizen of Chinese Taipei commits the crime prescribed in the previous two articles outside the territory of this nation, he/she shall be dealt with in accordance with this law whether penalty for such a crime is prescribed or not in the foreign nation where the crime is committed. The reason of this legislation has taken into consideration of 2(e) of UN Security Council resolution 1373, which calls on all nations to take terrorism financing as one of the gravest crimes in domestic laws. Besides, it has taken into account of the reports of foreign nations made with regard to the UN resolution. For instance, the Japanese report says that if the Japanese government is obligated to punish a crime in compliance with an international treaty, the Japanese court can judge such criminals irrespective where the crime is committed. The German report states that when a German national has committed a crime abroad, in principle he or she should be punished according to German law. The French report says Article 23 of a law enacted on July 29, 1881, which sets forth penalty for agitating the commission of crime, covers terrorist acts no matter whether the crime happens in France or in foreign nations. The US Patriot Act (SEC.377) contains provisions on crimes committed outside its jurisdiction. (Information source: MOJ)

II.4 Countries should ensure that Criteria 2.2 to 2.5 (in R.2) also apply in relation to the offence of FT

1. According to Article 12 of the Criminal Code, in principle, the penalty is imposed on a deliberate crime, whereas for negligent criminal acts, the penalty is limited to those specifically prescribed by law. This principle applied to both the MLCA and the draft Counter Terrorism Act. Therefore, no Articles for the punishment of negligent criminal acts are included in the both Acts.
2. According to Paragraph 3 of Article 9 of the MLCA, the representative of a legal entity, the agent, employee or other worker of a legal entity or a natural person engaging within the scope of his or her employment in money laundering activities as set forth in the preceding three paragraphs shall be punished in accordance with the provisions set forth in the preceding three paragraphs of this Article. In addition, the legal entity or the natural person that the offender represents or works for, shall

also be fined in accordance with the provisions set forth in the preceding three paragraphs, unless the representative of a legal entity or a natural person has done his or her best to prevent or stop the money laundering activities. This indicates that legal persons still bear considerable responsibility for the money laundering act of their representatives, agents, employees, and associates.

3. Subsequently, after the legislation of the Counter Terrorism Act, the representative of a legal entity, the agent, employee or other worker of a legal entity or a natural person engaging within the scope of his or her employment in terrorists financing, the legal persons will be subject to fines set forth in Paragraph 3 of Article 9 of the MLCA. (Information source: MOJ, Criminal Department of Judicial Yuan)

2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)

Summary

1. In principle, Article 133 of the Criminal Procedure Code stipulates" An article which can be used as evidence or is subject to confiscation may be attached. The owner, possessor, or custodian of the property subject to attachment may be ordered to surrender or deliver it". Article 136 of the Criminal Procedure Code also prescribes that the execution of the impoundment should be the judge or the prosecutor who may also order a prosecutor's investigator or the judicial police to carry out the impoundment. If the owner, possessor or custodian of the article refuses to surrender or deliver it without legitimate reasons, the judge, prosecutor, or judicial police may take compulsory measures to carry out the impoundment according to Article 138 of the Criminal Procedure Code.
2. Regarding to the proceeds of money laundering crimes, Article 8-1 of the MLCA has special regulation. Whenever the prosecutor obtains sufficient evidence to prove that the offender has engaged in money laundering activity by transporting, transmitting, or transferring a monetary instrument or funds through bank deposit, wire transfer, currency exchange or other means of payment, the prosecutor may request the court to order the financial institution to freeze that specific money laundering transaction to prevent withdrawal, transfer, payment, delivery, assignment or other related property disposition of the involved funds for a period of six months. Chinese Taipei is studying an extension of the period through revisions to the Act.
3. Under the framework of the Criminal Procedure Code, the basic provisions of the Criminal Code are still applicable to ordinary confiscation in money laundering cases. Article 38 of the Criminal Code provides what may be confiscated are contraband, things used in the commission of or preparation for the commission of an offense, and things derived from or acquired through the commission of an offense. According to Paragraph 2 of Article 38 of the Code, contraband, whether it belongs to the offender or not, shall be confiscated. As for the things used in the commission of or preparation for the commission of an offense, the confiscation of things is limited to those belonging to the offender. But, if it is otherwise provided for by other laws, those provisions should be observed.
4. The MLCA has specific provisions on confiscating the gains of the offense. Article 12 of the Act says the property or property interests obtained from the commission of a money laundering crime by an offender, other than that which should be returned to the injured party or a third party, shall be confiscated, regardless of whether the property or property interests belong to the offender or not. Whenever the above property or

property interests can not be confiscated in whole or in part, the value thereof shall be indemnified either by demanding a payment from the offender or by offsetting such value with the property of the offender. (Information source: MOJ)

Recommendation 3

3.1 Confiscation of proceeds including instrumentalities.

The related provisions can be found in Article 38 of the Criminal Code and Article 12 and 12-1 of the MLCA. (Information source: MOJ, Criminal Department of Judicial Yuan)

3.1.1 Confiscation of direct or indirect proceeds of crime.

According to Article 4 of the MLCA, "property or property interests obtained from the commission of the crime" means:

1. The property or property interests obtained directly from the commission of the crime.
2. The remuneration obtained from the commission of the crime.
3. The property or property interests derived from the above two subsections. This provision, however, is not applicable to a third party who obtains in good faith the property or property interests prescribed in the preceding two subsections.

Therefore, all property or property interests are subject to confiscation other than that which should be returned to the injured party or a third party. (Information source: MOJ, Criminal Department of Judicial Yuan)

3.2 Provisional measures including seizure, freezing etc.

1. According to Article 8-1 of the MLCA, whenever the prosecutor obtains sufficient evidence to prove that the offender has engaged in money laundering activity by transporting, transmitting, or transferring a monetary instrument or funds through bank deposit, wire transfer, currency exchange or other means of payment, the prosecutor may request the court to order the financial institution to freeze that specific money laundering transaction to prevent withdrawal, transfer, payment, delivery, assignment or other related property disposition of the involved funds. The prosecutor on their own authority may freeze a specific money laundering transaction and request the court's approval within three days whenever the prosecutor has probable cause to believe that the property or property interests obtained by the offender from the commission of crime are likely to disappear under exigent circumstances. The prosecutor must immediately remove the hold on transaction if the prosecutor fails to obtain the court's approval within three days."
2. During the trial, the judge may also order a ban, according to the vested power, on the withdrawal, transfer, payment and delivery from the banking accounts and negotiation of payment instruments or take other measures.
3. The current Article only stipulates that the court may freeze the property for six months. Now that the MOJ is drafting a revision to increase the period in the provision: when deemed it necessary, the prosecutor may extend the freezing period. (Information source: MOJ, Criminal Department of Judicial Yuan)

3.3 Ex-parte provisional measures.

Article 8-1 of the MLCA stipulates that prosecutors on their own authority may

freeze a specific money laundering transaction and request the court's approval within 3 days whenever the prosecutor has probable cause to believe that the property or property interests obtained by the offender from the commission of crime are likely to disappear under exigent circumstances. (Information source: MOJ, Criminal Department of Judicial Yuan)

3.4 Powers of competent authorities to trace proceeds of crime.

The prosecutors of the MOJ prosecutorial agencies are the investigative body under the Criminal Procedure Code. They are empowered to make impoundments and use force to bring a person to an investigation hearing and are entitled to petition the court for permission to make searches and detentions, so they have enough power to pursue the gains of a crime. The officers of the MLPC under the Investigation Bureau of the Ministry of Justice are judicial police officers under the Criminal Procedure Code and are subject to the command of prosecutors in the various forms of investigation and in the collection of evidence. (Information source: MOJ)

3.5 Protection for the rights of bona fide third parties.

Paragraph 3, Article 4 of the MLCA stipulates: "the property or property interests derived from the above two subsections. This provision, however, is not applicable to a third party who obtains in good faith the property or property interests prescribed in the preceding two subsections." This regulation will conform to the norms of Paragraph 8, Article 12 of the Palermo Convention that stipulates "the provisions of this article shall not be construed to prejudice the rights of bona fide third parties." (Information source: MOJ)

3.6 Authority to take steps to prevent or void actions, whether contractual or otherwise, where the persons involved knew that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation.

Paragraph 5, Article 8-1 of the MLCA stipulates: "the provisions set forth in the Chapter 4 of the Criminal Procedure Code are also applicable to persons involved refusing to comply with an order set forth in the first two paragraphs."

Paragraph 1, Article 416 of the Criminal Procedure Code stipulates: "A person who disagree with one of the following measures taken by a presiding judge, commissioned judge, requisitioned judge or prosecutor may apply to the court to which such officer is attached to have such measure set aside or altered: 1) a measure relating to detention, bond, committing a personal custody, restriction of residence, search, seizure, restitution, or sending to a hospital or other place for expert examination; 2) a measure relating to a fine imposed upon a witness expert witness, or interpreter." (Information source: MOJ)

Additional Elements

3.7 Other measures of confiscation including the property to be primarily criminal in nature, civil forfeiture and reversing demonstration of the lawful origin of the property

1. According to Article 7 of the Organized Crime Control Act, all the property of the initiator, president, manipulator, and commander of an organized crime should be hunted down and confiscated except for the portion that should be returned to the victims. If all or part of the property cannot be confiscated, a levy of the amount should be imposed on them. The property of the initiator, president, manipulator,

and commander obtained through organized crime should be tracked down and confiscated except for the portion that should be returned to the victims if they cannot prove the legal origin of the property. If all or part of the property cannot be confiscated, an amount for the value should be charged. To ensure the foregoing pursuit and confiscation, if necessary, the prosecutor may impound their property.

2. Chinese Taipei has no provisions on civil case confiscation.

3. According to Article 161 of the Criminal Procedure Code, in principle, prosecutors have the burden of proof as to the commission of a crime of the defendant, but as an exception, the Organized Crime Control Act has the provisions on converting this responsibility for producing evidence to demanding the offender to prove the legitimate source of the property for avoiding pursuit and confiscation. Paragraph 2 of Article 7 of the Organized Crime Control Act provides that if the initiator, president, manipulator or commander of a criminal organization cannot prove the property derived from legitimate sources, it should be traced down and confiscated.(Information source: MOJ)

2.4 Freezing of funds used for terrorist financing (SR.III)

Summary

1. In combating terrorism, prevention is more important then post-facto penalty. Article 11 of the draft Counter Terrorism Act has taken reference of the provisions of Article 38, Chapter 4 of the Immediate Compulsion of the Administrative Execution Act. If there is fact to prove a suspect that has engaged in terrorism, the heads of the Investigation Bureau, the National Coast Guard Administration, and the National Police Administration all have the power to order to impound, or to ban its use, the fixed property, movable property, securities, or other property that is used for terrorists activities. This mechanism is aimed at the needs of anti-terrorism action.

2. Paragraph 1 of Article 11 in the Counter Terrorism Act states: “If there is fact that a terrorist is suspected of using banking accounts, currency or other instruments of payment to finance terrorists, the Director General of the National Coast Guard Administration under the Executive Yuan, the Director General of the Investigation Bureau under the Ministry of Justice, and the Director General of the National Police Administration under the Ministry of Interior may petition the court for approval to order or to take other measures to ban the withdrawal, transfer, payment, delivery, and negotiation of instruments with regard to the accounts for a period of six months. In an emergency when there is reasonable ground to believe that the order cannot come in time to prevent the occurrence of the terrorist activity, the Director General of the National Coast Guard Administration, the Director General of the Investigation Bureau, and the Director General of the National Police Administration may take the measure directly but shall report the case to the court within three days for issuing a belated order.”

3. Therefore, under the related provisions of this draft Act, if somebody finances terrorists through remittance, transfer of currency or any other instrument of payment from banking accounts will be taken as the predicate crime of money laundering. The heads of the authorized law enforcement agencies may order a ban on the withdrawal, transfer, payment, and delivery of money on the banking accounts.

4. This provision has taken reference of the 1999 International Convention for the

Suppression of the Financing of Terrorism. It can effectively suppress terrorism by freezing the assets used by terrorists for terrorist actions. US SEC311 (Patriot Act) provides for special measures against major money laundering areas, financial institutions, and international transactions. The provisions of this Article have also taken reference of Article 8-1 of the MLCA that promulgated on February 6, 2003. (Information source: MOJ)

Special Recommendation III

III.1 laws and procedures to freeze terrorist funds or other assets of persons designated by the United Nations Al-Qaida and Taliban Sanctions Committee in accordance with S/RES/1267(1999)

Chinese Taipei can meet the requirements of this recommendation when legislation of the Counter Terrorism Act is completed. (Information source: MOJ)

III.2 Laws and procedures to freeze terrorist funds or other assets of persons designated in the context of S/RES/1373(2001)

Chinese Taipei can meet the requirements of this recommendation when legislation of the Counter Terrorism Act is completed. (Information source: MOJ)

III.3 Effective laws and procedures to examine and give effect to the actions initiated under the freezing mechanisms of other jurisdictions

Chinese Taipei can meet the requirements of this recommendation when legislation of the Counter Terrorism Act is completed. (Information source: MOJ)

III.4 Freezing actions extend to all classes of assets

Chinese Taipei can meet the requirements of this recommendation when legislation of the Counter Terrorism Act is completed. (Information source: MOJ)

III.5 Effective communicating actions of freezing mechanisms to the financial sector immediately upon taking such action

As soon as the Counter Terrorism Act is legislated, the Counter Terrorism Control Office under the Executive Yuan can coordinate the Financial Supervisory Commission to establish a corresponding mechanism in consistence with this recommendation. (Information source: MOJ)

III.6 Clear guidance to those holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms

As soon as the Counter Terrorism Act is legislated, the Counter Terrorism Control Office under the Executive Yuan can coordinate the Financial Supervisory Commission to establish a corresponding mechanism in consistence with this recommendation. (Information source: MOJ)

III.7 Effective and publicly known procedures for considering de-listing requests and for unfreezing the funds or other assets

As soon as the Counter Terrorism Act is legislated, the Counter Terrorism Control Office under the Executive Yuan can coordinate the Financial Supervisory Commission to establish a corresponding mechanism in consistence with this recommendation. (Information source: MOJ)

III.8 Effective and publicly known procedures for unfreezing the funds or other assets of inadvertently affected parties by a freezing mechanism

As soon as the Counter Terrorism Act is legislated, the Counter Terrorism Control Office under the Executive Yuan can coordinate the Financial Supervisory Commission to establish a corresponding mechanism in consistence with this recommendation. (Information source: MOJ)

III.9 Procedures for authorizing access to frozen funds or other assets pursuant to S/RES/1267(1999) and determination of the necessary expenses in accordance with S/RES/1452(2002)

As soon as the Counter Terrorism Act is legislated, the Counter Terrorism Control Office under the Executive Yuan can coordinate the Financial Supervisory Commission to establish a corresponding mechanism in consistence with this recommendation. (Information source: MOJ)

III.10 Appropriate procedures allowing a person or entity to challenge freezing orders

1. If the property or account of somebody is frozen by the heads of the authorized law enforcement agencies on the suspicions of being involved in a terrorist activity according to Articles 8 to 10 of the draft of Counter Terrorism Act, the person may file a petition or an administrative lawsuit to the Administrative Court when he/she cannot yield to the decision. Therefore, as soon as the Counter Terrorism Act is legislated, there will be an appropriate mechanism in place which can meet the requirements of this recommendation.
2. Paragraph 1 of Article 11 of the Counter Terrorism Act regulates that the heads of the authorized law enforcement agencies must petition the court for approval when taking orders to ban withdrawal, transfer, payment, delivery of money and negotiation of instruments and other things involved in terrorists financing for a period of six months. This measure is for safeguarding the people's property rights. In addition, the draft Act provides the concerned parties who do not yield to the decision a channel to file a complaint to court in accordance with, mutatis mutandis, the provisions of Part 4 of the Criminal Procedure Code. This shows the draft Act has designed a mechanism for concerned parties to raise objections to challenge freezing orders. (Information source: MOJ)

III.11 Ensure Criteria 3.1 – 3.4 and Criterion 3.6 (in R.3) also apply to the freezing, seizing and confiscation of terrorist related funds or other assets in contexts other than those described in Criteria III.1 – III.10

Chinese Taipei can meet this recommendation when legislation of the Counter Terrorism Act is completed. (Information source: MOJ)

III.12 Laws should provide protection for the rights of bona fide third parties consistent with the standards provided in Article 8 of the Terrorist Financing Convention

As soon as the Counter Terrorism Act is legislated, the Anti-terrorism Action Control and Supervision Office under the Executive Yuan can coordinate the Financial Supervisory Commission, also under the Executive Yuan, to establish a corresponding mechanism in consistence with this recommendation. (Information source: MOJ)

III.13 Monitor the compliance of the obligations under SR III and appropriate sanctions

As soon as the Counter Terrorism Act is legislated, the Anti-terrorism Action Control and Supervision Office under the Executive Yuan can coordinate the Financial Supervisory Commission, also under the Executive Yuan, to establish a corresponding mechanism in consistence with this recommendation. (Information source: MOJ)

Additional Elements

III.14 Implementation of the SRIII Best Practices Paper

As soon as the Counter Terrorism Act is legislated, the Anti-terrorism Action Control and Supervision Office under the Executive Yuan can coordinate the Financial Supervisory Commission, also under the Executive Yuan, to establish a corresponding mechanism in consistence with this recommendation. (Information source: MOJ)

III.15 Procedures for authorizing access to frozen funds or other assets and determination of the necessary expenses in accordance with S/RES/1373(2001)

The draft of the Counter Terrorism Act is formulated in keeping with the spirit of the UN Security Council Resolution. As soon as the Act is legislated, a corresponding mechanism to this proposal will be established under the command of the Anti-terrorism Action Control and Supervision Office under the Executive Yuan. (Information source: MOJ)

Authorities

2.5 The Financial Intelligence Unit and its functions (R.26, 30 & 32)

Summary

Financial intelligence unit (FIU) constitutes an important role on AML/CFT regime in each country. The FIU in Chinese Taipei is the MLPC which affiliated to the Investigation Bureau, one of the law enforcement agencies in this jurisdiction. Therefore, MLPC can be categorized to a law-enforcement-type FIU. It has 25 staff including 1 Director, 1 Deputy Director, 1 Senior Specialist, 3 Assistant Directors and 19 Investigators. (Information source: MLPC)

Recommendation 26

26.1 Establish FIU as a national centre for receiving, analyzing, and disseminating disclosures of STR and other relevant information concerning suspected ML or FT activities

According to the MLCA, financial institutions have to file CTRs and STRs to a designated organization. The authorities, including Ministry of Finance, Ministry of Justice, Ministry of the Interior and Central Bank, unanimously agree to assign Investigation Bureau as the designated organization. For receiving, analyzing, and disseminating the reports and handle related matters on AML/CFT, Investigation Bureau specifically established the MLPC as a dedicated division for this mission and had been approved by the Executive Yuan, the top administrative organization of the government. Then after, MLPC became the Financial Intelligence Unit of Taiwan and

began to operate from April 23, 1997. The main functions of MLPC include: 1) Researching AML/CFT strategies; 2) Receiving STRs, CTRs and cross border currency movement declaration reports; 3) Analyzing and disseminating ML/FT information; 4) Assisting authorities to investigate ML/FT cases and coordinating related matters; 5) International cooperation on ML/FT information exchange and related matters; 6) Creating and Maintaining ML/FT computer database. (Information source: MLPC)

26.2 FIU should provide financial institutions and other reporting parties with guidance regarding the manner of reporting, including the specification of reporting forms, and the procedures that should be followed when reporting

For receiving STRs from financial institutions, the MLPC has designed the form of STR and reporting procedures which have been clearly described in the Authorized Regulations of MLCA Article 8.

From August 6, 2003, Chinese Taipei initiated the significant currency transaction reporting system. The MLPC not only designs the form and the file layout for reporting by paper or electronic media, but also provides one computer transportation software package to financial institutions without any charge. The computer software package is dedicated for financial institutions to securely transfer CTRs to the MLPC through internet. The detailed information of operating the software system has been clearly described in the reporting guidance which published by the MLPC.

For the convenience of the Directorate General of Customs to pass the cross border currency movement declaration reports by electronic media, the MLPC has provided a computer program for the Customs to key in the reporting data which being transferred to MLPC per month. (Information source: MLPC)

26.3 FIU should have access to the financial, administrative and law enforcement information to properly undertake its functions

To be a division affiliated to Investigation Bureau, a law enforcement agency of this jurisdiction, all the MLPC analysts have the status of law enforcement officer and are empowered by Article 23 of Investigation Bureau Organization Act and Article 230 of the Criminal Procedure Code to directly or indirectly access the financial, administrative and law enforcement information for the needs of analyzing suspicious transaction reports and tracing illegal funds of ML/TF cases. (Information source: MLPC)

26.4 FIU should be authorized to obtain from reporting parties additional information needed to properly undertake its functions

According to the authorization of Decree #09510002020 which was promulgated on May 23, 2006 by FSC, the MLPC has the power to obtain additional information from financial institutions including accounts and banking records of the customers, which is not included in the suspicious reports. The request shall be raised by the MLPC under the needs for analyzing or investigating ML/FT cases and shall get prior permission from the Director General of Investigation Bureau. (Information source: MLPC)

26.5 FIU should be authorized to disseminate financial information to domestic authorities for investigation or action when there are grounds to suspect ML or FT

According to the functions of the MLPC which approved by the Executive Yuan, the MLPC has been vested the responsibilities to receive, analyze, store STRs, CTRs

and other related information. When there are grounds to suspect any ML or FT criminal case happened, the MLPC is authorized to disseminate the financial information to relevant authorities for further investigation or taking proper action. (Information source: MLPC)

26.6 FIU should have sufficient operational independence and autonomy to ensure that it is free from undue influence or interference

The MLPC is established under the Authorized Regulations of Article 7&8 of MLCA. Although affiliated to Investigation Bureau, the MLPC still can operate business independently and autonomously. It disseminates suspected Ml/FT information to relevant authorities depending on the criminal nature of the information may involve and the jurisdictional powers of authorities. It also keeps close cooperation and provides support to all relevant agencies without any constraint and interference. (Information source: MLPC)

26.7 Information held by the FIU should be securely protected and disseminated only in accordance with the law

There are some legislative measures to secure the information held by the MLPC, Including:

(1) The First Section of Article 11 of the MLCA: Any government official who reveals, discloses or turns over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others shall be sentenced to imprisonment of not more than three years.

(2) Article 132 of Criminal Code: Any government official who discloses or turns over documents, pictures, information or things of secret nature relating to matters other than national defense shall be sentenced to imprisonment of not more than three years.

According to the missions of MLPC which granted by the Executive Yuan, The MLPC is vested the power to disseminate the information of ML/FT to authorities. About when and how to disseminate the information, the regulations are included in the internal guidance of “Working Manual of Money Laundering Prevention” and “Operation Regulation of Money Laundering Prevention Center”. (Information source: MLPC)

26.8 FIU should publicly release periodic reports including statistics, typologies and trends

The MLPC has published annual report every year from its inception in 1997. The annual report has included the related statistics, typologies and trends of AML/CFT. In addition, the MLPC has published various books, guidance and research reports during the past few years, which have been disseminated to law enforcement agencies, courts, prosecutor’s offices, financial supervisory agencies, financial institutions, legislative body and research organizations for references, including:

(1) “Cases Collection and Study on Money Laundering” from Volume 1 to Volume 4.

(2) “Q&A of Reporting Suspicious Transaction”.

(3) “The Challenge and Prospect of Money Laundering Prevention”.

(4) “AML/CFT Laws and Decrees Collection”.

(5) “Translation of 100 Cases from the Egmont Group”.

(6) “Translation of Methodology for Assessing Compliance with the FATF 40 Recommendations and 9 Special Recommendations and an Overview of the UN Conventions and the International Standards Concerning Anti-Money Laundering Legislation”. (Information source: MLPC)

26.9 FIU should consider applying for membership in the Egmont Group

The MLPC applied and was accepted as a formal member of the Egmont Group in 1998 when participating the annual meeting held in Buenos Aires, the capital city of Argentina. For vigorously attending the activities held by the Group, the MLPC enrolls a member of the Outreach Working Group and attends the Annual Plenary Meeting and related Working Group Meeting at minimum 3 times a year. (Information source: MLPC)

26.10 Countries should have regard to the Egmont Group Statement of Purpose and its Principles for Information Exchange Between Financial Intelligence Units for Money Laundering Cases

The MLPC regards the Egmont Group Statement as the basic principles of exchanging information on AML/CFT with international counterparts, and spontaneously exchanges information with foreign counterparts through the Egmont Secured Website on most ML/FT cases. (Information source: MLPC)

Recommendation 30

30.1 FIU should be adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions

The MLPC is a division which affiliated to the Investigation Bureau. It has 25 staff including 1 Director, 1 Deputy Director, 1 Senior Specialist, 3 Assistant Directors and 19 Investigators. The needed manpower of administrative affairs and information technology, which provided by the other divisions of the Investigation Bureau, is not counted in the Center. The operation budget of the MLPC is about 2.4 million NTD per year which excluding the staff salary, information technology equipments, housing and miscellaneous budget. If the excluded expenses are counted in, the total estimated budget will be about 50 million NTD (1.6 million USD). At present, the structure, budget, manpower, technical and other resources of the MLPC are sufficient to perform its functions. (Information source: MLPC)

30.2 Staff of FIU should be required to maintain high professional standards, including standards concerning confidentiality, and should be of high integrity and be appropriately skilled

To be an analyst in MLPC, the following qualification requirements must be met:

(1) Graduating from university/college at least.

(2) Passing national examination of investigator.

(3) Completing 1 year law enforcement training from Investigation Bureau Training Academy.

(4) Engaging practical criminal investigation for at least more than 5 years. (Information source: MLPC)

30.3 Staff of FIU should be provided with adequate and relevant training for combating ML and FT

The MLPC provides on-job-training to promote staff familiar with the procedures of analyzing suspicious transaction reports and related regulations including access to computer database, confidentiality and applying related laws and decrees. In addition, the staffs not only have to research the new trends and methods of ML/FT from handling real cases and share experiences with colleagues, but also have to attend international conferences and training activities. (Information source: MLPC)

2.6 Law enforcement, prosecution and other competent authorities – the framework for the investigation and prosecution of offences, and for confiscation and freezing (R.27, 28, 30 & 32)

Summary

There are four law enforcement agencies which have the jurisdiction to investigate ML/FT criminal cases in Chinese Taipei, including Investigation Bureau, Criminal Investigation Bureau, Coast Guard Administration and Military Police Command. Each of the agencies has its own expertise and working priority that can constitute a comprehensive web on AML/CFT in this jurisdiction counting on the full coordination and cooperation between the authorities. (Information source: MOJ, CIB, MLPC)

Recommendation 27

27.1 Designated law enforcement authorities have responsibility for ensuring that ML and FT offences are properly investigated

As described above, there are 2 major law enforcement agencies which have the jurisdiction to investigate ML/FT criminal cases and each has its own expertise and working priority. The jurisdictions of the 2 agencies are detailed as follow:

Investigation Bureau: In accordance with Article 2 of the Organizational Ordinance of MJIB, the bureau is responsible for the investigation on violations against national security and interests, and matters concerning internal security. Since October 30, 1998, the MJIB's functions have been redefined by an Executive Yuan decree that cover the following nine items of crime-prevention and investigation: 1) Sedition; 2) Treason; 3) Unauthorized disclosure of national secrets; 4) Corruption and bribery during election; 5) Drug trafficking; 6) Organized crime; 7) Major economic crime and money laundering; 8) National security; 9) Other matters relating to national security and interests, specifically assigned by superior government authorities.

Criminal Investigation Bureau: extortion, organized crimes, professional telecommunication fraud, drug trafficking including street drug dealing and street racketeering. The Bureau has set up a dedicated brigade to engage in serious economic crime investigation including money laundering, fraud of investment and economic crimes of violating Futures Trading Act or Securities and Exchange Act. In addition, the local police stations have respectively set up economic crime investigation teams to be dedicated on the investigations of money laundering, smuggling, counterfeiting and violating related laws of intelligent property protection rights. (Information source: CIB,MLPC)

27.2 Countries should consider taking measures for allowing competent authorities to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering

According to the regulations of the Criminal Procedure Code and the MLCA, public prosecutors have the authority to seize the funds related to money laundering or may request court to order financial institutions to prohibit the transaction of the involved funds. As regards to postpone or waive the arrest of suspected persons, it belongs to the application of practical investigation skills and might be decided by law enforcement agencies after consulting with prosecutor's office.

Under Article 11 of the "Police Powers Act", police authorities have the power to conduct surveillance, ascertain movements and collect information, whether by visual observation or technological equipment, relating to persons whom "the facts show there is likelihood of commitment of a crime punishable by at least 5 years imprisonment" or "the facts show there is likelihood of involvement in professional, customary, group or organized crime". Where the director of the police force deems it necessary to prevent commitment of a crime, he/she may issue a written order for undertaking of such surveillance for a prescribed period of time. (Information source: MOJ, CIB, MLPC)

Additional Elements

27.3 Legislative or other measures that provide law enforcement or prosecution authorities a wide range of special investigative techniques to conduct investigations of ML or FT

The Ministry of Justice has drafted the Undercover Investigation Act and Counter Terrorism Act that will authorize law enforcement agencies using specific investigation techniques such as control delivery and undercover investigation to detect terrorist activities related crimes.

Furthermore, under Articles 12 and 13 of the "Police Powers Act", the director of the police force or a police branch may approve the appointment of a third party to secretly collect relevant information (a so-called "moles system"). Where such third party is to be a witness, provisions of the "Witness Protection Act" will also apply.

Under Article 13 of the "Communications Protection and Surveillance Act", the police authorities may wiretap, record, video, photograph, open, inspect, copy or undertake any other similar and necessary acts with respect to surveillance communications in relation to certain criminal activities. (Information source: MOJ, CIB, MLPC)

27.4 Special investigative techniques are used when conducting investigations of ML, FT, and underlying predicate offences

According to Article 3 of the drafted Undercover Investigation Act, there many kinds of criminal investigations can use the special investigative technique including the various types of crimes listed in the Criminal Code, Punishment of Corruption Act, Punishment of Smuggling Act, Statute for Narcotics Hazard Control, Securities and Exchange Act, Futures Trading Act, Weapons Control Act, Statute of Relationship between Taiwan People and China People.

Under Article 11 of the "Police Powers Act", surveillance powers of the police authorities extend to persons whom either "the facts show there is likelihood of commitment of a crime punishable by at least 5 years imprisonment", or whom "the facts show there is likelihood of involvement in professional, customary, group or organized crime".

Under Article 5 of the "Communications Protection & Surveillance Act", powers

of the police units extend to “crimes punishable by at least 3 years imprisonment”, “Intention to Commit Sedition under the Criminal Code”, and offenses under the “Punishment of Corruption Act”, “Punishment of Smuggling Act”, “Pharmaceuticals Act”, “Banking Act”, “Securities and Exchange Act”, “Futures Trading Act”, “Weapons Control Act”, “Public Functionaries Election Act”, “Farming Societies Act” , “Fishery Societies Act”, “Child & Juvenile Sex Transaction Prevention Act”, and “Organized Crime Prevention Act”. (Information source: MOJ, CIB, MLPC)

27.5 Using financial investigators focused on investigation, seizure, freezing and confiscation of proceeds of crime, and cooperating with appropriate competent authorities in other countries

The Investigation Bureau under Ministry of Justice and the National Police Agency under Ministry of the Interior are the two major law enforcement agencies which in charge of criminal investigation in this jurisdiction. Although there has no permanent or temporary groups specialized in investigating the proceeds of crime, the MLPC, the FIU of Chinese Taipei, is affiliated to the Investigation Bureau and every investigator working for the MLPC has the status of judiciary police officer. The investigators of the MLPC not only analysis STRs and CTRs, but also assist courts, prosecutors’ offices and other law enforcement agencies to trace the flows of illegal funds, and the work is equal to financial investigators.

According to the regulations of the Undercover Investigation Act, only if there are reasonable grounds to believe the suspected crime may expose serious threads to the security of nation or the order of society and it is impossible or very difficult to collect criminal evidences, then it can be considered to use undercover investigating technique. As regards to cooperate with competent authorities in other countries, while the mentioned preconditions are met and the suspected crime is organized, concealed, mobile and transnational, then it also can use the undercover investigative technique. In addition, the Undercover Investigation Act provides a comprehensive mechanism to safeguard undercover investigators. (Information source: MOJ, CIB, MLPC)

27.6 Regular review by competent authorities and law enforcement of ML/FT methods, trends and techniques. Resulting information should be disseminated to law enforcement and FIU and other competent authorities

Strategic research is one of the major functions of MLPC. The Center has taken various measures to review the ML/FT methods, trends and techniques in this jurisdiction which Include:

- Publishing “ML/FT Case Study Collections”: In each Collection, some important ML/FT cases which happened in this jurisdiction have been collected and every case has been analyzed the methods and techniques of money laundering, the indicators of ML that might appear in the financial transactions and the experiences that can be referred on AML/CFT in the future. The Collection of Volume 1 has been published in 2001, and the newest Collection (Volume 4) has been published in 2004.
- Hosting “Forum for Compliance Officers of banks”: In the forum, all the dedicated compliance officers of AML/CFT from important domestic and foreign banks are invited to get together to discuss the new methods, trends, techniques of Ml/FT, the problems that banks may face and the solutions on AML/CFT requirements and the feedback mechanism between MLPC and banks. The forum is held about once of two years.

- Organizing “Amending MLCA Seminar”: In the seminar, scholars who own the expertise in this field, judges, prosecutors, representatives from the Ministry of Justice, financial supervisory authorities, Investigation Bureau, Criminal Investigation Bureau and all staff of MLPC are invited to discuss the practical problems caused by the existing MLCA and the amending suggestions of the Act. This seminar is held about one or twice per year.
- Entrusting scholars to research designated topics related to AML/CFT: The papers have been published in the annual reports of MLPC. In February of 2006, the MLPC has published a book named “the Challenges and Prospects of Money Laundering Prevention” which is the monographic study achievements of a famous professor on this field.
- Maintaining an updated website for providing AML/CFT information: For providing the newest information to relevant authorities and financial institutions, the MLPC creates a specific web page on the Investigation Bureau website. All the related laws and regulations, compliant guidance for financial institutions, CTR and STR blank forms and reporting guidance, related research papers etc have been posted in the web page.

The above mentioned publications have been delivered to the relevant authorities, lawmakers, prosecutors’ offices, courts, research institutes, scholars, public libraries and universities, financial institutions. (Information source: MLPC)

Recommendation 28

28.1 Competent authorities responsible for conducting investigations of ML/FT and predicate offences should have powers to (i) compel production of, (ii) search persons or premises for and (iii) seize and obtain information and records for the purposes of ML/FT/predicate offence investigations and prosecutions

The prosecutors of the prosecutorial agencies under the MOJ have the power of investigation according to the Criminal Procedure Code, including using compulsion to enforce impoundment, forcing presence of people for investigation and initiating public indictments. Therefore, the prosecutors in this jurisdiction have enough power to pursue money laundering and the predicate offenses and the proceeds of crime. The investigators of the MLPC under the Investigation Bureau of the Ministry of Justice are subject, according to law, to the command of prosecutors in carrying out investigations into various crimes and are empowered to gather criminal evidence. (Information source: MOJ, CIB, MLPC)

28.2 Competent authorities referred to above should have the powers to take witnesses’ statements for use in investigations and prosecutions of ML, FT and predicate offences

The prosecutors of the various prosecutorial agencies under the MOJ are, according to the Criminal Procedure Code, the investigative body in Chinese Taipei. In accordance with the Code, prosecutors are empowered to carry out impoundments, force presence of persons for investigation, petition courts’ approval of search and detention, summon defendants and witnesses, make written interrogation records and raise public indictment to courts. At present, the prosecutors in this jurisdiction have enough power to pursue money laundering and the predicate offenses and the proceeds of crime. (Information source: MOJ, CIB, MLPC)

Recommendation 30

30.1 FIU, law enforcement, prosecution agencies, supervisors and other competent authorities should be adequately structured, funded, staffed, and provided with sufficient technical and other resources to fully and effectively perform their functions

The prosecutors of Chinese Taipei exercise their powers independently according to law. Although the MOJ is responsible for formulating the national prosecutorial policy and is the supervisory agency of the administration of these prosecutorial agencies, the supervision is limited to administrative affairs only. In the individual cases of investigation, prosecutors can exercise their power independently according to the Criminal Procedure Code and the Organic Law of the Court.

The "Organic Act Governing the Establishment of the Financial Supervisory Commission, Executive Yuan" was promulgated on 23 July 2003, and the Financial Supervisory Commission was formally established on 1 July 2004. As a result, the former system of sectoral regulation, with separate regulatory authorities in charge of supervision and examination in separate arms of the financial sector, was replaced by a single unified system under the FSC. This development represents a major milestone to march toward consolidated supervision of the banking, securities, and insurance industries in Chinese Taipei. The FSC carries out its policymaking and enforcement work in a professional, fair, and independent manner. In addition to providing for an annual budget to pay for staff salaries and administrative expenses, the Organic Act also provides for the establishment of a Financial Supervisory Fund to bolster the funding of financial supervisory activities, ensure the FSC's development as a regulator of financial markets and financial service enterprises, and guarantee its independence in the performance of monitoring and examination. (Information source: MOJ, CIB, MLPC, FSC, CBC)

30.2 Staff of competent authorities should be required to maintain high professional standards

The Criminal Procedure Code regulates, in detail, the functions of prosecutors. In addition, the MOJ has formulated internal control measures like the “Points of Attention for Prosecutorial Agencies’ Handling of Criminal Procedure” to ensure all investigations are conducted in accordance with the Criminal Procedure Code. With regard to the professional ethics of prosecutors, the Ministry has prescribed a “Code of Conduct for Prosecutors” requiring prosecutors to observe the principles of keeping secrets, conducting investigation not in public, avoiding conflict of interests, forbidding participation in politics, and working honestly. If necessary, a violating prosecutor may be referred to the Prosecutors Performance Evaluation Committee for appropriate discipline.

The Investigation Bureau agents have to follow the procedures stipulated in internal working guidance “Criminal Investigation Manual” when conduct investigation on crimes. In addition, the supervisory system is in place for monitoring all investigation procedures being properly followed and ensuring the work ethic and confidentiality being fully complied with. Any investigator who violates the regulation of working guidance or ethic regulation will face punishment according to the “Investigation Bureau Agents Rewards and Punishments Norms”. With regard to promoting professional techniques, all new employed investigators have to accept one-year’s professional training and on job employees have many opportunities to

attend advanced professional trainings and further education.

Article 4 of the Civil Servant Service Act provides as follows: Civil servants have an absolute obligation to safeguard the confidentiality of information in the possession of government agencies, and may not leak information pertaining to confidential matters regardless whether their arm of the government serves as competent authority for the matter in question, and the same prohibition applies after termination of employment. Without the consent of one's superior, a civil servant may not at will issue statements regarding their official duties, either in one's own name or as representative of the agency.

In addition, Point 12 of the "Directions for the Examination of Financial Institutions by the Financial Supervisory Commission, Executive Yuan" provides as follows: Examination personnel shall bear an obligation to maintain the confidentiality of matters under examination, examination schedules, and the operational status of examined institutions, and may not leak such information. In addition, the FSC has formulated the "Code of Conduct for Financial Examination Personnel of the Financial Supervisory Commission, Executive Yuan." In addition to barring examiners from demanding or receiving improper gratuities, accepting entertainment or gifts, or granting lobbying requests or favors, the Code of Conduct also requires that examiners voluntarily recuse themselves from cases in which they have an interest. (Information source: MOJ, CIB, MLPC, FSC, CBC)

30.3 Staff of competent authorities should be provided with adequate and relevant training for combating ML and FT

The MOJ frequently sends prosecutors to participate in international meetings or seminars related to mutual legal assistance and AML/CFT, and ever held several seminars about mutual legal assistance and detecting money laundering crimes.

The educational training of Investigation Bureau agents on AML/CFT includes:

- New employed staffs have to accept training courses related to AML/CFT laws, investigation techniques and illegal funds flow tracing techniques.
- On job staffs have to attend related advance training courses, seminars and project discussion etc on AML/CFT.
- Attending international and domestic meetings and seminars on AML/CFT. (Information source: MOJ,CIB,MLPC,FSC,CBC)

Additional Elements

30.4 Special training for judges and courts concerning ML and FT offences, and the seizure, freezing and confiscation of property

(Information source: Criminal Department of Judicial Yuan)

2.7 Cross Border Declaration or Disclosure (SR.IX)

Summary

Passengers or service personnel of a transportation vehicle who carry foreign currency into and out of the country shall report to the customs and the related measure will be set forth by the Ministry of Finance jointly with the Central Bank of China (Article 11 of the Foreign Exchange Control Act). Anyone who fails to declare or falsely declares to Customs Service will face the all or excess portion of carried foreign currency being confiscated

(Article 24 of the Foreign Exchange Control Act). The declaration threshold has been set to exceed a total of USD$10,000 or the equivalence in other foreign currencies (the regulation stipulated by the Ministry of Finance on March 21, 2003). In addition, according to the "Inward Passengers Carrying Baggage and Goods Clearance Regulation" (stipulated by the Ministry of Finance on August 05, 2004), all passengers have to file a written declaration and pass through the "Goods to Declare" counter when carry: 1) Foreign currency exceeding US$10,000 or equivalence in total; 2) New Taiwan Dollar exceeding NT$60,000; 3) Gold exceeding a total value of US$20,000; and 4) China currency exceeding RMB $20,000.(Information source: Directorate General of Customs, MLPC)

Special Recommendation IX

IX.1 Country should implement declaration system or disclosure system on incoming and outgoing cross-border transportations of currency or bearer negotiable instruments

The Customs implements a declaration system, under which all travelers who carry currency to cross border must submit a declaration form when the amount is equivalent to the prescribed limit.

1. Foreign Currencies: Both departing and arriving travelers and transportation crew who carry foreign currencies exceeding the equivalent of US$10,000 should report the amount to the Customs. In case of non-declaration or false declaration, the excess portion shall be confiscated in accordance with Article 24, Paragraph 3 of Foreign Exchange Control Act (MOF File No.0925000075, dated March 21, 2003).
2. Chinese Currency: Both departing and arriving travelers and transportation crew who carry currency exceeding the equivalent of RMB$20,000 should report the amount to the Customs. Any exceeding amount should be sealed in an envelope and deposited with the Customs. The envelope will only be allowed to be collected upon departure (in accordance with Jin-Kuan-Yin-(1)-Zi-No. 0941000814, dated 28 Sep. 2005). The amount of RMB will not be counted with the allowed foreign currencies to bring in/out. Not more than RMB$20,000 in notes can be brought in or out by each passenger in accordance with Article 38, Paragraph 1 of Act Governing Relations between Peoples of the Taiwan Area and the Mainland Area. Higher amount must be declared to the Customs, but only RMB$20,000 can be brought out. In case of false declaration, the exceeding amount shall be subject to confiscation in accordance with Article 92 of the same provisions.
3. New Taiwan Dollar Notes: Not more than NT$60,000 in notes can be brought in or out by each passenger unless a permit from the Central Bank of China (Taiwan) is obtained in advance. (The Central Back of China (Taiwan) File No. 0910066793, dated 18 Nov. 2002)
4. Gold: Gold is not on the list of controlled goods. The total value of gold exceeding US$20,000 which passengers bring should be declared to the Customs, and an import/export permit issued by the Bureau of Foreign Trade, Ministry of Economic Affairs, is needed at the port of entry/departure.
5. Each foreign currency declaration which travelers file to cross border with equivalent or more than NT$1.5 million will be registered in the "Report of International Transportation of Currency." The related data is sent to MLPC, Ministry of Justice every month since September 2003.(Information source:

Directorate General of Customs)

IX.2 Competent authorities should have the authority to request and obtain further information from the carrier with regard to the origin of the currency or bearer negotiable instruments and their intended use when a false declaration/ disclosure occurred

All passengers carrying foreign currency exceeding the threshold of USD$10,000 equivalence are required to fill out "Report of International Transportation of Currency". There are two additional columns including "purpose" and "signature" being added in the form since January 1, 2006. (Information source: Directorate General of Customs, MOJ, FSC, CBC, MLPC)

IX.3 Competent authorities should be able to stop or restrain currency or bearer negotiable instruments for a reasonable time in order to ascertain the evidence of money laundering or terrorist financing

When the customs service tracks down any passenger carrying foreign currency, RMB, NTD or gold exceeding the threshold but fails to or falsely declare, the exceeding parts shall be confiscated or be shutout from entering this country. If there are reasonable grounds to suspect the items may involve ML/FT, the information will be forwarded, according to the related regulations of Article 241 of the Criminal Procedure Code, to the authorities for taking proper actions, including freeze, seizure and confiscation.

Article 241 of the Criminal Procedure Code: A public officer who, in the execution of official duties, suspects that an offence has been committed shall disclose the information to authorities. (Information source: Directorate General of Customs, MOJ, FSC, CBC, MLPC)

IX.4 The amount of currency or bearer negotiable instruments and the identification data of the bearer(s) shall be retained for use by the appropriate authorities

At present, the amount of currency or bearer negotiable instruments and the bearer's identification records of exceeding threshold declaration and false declaration are retained by the customs and can be accessed by authorities for business necessity under the authorization of Article 12 of Customs Law. If there are reasonable grounds to suspect the declaration may involve in Ml/FT, it will be additionally forwarded to authority to take proper action.

Article 12 of Customs Law:

"Except for disclosures to personnel or authorities set forth below, customs personnel shall keep confidential all customs declaration information provided to Customs by duty-payers or exporters of goods. Those in violation of this provision shall be subject to disciplinary action. Those accused of violation of the criminal law shall be handed over to the relevant authorities for investigation:

(1) The duty-payer or the importer of the goods himself/herself or his/her successors;

(2) The agent or attorney of the duty-payer or the importer of the goods;

(3) Customs or tax collection authorities;

(4) Control authorities;

(5) Authorities which process appeals and/or litigation regarding customs matters;

(6) Authorities which conduct investigations of cases involving customs matters as

prescribed by law;

(7) Other authorities or personnel which may request that Customs provide customs declaration information as prescribed by law; and

(8) Authorities or personnel which have been approved by the Ministry of Finance.

The provisions of the preceding paragraph shall not apply where Customs supplies information to government authorities for statistical purposes that do not disclose the name of the duty-payer or importer of goods.

The provisions regarding disclosures by customs personnel in paragraph one shall apply mutatis mutandis in the event of a disclosure of information specified in paragraph one by authorities and personnel specified in items (3) to (8) of the same paragraph." (Information source: Directorate General of Customs, MLPC)

IX.5 The information obtained through the processes implemented in Criterion IX.1 should be available to the financial intelligence unit (FIU)

From September 2003, the Directorate General of Customs began to forward the cross border currency declaration reports which exceeding the threshold of NTD $1,500,000 equivalence (about USD $45,000) to the MLPC by electronic media per month. Starting from July 1, 2006, the threshold has been abolished and each cross border foreign currency declaration report shall be forwarded to the MLPC. (Information source: Directorate General of Customs, MLPC)

IX.6 Adequate co-ordination among customs, immigration and other related authorities on issues related to the implementation of Special Recommendation IX

The MOJ has established the "Improving AML/CFT Measures Coordination Forum" in June 2005. The forum gathers all representatives from AML/CFT related authorities to review the current measures and discuss the improving actions can be taken for complying with the international standards. The Directorate General of Customs is one of the participating authorities in the forum. (Information source: Directorate General of Customs)

IX.7 At the international level, Country should allow for the greatest possible measure of co-operation and assistance amongst customs, immigration and other related authorities

Chinese Taipei has spent many efforts to establish cooperation channels with foreign counterparts among customs, immigration and other authorities. For example:

1. The agreement of "Declaration of Principle (DOP) of Container Security Initiative (CSI)" was signed by Taipei Representative Office in United States and AIT on August 18, 2004.
2. To be an important link in the international anti-terrorism initiatives, the Customs of Chinese Taipei began the CSI operation on July 25, 2005 and closely worked together with the CSI team posted in Kaohsiung Harbor. Depending on the customs' affairs cooperation and experience sharing, it effectively raises the inspection efficiency of the Customs for facilitating the customs clearance of cross-border cargo and improves the security of container-based trade.
3. The CSI team of Kaohsiung Customs Office ever got information from the counterpart in the United States on August 23, 2005 which lead an intensive search to a shipping container of plastic toys in transit from mainland China to USA and discovered US$2 million counterfeited greenbacks being hidden in cardboard boxes. (Information source: Directorate General of Customs)

IX.8 Country should ensure that Criteria 17.1 to 17.4 (in R.17) also apply to persons who make a false declaration or disclosure contrary to the obligations under SR IX

According to Article 24 of Foreign Exchange Control Act, Where the amount of foreign currency carried while departing the country exceeds the limit, the excess portion shall be confiscated. Foreign currency carried into or out of the country shall be confiscated, provided it is not reported as required under Article 11 herein, and in case of false reporting, the excess portion shall be confiscated. (Information source: Directorate General of Customs, MOJ, FSC, CBC, MLPC)

IX.9 Country should ensure that Criteria 17.1 to 17.4 (in R.17) also apply to persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering contrary to the obligations under SR IX

If there are reasonable grounds to suspect the declaration may involve in Ml/FT, it not only will be proceeded according the regulations mentioned above but also will be additionally forwarded to authorities for taking proper actions in accordance with the regulation of Article 241 of the Criminal Procedure Code. (Information source: Directorate General of Customs, MOJ, FSC, CBC, MLPC)

IX.10 Country should ensure that Criteria 3.1 to 3.6 (in R.3) also apply in relation to persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to terrorist financing or money laundering

If a passenger fails to or falsely declare to customs, the currency and gold shall be subject to confiscation or return abroad according to related regulations. Furthermore, if it is suspected to involve in ML/FT, the information shall be forwarded to authorities for taking proper actions, including freeze, seize and confiscation. (Information source: Directorate General of Customs, MOJ, FSC, CBC, MLPC)

IX.11 Country should ensure that Criteria III.1 to III.10 (in SR.III) also apply in relation to persons who are carrying out a physical cross-border transportation of currency or bearer negotiable instruments that are related to terrorist financing

Please refer the description of IX.10. (Information source: Directorate General of Customs, MOJ, FSC, CBC, MLPC)

IX.12 Unusual cross-border movement of gold, precious metals or precious stones, the Customs Service or other competent authorities should cooperate with the counterparts of the countries to establish the source, destination, and purpose of the movement of such items and toward the taking of appropriate action

Any unusual cross-border movement of gold, precious metals or precious stones being found, the customs will inform the MLPC to spontaneously disseminate the information to international counterparts for establishing the source, destination, and purpose of the movement of such items and taking appropriate action. (Information source: Directorate General of Customs, MOJ, FSC, CBC, MLPC)

Additional Elements

IX.13 The reports of cross border currency movement should be maintained in a computerized data base and available to competent authorities for AML/CFT purposes

All reports of cross border currency movement which forwarded by the Customs Service shall be transferred into the computer database of the MLPC. The competent authorities can raise requests to access the database for AML/CFT purpose. (Information source: Directorate General of Customs, MLPC)

IX.14 The reports of cross border currency movement should be subject to strict safeguards

The analysts of MLPC can access the database for analyzing suspicious financial transactions. Other competent authorities need to raise formal request for accessing the database and exclusively based on the necessities of investigating, prosecuting and convicting criminal cases. Every access will be recorded by computer log file for necessary review aftermath. (Information source: Directorate General of Customs, MLPC)

3 Preventive Measures - Financial Institutions

Customer Due Diligence & Record Keeping

3.1 Risk of money laundering or terrorist financing

A country may decide not to apply certain AML/CFT requirements, or to reduce or simplify the measures being taken, on the basis that there is a low or little risk of money laundering or terrorist financing. Similarly, as set out in R.5, financial institutions may, in certain circumstances determine the degree of risk attached to particular types of customers, business relationships, transactions or products. In section 3.1 countries should set out the basis upon which they have taken a decision not to apply certain required AML/CFT measures to a particular financial sector. Where there are specific references to risk in individual Recommendations (see Instructions to Assessors) the issue of risk for those Recommendations should be described in the relevant section of the MER i.e. sections 3.2, 3.8, 3.13 and 4.1, 4.4 and 4.5. See AML/CFT Methodology 2004, paragraphs 17-18.

Summary

The FSC's "Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" provide as follows: "A bank shall establish clear 'Know Your Customer' policies and procedures, standards for the opening of deposit accounts, customer identification, monitoring of deposit accounts and transactions, and necessary training." And the Regulations further provide: "When a bank agrees to open a customer account, it shall review double identification documents, and may not process an application until it has confirmed the customer's identity." The BOAF adopted the similar regulation in the "Directions Governing Suspected Illegality or Obviously Irregular Transactions of Deposit Accounts for credit departments of Farmers' and Fishermen's Associations".

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" which requires financial institutions to confirm a customer's identity by checking the ID document or passport furnished by the customer. Where a transaction is handled by an agent acting on the customer's behalf, the financial institution must also check ID document or passport furnished by the agent and keep the agent's information on file. The Checklist further requires that original copies of confirmation records and transaction documentation be maintained for five years.

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each of the checklists requires that when an individual buys insurance, the solicitor must ask for ID documents from both the proposer and the insured, and when a legal person buys insurance it must furnish proof of proper corporate registration and legal proof of the status of its statutory representative. In addition, after the accuracy of all particulars on the application form has been confirmed, a note to this effect must be made in the solicitation report. To confirm the identity of the customer, the insurer may as necessary ask the customer to furnish a second identity document above and beyond the ID document or proof of corporate registration already provided. If the applicant refuses such a request, the insurer is required to either refuse the application or achieve positive identification before processing the application. (Information source: FSC)

5.8 Financial institutions should perform enhanced due diligence for higher risk categories of customer, business relationship or transaction

The FSC's "Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" provide as follows: "In addition to the ordinary customer due diligence measures, a financial institution is additionally required to have appropriate risk management measures in place for transactions handled on the customer's behalf by a professional intermediary, transactions involving an account previously designated as a possible fraud account but for which the designation has since been lifted, and for any other customer or transaction that has been identified as high-risk." The BOAF adopted the similar regulation in the "Directions Governing Suspected Illegality or Obviously Irregular Transactions of Deposit Accounts for credit departments of Farmers' and Fishermen's Associations".

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. The checklists provide that when selling its products, securities and futures firms must provide the customer with a risk disclosure statement and ask the customer to sign a statement confirming that they understand the product risks. Associated persons are required to carry out a check procedure to ascertain whether the customer is involved in money laundering or other illegal transactions, and to prepare a confirmation statement. The checklists also require securities and futures firms to implement the "Checklist of Money Laundering Prevention Guidelines and Procedures" and a credit check system. In addition, overseas Chinese and foreign nationals investing in domestic securities must abide by the provisions of the "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals."

The account opening due diligence principles set out in Article 8 of the "Directions for Life Insurance Enterprises Engaging in Wealth Management Business" require life insurers to adopt account opening due diligence procedures. The information that must be collected, verified, and recorded is set out, and the Directions also provide that before an insurer can open accounts for customers it must have a unit or personnel to double-check its account opening procedures and verify that the information provided by customers is true and complete. (Information source: FSC, CBC, MOEA, BOAF)

5.9 Financial institutions can apply reduced or simplified measures to low risks customers

When handling currency transactions of the following types that are even above the reporting threshold, financial institutions still need not confirm the customer's identity, keep transaction records on file, or file with the designated authority. Financial institutions are required at least once per year to scrutinize each parties with which it engages in reporting-exempt transactions to confirm whether the exemption still applies.

1. Transactions that involve receivables or payables that are due, in connection with statutory or regulatory provisions or a contractual relationship, to or from a government agency, public enterprise, an organize that exercises public authority (within the scope of its mandate), public or private schools, public utilities, and government-established foundations.
2. Transactions and cash shipments between financial institutions. However, AML requirements still apply to cash paid out in connection with interbank transactions

made via interbank accounts if the drawee bank pays with checks and the combined amount of a single customer's cash transactions is NT$1 million or higher.

3. Transactions in which a ticket vendor for the national lottery applies for cash to pay out lottery winnings.
4. Transactions involving margin accounts opened by securities firms and futures commission merchants.
5. Transactions connected with bulk collections (not including deposits made in stock trading accounts), provided that the notice of payment execution expressly indicates the name, national ID number of the transaction counterparty (including numbers that can trace the identification of the transaction counterparties), transaction type, and transaction amount. Note that the second copy of the notice of payment execution must be kept on file.

Overseas Chinese and foreign nationals investing in domestic securities do so in accordance with the provisions of the "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals." (Information source: FSC, CBC, MOEA, BOAF)

5.10 Simplified or reduced CDD measures to customers resident in another country that the original country is compliant with the FATF Recommendations

No CDD measure can be reduced for the customers resident in another country that the original country is compliant with the FATF Recommendations. This criterion is not applicable. (Information source: FSC, CBC, MOEA, BOAF)

5.11 Simplified CDD measures are not acceptable whenever there is suspicion of money laundering or terrorist financing or specific higher risk scenarios apply

Financial institutions are required at least once per year to scrutinize each party with which it engages in reporting-exempt transactions to confirm whether the reporting exemptions set forth in the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" are still applicable. When a suspected money laundering transaction is discovered, the institution must resume reporting in accordance with the provisions of the MLCA.

Overseas Chinese and foreign nationals investing in domestic securities do so in accordance with the provisions of the "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals." (Information source: FSC, CBC, MOEA, BOAF)

5.12 CDD measures on a risk sensitive basis should be consistent with guidelines issued by the competent authorities

The measures taken in Chinese Taipei are consistent with such guidelines. (Information source: FSC, CBC, MOEA, BOAF)

3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)

Summary

In order to prevent money laundering and counter terrorist financing, the FSC has required banks to establish appropriate internal control and risk management systems for the various types of business they conduct, and to implement the systems properly. Such systems must set out rules for the handling of unusual or suspicious transactions, including a

mechanism for managing the identification and tracking of unusual or suspicious transactions. A mechanism of regulation by exception must also be set up for dealings with high-risk customers, and AML training programs must be set up.

In order to sell financial products, a bank must adopt account opening due diligence procedures. It is also required to collect, verify, and record certain information, including the identities of customers and beneficiaries, as well as their financial backgrounds, incomes and fund sources, risk preferences, past investment experience, and the purpose of and need to open an account. And before a bank can open accounts for customers it must have a systems for double-checking the opening of accounts and a regular monitoring system. (Information source: FSC)

Recommendation 5

5.1 Prohibiting anonymous and false name accounts

The Bankers Association, the Securities Investment Trust and Consulting Association, the Taiwan Futures Association, and the national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each of the checklists requires that institutions refuse to open an account for anyone attempting to open an account is suspected of using a false name, nominee, or shell organization to open an account.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. The Checklists require association members to maintain records containing the name, domicile, mailing address, occupation, and age of each customer. (Information source: FSC, CBC, BOAF)

5.2 CDD when establishing: (a) business relations; (b) carrying out occasional transactions above the applicable designated threshold; (c) carrying out occasional transactions of wire transfers; (d) suspicions of money laundering or terrorist financing; (e) doubts about previous CDD

In order to establish a banking relationship with a customer, a bank must first perform customer due diligence, and must have a system for double-checking the opening of accounts, as well as a regular monitoring system.

The FSC administers the "Regulations Regarding Article 7 of The Money Laundering Control Act" and "Regulations Regarding Article 8 of The Money Laundering Control Act," which require a financial institution to confirm customer identity and report to the MLPC when it handles a significant currency transactions of NT$1 million or more, or when the aggregate same-day deposits and/or withdrawals in a single account top NT$1 million (or its equivalent in foreign currency) and the amount involved is clearly out of keeping with the customer's status or income level, or with the nature of the customer's business.

In addition, the Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Guidelines and Procedures" for their respective members. The checklists address these matters, and have been incorporated into the "Taiwan Securities Central Depository Company Directions for the Monitoring of Deposits, Withdrawals, Creation of Book-entry Pledge, Out-trades, and Suspected

Money Laundering Transactions." (Information source: FSC, CBC, MOEA, BOAF)

5.3 Identifying customers by using reliable independent source documents, data or information

When opening an account, a bank must ask for double identification documents. In addition to the ID document or proof of corporate registration already provided, the bank must ask the customer to furnish a second identity document. When opening an individual account, the institution must also ask for other proof of identity beyond a national ID card, such as a health insurance card, passport, driver's license, student ID, a list of current household members, or a household registration certificate. When opening a non-individual account, the institution, in addition to an incorporation certificate or official correspondence or other documentation to prove incorporation, the financial institution must also obtain the minutes of board meetings, the articles of incorporation, financial statements, and the like. The "other proof of identity" beyond an ID document or proof of corporate registration must be sufficient to identify the applicant. If the applicant refuses such a request, the bank is required to either refuse the application or achieve positive identification before processing the application.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. In addition, Article 42 of the Regulations Governing Offshore Funds provides that for an investor making a first-time purchase, the general agent and sub-distributor(s) shall require the investor to furnish proof of identity or a document evidencing profit-seeking enterprise business registration, and to fill out basic identifying information.

Chinese Taipei has a "Checklist of Money Laundering Prevention Guidelines and Procedures" for life insurers, and another for non-life insurers. Under the provisions of the checklists, before committing to insure an insurer must confirm the identity of its customers and carry out the following AML procedures:

1. When an individual buys insurance, the solicitor must ask for ID documents (e.g. national ID card, passport, driver's license, or other documents sufficient to prove identity) from both the proposer and the insured. When a legal person buys insurance it must furnish proof of proper corporate registration and legal proof of the status of its statutory representative (e.g. company license, business license, certificate of profit-seeking enterprise business registration, etc). In addition, after the accuracy of all particulars on the application form has been confirmed, a note to this effect must be made in the solicitation report.
2. When considering whether to insure a customer, the underwriter must check to see whether the applicant has personally filled out the application, as well as the factual accuracy of the solicitation report's confirmation of customer identity. If necessary, the underwriter must also request a case investigation and furnish case-related information to aid in the investigation.
3. To confirm the identity of the customer, the insurer may as necessary ask the customer to furnish a second identity document above and beyond the ID document or proof of corporate registration already provided. The second identity document must be sufficient to identify the applicant. Where a government agency or school provides a list of customer names, if it is possible to confirm their identities then the list may be treated as the second proof of identity. If the

applicant refuses such a request, the insurer is required to either refuse the application or achieve positive identification before processing the application.

4. If a customer is suspected of using a false name, nominee, or shell organization to purchase insurance, the insurer must refuse insurance.

5. Anyone who uses a forged or altered ID document to buy insurance must be turned down. The same applies when all the ID documents are photocopies.

6. Where a customer's documents are suspicious or fuzzy, or if the customer is unwilling to furnish other supporting documentation, or if the documentation cannot be authenticated, insurance must be denied.

7. If a customer delays inordinately in supplementing required documentation, insurance must be denied.

8. When processing an application, if the insurer discovers some other irregularity for which the customer cannot provide a reasonable explanation, insurance must be denied. (Information source: FSC, CBC, MOEA, BOAF)

5.4 Verifying authorization of customer and legal status of legal person or legal arrangement

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires that when an applicant mandates or authorizes another to open an account on its behalf, the bank must confirm the facts of the mandate/authorization and the identity documents. If verification proves difficult, the bank must refuse to open an account. A non-individual seeking to open an account must furnish an incorporation certificate or official correspondence or other documentation to prove incorporation, and the bank must also obtain the minutes of board meetings, the articles of incorporation, financial statements, and the like.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. In addition, Article 42 of the Regulations Governing Offshore Funds provides that for an investor making a first-time purchase, the general agent and sub-distributor(s) shall require the investor to furnish proof of identity or a document evidencing profit-seeking enterprise business registration, and to fill out basic identifying information.

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each of the checklists provides that when a legal person seeks to buy insurance, the solicitor must provide proof of proper corporate registration and legal proof of the status of its statutory representative. In addition, after the accuracy of all particulars on the application form has been confirmed, a note to this effect must be made in the solicitation report. To confirm the identity of the customer, the insurer may as necessary ask the customer to furnish a second identity document above and beyond the ID document or proof of corporate registration already provided. If the applicant refuses such a request, the insurer is required to either refuse the application or achieve positive identification before processing the application. (Information source: FSC, CBC, MOEA, BOAF)

5.5 Identifying the beneficial owner and verifying the identity of the beneficial owner

When a trust enterprise signs a trust agreement, the customer must furnish the same documentation that is required of a customer seeking to open a bank account, i.e. the trust enterprise must ask for double identification documents and keep copies. When signing a trust agreement with either an individual or a non-individual, in the case of a self-benefit trust the trust enterprise will have already verified the identity of the individual or non-individual. In the case of a beneficiary trust, the individual or non-individual must furnish personal and account information for the beneficiary. The identity of the beneficiary will have already been verified when the beneficiary account was opened at a financial institution, so there is no problem with AML compliance. In addition, the FSC is prepared at all times to supply trust enterprises with documents from foreign governments listing terrorists and terrorist organizations. If the ultimate beneficiary of a transaction is listed in such a document, the transaction must be treated as a suspected money laundering transaction and reported to the Ministry of Justice Investigation Bureau.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each checklist requires that, where telltale signs of money laundering exist, the firm must confirm the customer's identity, and if necessary they must visit the customer at his location and prepare a record of the visit's findings.

Chinese Taipei has a "Checklist of Money Laundering Prevention Guidelines and Procedures" for life insurers, and another for non-life insurers. Each checklist requires that when an insurer pays out insurance benefits it must require the beneficiary and/or funds recipient to provide documentary proof of identity, and must keep the documentation on file. Where a customer asks to lift a prohibition on endorsement and transfer of checks, the insurer must find out the reason for the request and appropriately note the fact that the request was made. Where a beneficiary is switched, the insurer must check for any irregularity in the process. The checklists also require insurers to check the party to whom insurance benefits are paid to see whether there is anything unusual or unreasonable regarding the amount received or the recipient's occupation or identity. (Information source: FSC, CBC, BOAF)

5.5.1 Financial institutions should determine whether the customer is acting on behalf of another person, and should take steps to verify the identity of that other person

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires that when an applicant mandates or authorizes another to open an account on its behalf, the bank must confirm the facts of the mandate/authorization and the identity documents. If verification proves difficult, the bank must refuse to open an account. Where an applicant mandates or authorizes another to open an account on its behalf, or where a bank does not discover that a customer is doubtful until after it has already opened an account for the customer, the bank must verify the situation by telephone or written correspondence, or by making an inspection visit. Where a customer opens an account via correspondence, after the account opening procedure is completed the bank must send its return correspondence via registered mail to provide evidence of the transaction.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a

"Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Under the AML provisions of the checklists, before committing to insure an insurer must confirm the identity of its customers. When a legal person buys insurance it must furnish proof of proper corporate registration and legal proof of the status of its statutory representative (e.g. company license, business license, certificate of profit-seeking enterprise business registration, etc). In addition, after the accuracy of all particulars on the application form has been confirmed, a note to this effect must be made in the solicitation report. (Information source: FSC, CBC, BOAF)

5.5.2 Financial institutions should take measures to understand the ownership and control structure of legal persons or legal arrangements

A trust enterprise enters into trust agreements with two types of customers: individuals and non-individuals. When entering into a trust agreement with an individual, in addition to a national ID card, the institution must also ask for other proof of identity, such as a passport, driver's license, or student ID. When entering into a trust agreement with a non-individual, the latter must furnish an incorporation certificate or official correspondence or other documentation to prove incorporation, and the trust enterprise must also obtain the minutes of board meetings, the articles of incorporation, financial statements, and the like. However, if a trust enterprise is able to confirm that its banking arm has already examined double identification documents for a customer and confirmed the accuracy of the particulars therein, the trust enterprise is free, if it so chooses, to check only a single identification document, keeping a copy of that one document on file. When signing a trust agreement with either an individual or a non-individual, in the case of a self-benefit trust the trust enterprise will have already verified the identity of the individual or non-individual. In the case of a beneficiary trust, the individual or non-individual must furnish personal and account information for the beneficiary. The identity of the beneficiary will have already been verified when the beneficiary account was opened at a financial institution, so there is no problem with AML compliance.

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Under the AML provisions of the checklists, before committing to insure an insurer must confirm the identity of its customers. When a legal person buys insurance it must furnish proof of proper corporate registration and legal proof of the status of its statutory representative (e.g. company license, business license, certificate of profit-seeking enterprise business registration, etc). In addition, after the accuracy of all particulars on the application form has been confirmed, a note to this effect must be made in the solicitation report. (Information source: FSC, CBC, BOAF)

5.6 Financial institutions should obtain information on the purpose and intended nature of the business relationship

Banks must implement a "Know Your Customer" (KYC) policy. The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines

and Procedures for Banks," which requires that banks: (1) should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose; (2) should, as far as possible, examine and keep a written record of the background and purpose of such transactions; and (3) should keep such written records on file for at least five years.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. In addition, Article 42 of the Regulations Governing Offshore Funds provides that when a general agent and sub-distributor(s) handle the offering and sales of an offshore fund, they must fully understand and assess each customer's investment knowledge, investment experience, financial condition, and degree of risk tolerance.

The "Directions for Life Insurance Enterprises Engaging in Wealth Management Business" require life insurers (i.e. "enterprises for insurance of the person") to formulate procedures for evaluating their KYC performance. The matters to be evaluated depend on the nature of the insurance business in question, but should in any case include at least the following: a customer acceptance policy, account opening due diligence policy, assessment of customer investment capacity, and regular monitoring. (Information source: FSC, CBC, BOAF)

5.7 Financial institutions should conduct ongoing due diligence on the business relationship

The FSC's "Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" provide as follows: "A bank shall establish clear 'Know Your Customer' policies and procedures, standards for the opening of deposit accounts, customer identification, monitoring of deposit accounts and transactions, and necessary training." The BOAF adopted the similar regulation in the "Directions Governing Suspected Illegality or Obviously Irregular Transactions of Deposit Accounts for credit departments of Farmers' and Fishermen's Associations".

In a circular dated 15 March 2004, the Banking Bureau's predecessor agency required financial institutions to properly implement their KYC policies. Among other things, the circular called on financial institutions to formulate internal KYC rules and customer due diligence rules. For customers seeking to open a new account, financial institutions are required to adopt a standard procedure for confirming identity and understanding the customer. For existing customers, the circular requires financial institutions to expressly formulate a set of measures for ongoing monitoring to see whether the transaction patterns of any given customer are consistent with that customer's status or income level, or with the nature of the customer's business.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

The "Directions for Life Insurance Enterprises Engaging in Wealth Management Business" require life insurers (i.e. "enterprises for insurance of the person") to formulate procedures for evaluating their KYC performance. The matters to be evaluated depend on the nature of the insurance business in question, but should in any case include at least the following: (1) customer acceptance policy; (2) account opening

due diligence policy; (3) assessment of customer investment capacity; and (4) regular monitoring. (Information source: FSC, CBC, BOAF)

5.7.1 Scrutiny of transactions undertaken throughout the course of that relationship

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires that financial institutions make use of information systems to help discover suspicious transactions, and exercise closer monitoring of high risk customers. And financial institutions should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, and the findings established in writing.

The FSC has issued the "Directions for Banks Engaging in Wealth Management Business" and the "Directions Concerning Sales by a Bank of Financial Products to Persons other than Customers of its Wealth Management Department," both of which require that a bank, in order to sell financial products, must adopt account opening due diligence procedures. Banks are also required to collect, verify, and record certain information, including the identities of customers and beneficiaries, as well as their financial backgrounds, incomes and fund sources, risk preferences, past investment experience, and the purpose of and need to open an account. And a bank must have a system for double-checking the opening of accounts, as well as a regular monitoring system.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

The "Directions for Life Insurance Enterprises Engaging in Wealth Management Business" require life insurers (i.e. enterprises for insurance of the person) to adopt account opening due diligence procedures. The information that must be collected, verified, and recorded is set out, including the identities of customers and beneficiaries, as well as their financial backgrounds, incomes and fund sources, risk preferences, past investment experience, and the purpose of and need to open an account. And the Directions also provide that before an insurer can open accounts for customers it must have a system for double-checking the opening of accounts, as well as a regular monitoring system. (Information source: FSC, CBC, BOAF)

5.7.2 Financial institutions should ensure documents, data or information collected under the CDD process is kept up-to-date and relevant

Chinese Taipei on January 1, 2006 began reissuing national ID cards for all citizens. The new ID cards have multiple safeguards against counterfeiting and alteration, and should be effective in preventing such activities. On April 10, 2004, the Joint Credit Information Center began offering free access to its "Query and Authentication System for the National ID Card Registry of Card Replacements" (Z21) in order to help banks compare the national ID cards furnished by customers against ID cards listed in the "National ID Card Registry of Card Replacements" and the "National ID Card Registry of Lost Card Reports" (databases operated by the Ministry of the Interior).

The FSC has issued the "Directions for Banks Engaging in Wealth

Management Business," which requires that banks establish a regular monitoring system, whereby bank personnel would stay up-to-date on any change in a customer's financial or business status by regular telephone calls or face-to-face visits. They would also update customer data files in a timely manner, and review and assess customers' investment capacities accordingly.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

The "Directions for Life Insurance Enterprises Engaging in Wealth Management Business" require life insurers (i.e. enterprises for insurance of the person) to establish a regular monitoring system, whereby insurance solicitors would stay up-to-date on any change in a customer's financial or business status by regular telephone calls or face-to-face visits. They would also update customer data files in a timely manner, and review and assess customers' investment capacities accordingly. (Information source: FSC, CBC, BOAF)

5.13 Verifying the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers

The FSC has issued the "Directions for Banks Engaging in Wealth Management Business" and the "Directions Concerning Sales by a Bank of Financial Products to Persons other than Customers of its Wealth Management Department," both of which require that before a bank can open accounts for customers it must have a unit or personnel to double-check its account opening procedures and verify that the information provided by customers is true and complete. In a situation where a customer authorizes another person to sign and open an account on his or her behalf, additional evaluation shall be conducted on such authorized representative and the ultimate beneficial owner shall be identified.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

The "Directions for Life Insurance Enterprises Engaging in Wealth Management Business" require life insurers (i.e. "enterprises for insurance of the person") to formulate procedures for evaluating their KYC performance. The matters to be evaluated depend on the nature of the insurance business in question, but might include some or all of the following: (1) customer acceptance principles (must specify a method for analyzing minimum needs, and circumstances in which customers may be rejected); (2) account opening review principles (must specify review procedures to be followed when opening accounts, and information to be collected, verified and recorded); and (3) no account opening application submitted by a customer may be accepted unless the customer's account opening procedures and the validity and integrity of the documentation provided have been re-checked by a suitable unit or person. (Information source: FSC, CBC, BOAF)

5.14 Financial institutions can complete the verification of the identity of the customer and beneficial owner following the establishment of the business relationship

On July19, 2000, the Banking Bureau's predecessor agency issued a circular

aimed at strengthening measures to prevent the use of counterfeit IDs to open accounts. The circular requires financial institutions in principle to check identity documents immediately when processing account applications from the general public, but when a website that they need to query is down a financial institution may use its own discretion to handle such applications flexibly in light of the degree of risk involved and such issues as quality of service. Except when the customer is applying to open a checking deposit account or to take out a loan, a financial institution may open an account first and access the proper website later, as necessary, to verify the information furnished by the customer. However, when processing an application to open an account, a financial institution is still required to follow proper verification procedures to accurately confirm the customer's identity.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. (Information source: FSC, CBC, BOAF)

5.14.1 Financial institutions should adopt risk management procedures concerning the conditions of utilizing the business relationship prior to verification

Please refer the description of 5.14 (Information source: FSC, CBC, BOAF)

5.15 Account blocking for unverified customers

Please refer the description of 5.14 (Information source: FSC, CBC, BOAF)

5.16 Financial institutions should terminate the business relationship and consider making a suspicious transaction report when Criteria 5.3 to 5.5 is unable to comply

On 19 July 2000, the Banking Bureau's predecessor agency issued a circular aimed at strengthening measures to prevent the use of counterfeit IDs to open accounts. The circular requires financial institutions in principle to check identity documents immediately when processing account applications from the general public, but when a website that they need to query is down a financial institution may use its own discretion to handle such applications flexibly in light of the degree of risk involved and such issues as quality of service. Except when the customer is applying to open a checking deposit account or to take out a loan, a financial institution may open an account first and access the proper website later, as necessary, to verify the information furnished by the customer. However, when processing an application to open an account, a financial institution is still required to follow proper verification procedures to accurately confirm the customer's identity.

1 Article 13, paragraph 2 of the "Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" requires banks to verify the identity of a customer before processing his/her application to open a deposit account, and to reject a customer's application to open an account if any of the following situations exists:

(1) The customer is suspected of using a fake name, a nominee, a shell entity, or a shell corporation to open a deposit account.

(2) The customer uses forged or fraudulent identification documents or only provides photocopies of the identification documents.

(3) Documents provided by the customer are suspicious or unclear, or the customer refuses to provide supporting documents, or the documents provided cannot be authenticated.

(4) The customer delays inordinately in providing identification documents.

(5) Another deposit account opened by the same customer has been reported as a watch-listed account.

(6) Other unusual circumstances exist and the customer cannot provide a reasonable explanation.

The BOAF adopted the similar regulation in the "Directions Governing Suspected Illegality or Obviously Irregular Transactions of Deposit Accounts for credit departments of Farmers' and Fishermen's Associations".

2 The Account Opening Checklist set out in the "Financial Institution Account Opening Due Diligence Procedures and Risk Management Checklist for Irregular Accounts" allows for financial institutions to refuse opening an account for customers that do not meet certain conditions.

3 Point 3, paragraph 2 of the Bankers Association's "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" sets forth a list of customer identification measures that financial institutions must take, as follows:

(1) To establish a banking relationship with a customer, or to do business exceeding a certain dollar amount with a walk-in customer, or when it suspects that a customer's documents are insufficient to establish positive identification, a financial institution shall use a government-issued identity document or another identification document to confirm identity, and shall then keep a record of it.

(2) A financial institution shall take special care to confirm the identity of an individual or organization that opens a brokerage account, conducts transactions via a professional intermediary, or poses high risk to a bank's reputation.

(3) A financial institution shall exercise special precautions when dealing with a non-local customer, and shall understand why the customer has chosen to set up an account outside their home country.

(4) A financial institution shall conduct more thorough background checks on customers seeking personal wealth management services.

(5) A financial institution shall check more closely on customers that have been blacklisted by other financial institutions.

(6) A financial institution shall use identity confirmation procedures that enable them to identify non-face-to-face customers just as effectively as they identify other customers, and must further have special and adequate measures to reduce risk.

(7) If a financial institution discovers (without breaking any law or regulation), or finds it necessary to assume, that the funds flowing through a customer's account come from corruption or misuse of public assets, the institution must refuse to handle such funds or terminate the banking relationship altogether.(Information source: FSC, CBC, BOAF)

5.17 Financial institutions should apply CDD requirements to existing customers on the basis of materiality and risk

The FSC's "Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" provide as follows: "A bank shall establish clear 'Know Your Customer' policies and procedures, standards for the opening of deposit accounts, customer identification, monitoring of deposit accounts and transactions, and necessary training." The BOAF adopted the similar regulation in the "Directions Governing Suspected Illegality or Obviously Irregular Transactions of Deposit Accounts for credit departments of Farmers' and Fishermen's Associations".

The FSC has issued the "Directions for Banks Engaging in Wealth Management Business," which requires that banks establish a regular monitoring system, whereby bank personnel would stay up-to-date on any change in a customer's financial or business status by regular telephone calls or face-to-face visits. They would also update customer data files in a timely manner, and review and assess customers' investment capacities accordingly. The frequency of such monitoring and auditing may be adjusted in response to the size, complexity, and degree of risk of a given customer's transaction relationship with the insurer.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

The "Directions for Life Insurance Enterprises Engaging in Wealth Management Business" require life insurers (i.e. enterprises for insurance of the person) to establish a regular monitoring system, whereby insurance solicitors would stay up-to-date on any change in a customer's financial or business status by regular telephone calls or face-to-face visits, and update customer data files in a timely manner. The frequency of such monitoring and auditing may be adjusted in response to the size, complexity, and degree of risk of a given customer's transaction relationship with the insurer. (Information source: FSC, CBC, BOAF)

5.18 Financial institutions should perform CDD measures on existing customers if they are customers to whom Criterion 5.1 applies

Not applicable. Anonymous and false name accounts are not allowed in Chinese Taipei. (Information source: FSC, CBC, BOAF)

Recommendation 6

6.1 Financial institutions should put appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires that banks take special care to confirm the identity of an individual or organization that opens a brokerage account, conducts transactions via a professional intermediary, or poses high risk to a bank's reputation. If a bank, discovers (without breaking any law or regulation) or finds it necessary to assume that the funds flowing through a customer's account come from corruption or misuse of public assets, the bank must refuse to handle such funds or terminate the banking relationship altogether.

Insurance enterprises usually make payments via bank systems, either by check or wire transfer, and cash payments are usually made in single transactions involving small amounts. Given these circumstances, it is not likely that a politically exposed person

would bypass the bank system and use insurance to launder money. (Information source: FSC, CBC, BOAF)

6.2 Financial institutions should obtain senior management approval for establishing business relationships with a PEP

The FSC's " Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" provide that for any customer or transaction that has been identified as high-risk, in addition to the ordinary customer due diligence measures a financial institution is additionally required to have appropriate risk management measures in place, including:

1. Account openings must be approved by a higher ranking supervisor.
2. The source, destination, and reasonableness of property and funds must be confirmed.
3. The bank must exercise ongoing monitoring and control of deposit transactions.

The BOAF adopted the similar regulation in the "Directions Governing Suspected Illegality or Obviously Irregular Transactions of Deposit Accounts for credit departments of Farmers' and Fishermen's Associations".

Insurance enterprises usually make payments via bank systems, either by check or wire transfer, and cash payments are usually made in single transactions involving small amounts. Given these circumstances, it is not likely that a politically exposed person would bypass the bank system and use insurance to launder money. (Information source: FSC, CBC, BOAF)

6.2.1 Customer or beneficial owner is subsequently found to be, or subsequently becomes a PEP, financial institutions should be required to obtain senior management approval to continue the business relationship

Please refer the description of 6.2. (Information source: FSC, CBC, BOAF)

6.3 Financial institutions should take reasonable measures to establish the source of wealth and funds of customers and beneficial owners identified as PEPS

The FSC's "Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" provide that for any customer or transaction that has been identified as high-risk, in addition to the ordinary customer due diligence measures a financial institution is additionally required to have appropriate risk management measures in place, including:

1. Account openings must be approved by a higher ranking supervisor.
2. The source, destination, and reasonableness of property and funds must be confirmed.
3. The bank must exercise ongoing monitoring and control of deposit transactions.

The BOAF adopted the similar regulation in the "Directions Governing Suspected Illegality or Obviously Irregular Transactions of Deposit Accounts for credit departments of Farmers' and Fishermen's Associations".

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

Insurance enterprises usually make payments via bank systems, either by check or wire transfer, and cash payments are usually made in single transactions involving small amounts. Given these circumstances, it is not likely that a politically exposed person would bypass the bank system and use insurance to launder money. (Information source: FSC, CBC, BOAF)

6.4 Financial institutions should conduct enhanced ongoing monitoring on business relationship with a PEP

Please refer description of 6.3. (Information source: FSC, CBC, BOAF)

Additional Elements

6.5 Extending the requirements of R.6 to PEP who hold prominent public functions domestically

Under Article 10 of the Political Contributions Act, political parties, political organizations, and persons planning to run for public office are not allowed to accept political contributions until they have opened a dedicated account at a financial institution or post office and reported the account to the appropriate reporting agency. Information to be reported includes the name and address of the financial institution or post office, and the account name. Such a party may only open one such designated account, and may not change registered account information or cancel the account without the consent of the reporting agency.

Article 22 of the Trust Enterprise Act provides that a trust enterprise shall periodically publicly announce the assets placed in trust by political parties and other political organizations and the acquisition and distribution of gains therefrom. (Information source: FSC, CBC, BOAF)

6.6 Ratification and Implementation of 2003 United Nations Convention against Corruption

- Chinese Taipei principally agrees with and supports "2003 United Nations Convention against Corruption" in principle. However, it has encountered substantial difficulties in promoting the signing and ratification of, and accession to the Convention owing to the current international political climate.
- Chinese Taipei still tries to achieve anti-corruption goals through its participation in international organizations:

  The establishment of the Asia-Pacific Economic Cooperation (APEC) Anti-Corruption and Transparency Experts Task Force (ACT) was endorsed by APEC Leaders in November 2004. Its main tasks are to coordinate the implementation of the Santiago Commitment to Fight Corruption and Ensure Transparency as well as the APEC Course of Action on Fighting Corruption and Ensuring Transparency. It also promotes capacity building in such areas as anti-corruption measures and transparency. The Terms of Reference (TOR) of this task force were adopted in the Senior Officials' Meeting II (SOM II) in 2005. Chinese Taipei spoke in favor of the task force. During the process of establishing the afore-said task force, we suggested in APEC SOM II, 2005 that it should consider expanding private sector participation and cooperation – especially of that of ABAC – to increase the effectiveness of anti-corruption measures.
- The Ministry of Justice designated Investigation Bureau as the dedicated agency to implement the United Nations Convention against Corruption on October 14, 2006.

The Investigation Bureau has taken measures to enhance probing actions on corruption cases at present stage, and will coordinate relevant agencies to contain the requirements of the Convention into related laws and regulations for effectively combating corruption. (Information source: MOFA, MOJ, MJIB)

Recommendation 7

7.1 Gather sufficient information about a respondent institution

Point 3, Paragraph 10 of the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" requires financial institutions to adopt policies and procedures concerning cross-border correspondent banking, and to incorporate this suggestion by means of a questionnaire. (Information source: FSC, CBC)

7.2 Assess the respondent institution's AML/CFT measures

Point 3, Paragraph 10 of the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" requires financial institutions to adopt policies and procedures concerning cross-border correspondent banking, and to incorporate this suggestion by means of a questionnaire. (Information source: FSC, CBC)

7.3 Obtain approval from senior management before establishing new correspondent relationships

Point 3, Paragraph 10 of the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" requires that officer-level approval be obtained from someone with authority over internal operations before a financial institution establishes a correspondent relationship with a correspondent bank, or before it arranges for ongoing interbank remittance operations with such a bank. (Information source: FSC, CBC)

7.4 Document the respective AML/CFT responsibilities of each institution

Point 3, Paragraph 10 of the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" requires financial institutions to adopt policies and procedures concerning cross-border correspondent banking, and to incorporate this suggestion by means of a questionnaire. (Information source: FSC, CBC)

7.5 Sufficient CDD for "payable-through accounts"

Point 3, Paragraph10 of the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" requires financial institutions to adopt policies and procedures concerning cross-border correspondent banking, and to incorporate this suggestion by means of a questionnaire. (Information source: FSC, CBC)

Recommendation 8

8.1 Financial institutions should have policies and measures to prevent the misuse of technological developments in money laundering or terrorist financing schemes

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires banks to use identity confirmation procedures that enable them to identify non-face-to-face customers just as effectively as they identify other customers, and banks must further have special and adequate measures to reduce risk.

A bank conducting electronic banking business must comply with the Bankers Association's "Directions Concerning the Security Control Operations of Financial

Institutions Conducting Electronic Banking Business" by adopting a separate set of risk management and internal control measures for each type of transaction to prevent the misuse of technological developments for the purpose of money laundering or terrorist financing schemes.

A bank conducting credit card business must comply with legal provisions adopted by the competent authority and the Bankers Association. Card issuers, for example, must exercise rigorous control over the card issuing process and strengthen risk management in the area of card issuing and card acquiring services. Banks that issue cards must run tighter checks on card applicants, watch more closely over their employees, and establish a system for detecting irregular transactions during the authorization process, as well as a system for detecting irregular cardholder activity. Banks that operate acquiring services must run rigorous credit checks on their participating merchants and pay them unscheduled visits to ensure the quality of their participating merchants. Banks must also keep close watch over merchant payment requests and take appropriate action as soon as any irregularity is discovered. (Information source: FSC, CBC, BOAF)

8.2 Financial institutions should have policies and procedures to address any specific risks associated with non-face to face business relationships or transactions

Please refer the response to the preceding question. (Information source: FSC, CBC, BOAF)

8.2.1 Measures for managing the risks should include CDD procedures that apply to non-face to face customers

Please refer the response to the preceding question. (Information source: FSC, CBC, BOAF)

3.3 Third parties and introduced business (R.9)

Summary

On April 1, 2006, the FSC issued an order requiring banks to suspend the outsourcing of credit card, cash card, and consumer loan marketing, as well as the outsourcing of identity verification. The order calls for tighter control measures governing third-party exercise of part of the customer due diligence process (verification of customer identity), and bars banks from delegating loan approval authority when they outsource loan marketing operations. The order allows outside service providers to provide nothing other than the aforementioned services, and such permission is conditional upon the service providers complying with the provisions of the "Directions for the Outsourcing of Financial Institution Operations." Other operations that banks are allowed to outsource are all internal back-office activities that have nothing to do with account opening, withdrawals, deposits, wire transfers, or anything else that would trigger AML customer due diligence requirements. (Information source: FSC)

Recommendation 9

9.1 Financial institutions relying upon a third party should be able to immediately obtain the necessary information concerning CDD process from the third party

The FSC's "Directions for the Outsourcing of Financial Institution Operations" require that when banks outsource operations they must ensure that the FSC, the Central

Bank, the Central Deposit Insurance Corporation, and other competent authorities have access to pertinent records and reports and are able to carry out financial examinations. (Information source: FSC, CBC, BOAF)

9.2 Financial institutions should take adequate steps to make other CDD information available from the third party upon request without delay

The FSC's "Directions for the Outsourcing of Financial Institution Operations" require that when banks outsource operations they must ensure that the FSC, the Central Bank, the Central Deposit Insurance Corporation, and other competent authorities have access to pertinent records and reports and are able to carry out financial examinations. In outsourcing its operations, a financial institution must not violate any compulsory or prohibitive legal provisions, disturb public order or accepted morals, and such outsourcing must not adversely affect the institution's business operations or management or the rights and interests of its customers. The financial institution must further ensure compliance with the Banking Act, the MLCA, the Data Protection Law, or other laws and regulations.

When outsourcing the marketing of loans and credit cards, a financial institution must not relinquish its loan approval authority, and since 1 April 2006 financial institutions have been required to confirm customer identity themselves. (Information source: FSC, CBC, BOAF)

9.3 Financial institutions should ensure the third party is regulated and supervised and has measures to comply with the CDD requirements

In a circular dated April 30, 2004, the Banking Bureau's predecessor agency ruled that financial institutions must require strict compliance by third-party providers with the Banking Act, the MLCA, the Data Protection Law, or other laws and regulations. In addition, financial institutions are also required to visit their third-party providers at either regular or irregular intervals to make sure whether the providers are complying with legal requirements. The institution must also prepare written records on such visits and keep them on file. (Information source: FSC, CBC, BOAF)

9.4 Competent authorities should take into account information available on whether those countries of the third party based adequately apply the FATF Recommendations

Operations that banks outsource overseas are all internal back-office activities that have nothing to do with account opening, withdrawals, deposits, wire transfers, or anything else that would trigger AML customer due diligence requirements. (Information source: FSC, CBC, BOAF)

9.5 The ultimate responsibility for customer identification and verification should remain with the financial institution relying on the third party

If the outsourcing of financial institution operations results in harm to the rights and interests of a customer due to some mistakes on the part of a third-party provider or an employee thereof, the financial institution is still liable to the customer. If a financial institution that outsources operations fails to exercise due care in overseeing the activities of a third-party provider, thereby harming the rights and interests of a customer or affecting the proper management of the financial institution itself, the FSC will impose appropriate sanctions upon the financial institution as the circumstances merit, or will partially or completely suspend its outsourcing of operations. (Information source: FSC, CBC, BOAF)

3.4 Financial institution secrecy or confidentiality (R.4)

Summary

Paragraphs 1 and 2, Article 8 of the MLCA provide as follows: "For any financial transaction suspected to be a money laundering activity, the financial institutions referred to in this Act shall ascertain the identity of the customer and keep the transaction record as evidence, and report the suspect financial transaction to the designated authority. The reporting financial institution will be discharged from its confidentiality obligation to the customer if the institution can provide proof that it was acting in good faith when reporting the suspect financial transaction to the designated authority in compliance with the preceding paragraph of this Article." (Information source: FSC)

Recommendation 4

4.1 Financial institution secrecy law should not inhibit the implementation of the FATF Recommendations

Paragraph 2, Article 48 of the Banking Act provides as follows: "A Bank shall keep confidential all information regarding deposits, loans, or remittances of its customers unless otherwise required by law or by order of the central competent authority." In addition, paragraphs 1 and 2, Article 8 of the MLCA provide as follows: "For any financial transaction suspected to be a money laundering activity, the financial institutions referred to in this Act shall ascertain the identity of the customer and keep the transaction record as evidence, and report the suspect financial transaction to the designated authority. The reporting financial institution will be discharged from its confidentiality obligation to the customer if the institution can provide proof that it was acting in good faith when reporting the suspect financial transaction to the designated authority in compliance with the preceding paragraph of this Article."

The fact that Paragraph 2, Article 8 of the MLCA provides the reporting financial institution as set out in paragraph 1 of the same Article can be discharged from its confidentiality obligation, would seem to satisfy this recommendation. (Information source: FSC, CBC, MOJ)

3.5 Record keeping and wire transfer rules (R.10 & SR.VII)

Summary

Articles 26 and 27 of the "Regulations Governing Regulation by Tax Collection Agencies of Profit-seeking Enterprise Account Vouchers" and Article 38 of the "Business Accounting Act" provide that, with the exception of open accounts, the account books established by a profit-seeking enterprise must be maintained on file for at least ten years after the annual closing of accounts. In addition, voucher stubs or duplicate vouchers and other account vouchers that by tax law must be obtained from or furnished to another party must be maintained on file for at least five years after the annual closing of accounts; the preceding does not apply, however, to vouchers that must be kept in perpetuity, or to vouchers pertaining to accounts that remain open.

In addition, the Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires that banks: (1) should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful

purpose; (2) should, as far as possible, examine and keep a written record of the background and purpose of such transactions; and (3) should keep such written records on file for at least five years. Customer identification records and transaction vouchers must be kept on file in their original form for five years.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. Confirmation statements or reconciliation statements and other documents relating to the purchase, redemption, transfer, or trading of offshore trust units must be maintained in the form and for the time period required by the Business Accounting Act and other applicable legal provisions (for at least five years in any case). In addition, records maintenance requirements are also set out in the "Regulations Governing Centralized Securities Depository Enterprises" and the "Business Accounting Act."

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each checklist sets out a list of transactions (insurance applications, collection of premiums, insurance benefits payments, policy loans, and policy loan repayments) that insurers are required to maintain on file for five years without destroying.

In a circular dated March 2, 2005, the FSC ruled that judicial, military, tax, government watchdog, public budget and accounting, and other government agencies with legal authority to carry out investigations are entitled under the various applicable laws and regulations to contact banks directly when they need to access records relating to customer deposits, loans, wire transfers, and safe deposit boxes. The records provided by banks must be treated as confidential. (Information source: FSC)

Recommendation 10

10.1 Financial institutions should maintain all necessary records on transactions

According to the regulations regarding Article 7 and 8 of the MLCA, all identification records and transaction vouchers of large amount currency transactions and suspicious transactions shall be kept on file in their original form for at least 5 years.

Articles 26 and 27 of the "Regulations Governing Regulation by Tax Collection Agencies of Profit-seeking Enterprise Account Vouchers" and Article 38 of the "Business Accounting Act" provide that, with the exception of open accounts, the account books established by a profit-seeking enterprise must be maintained on file for at least ten years after the annual closing of accounts. In addition, voucher stubs or duplicate vouchers and other account vouchers that by tax law must be obtained from or furnished to another party must be maintained on file for at least five years after the annual closing of accounts; the preceding does not apply, however, to vouchers that must be kept in perpetuity, or to vouchers pertaining to accounts that remain open.

In addition, the Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires that banks: (1) should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose; (2) should, as far as possible, examine and keep a written record of the

background and purpose of such transactions; and (3) should keep such written records on file for at least five years. Customer identification records and transaction vouchers must be kept on file in their original form for five years.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. Confirmation statements or reconciliation statements and other documents relating to the purchase, redemption, transfer, or trading of offshore trust units must be maintained in the form and for the time period required by the Business Accounting Act and other applicable legal provisions (for at least five years in any case). In addition, records maintenance requirements are also set out in the "Regulations Governing Centralized Securities Depository Enterprises" and the "Business Accounting Act."

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each checklist sets out a list of transactions (insurance applications, collection of premiums, insurance benefits payments, policy loans, and policy loan repayments) that insurers are required to maintain on file for five years without destroying. (Information source: FSC, CBC, BOAF)

10.1.1 Transaction records should be sufficient to permit reconstruction of individual transactions

The Bankers Association's "Model Accounting System for Banking Enterprises" requires that an accountant who discovers any one of the following situations upon inspection of an original voucher must require corrective action or refuse to sign the voucher:

1. The purpose or reference number of the transaction is not indicated.
2. Documentation that is required under law or customary practice is missing or provided in an improper format.
3. The transaction has not been handled in accordance with laws and regulations applying to procurement or disposal of property.
4. The voucher should have been signed or chopped by a supervisor or other such person, but was not.
5. The voucher should have been signed or chopped by an access person, checker, or custodian, but was not; or the voucher should have been (but was not) accompanied by proof that quality or quantity had been checked.
6. The transaction involved an increase/decrease in property, or custody or transfer thereof, and therefore should have been (but was not) signed or chopped by the person in charge of the business in question.
7. There are signs that the numerals or text in the documentation have been altered, but the responsible person has not endorsed the alteration with a signature or chop.
8. Written and Arabic numerals in the documentation pertaining to dollar amounts or quantities do not match up.
9. Other matters not in keeping with the law.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. In addition,

requirements regarding reconstruction of individual transactions are also set out in the "Regulations Governing Centralized Securities Depository Enterprises," and overseas Chinese and foreign nationals investing in domestic securities do so in accordance with the provisions of the "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals."

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each checklist sets out a list of transactions (insurance applications, collection of premiums, insurance benefits payments, policy loans, and policy loan repayments) that insurers are required to maintain on file for five years without destroying. (Information source: FSC, CBC, BOAF)

10.2 Financial institutions should maintain records of the identification data, account files and business correspondence for at least five years

According to the regulations regarding Article 7 and 8 of the MLCA, all identification records and transaction vouchers of large amount currency transactions and suspicious transactions shall be kept on file in their original form for at least 5 years.

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires that banks must keep transaction reports and transaction vouchers on file in their original format for five years. For accounts that have already been closed out, the Checklist requires banks to keep related records (e.g. photocopies of customer ID documents, account records, and communications records) on file for at least five years.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. In addition, these matters are also set out in the "Regulations Governing Centralized Securities Depository Enterprises" and the "Business Accounting Act."

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each checklist sets out a list of transactions (insurance applications, collection of premiums, insurance benefits payments, policy loans, and policy loan repayments) that insurers are required to maintain on file for five years without destroying. (Information source: FSC, CBC, BOAF)

10.3 Financial institutions should ensure all customer and transaction records and information are available on a timely basis to competent authorities

In a circular dated March 2, 2005, the FSC ruled that judicial, military, tax, government oversight, public budget and accounting, and other government agencies with legal authority to carry out investigations are entitled under the various applicable laws and regulations to contact banks directly when they need to access records relating to customer deposits, loans, wire transfers, and safe deposit boxes.

Since December 2005, the NPA, MOI and MJIB have been allowed on a case-by-case basis to contact the Joint Credit Information Center to access credit information as necessary for the purpose of investigation criminal matters.

In addition, the Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. The checklists address these matters, and have been incorporated into the "Governing Centralized Securities Depository Enterprises."

When the FSC and its subordinate agencies conduct financial examinations, they are empowered under Article 5, Paragraph 1 of the "Organic Act Governing the Establishment of the Financial Supervisory Commission" to require a financial institution to produce relevant documents. Overseas Chinese and foreign nationals investing in domestic securities do so in accordance with the provisions of the "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals."

Article 148 of the Insurance Act provides that "the competent authority may, at any time, dispatch officers to inspect the business and financial conditions of an insurance enterprise, or order an insurance enterprise to report, within a prescribed limit of time, the condition of its business," and "the competent authority may engage an appropriate agency or professional expert to conduct the inspection referred to." All customers as well as all transaction records and data fall within the scope of such financial examinations. (Information source: FSC, CBC, BOAF)

Special Recommendation VII

VII.1 Financial institutions should obtain and maintain the information relating to the originator of wire transfer

1. Point 4 of the "Directions for Confirming Customer Identity in Domestic Remittance Operations of Financial Institutions," which were issued by the FSC on 12 July 2006 and have been implemented since 1 August 2006, requires financial institutions to take the name, national ID number (or government uniform invoice number, in the case of a corporate customer), and telephone number (or address) of any customer who carries out a domestic remittance of NT$30,000 or more at a service counter. A juristic person, sole proprietorship, civic organization, or partnership seeking to transfer funds must furnish its name, government uniform invoice number, and telephone number (or address). Where a funds transfer is handled by an agent, the agent must furnish his/her name and national ID number (or government uniform invoice number) on the application for wire transfer. In addition, Point 5 of the Principles further requires that financial institutions ask an originator to show documentary proof of identity, and that they check to make sure that the identity of the originator matches that furnished on the application for wire transfer.

2. Point 3, paragraph 2 of the Bankers Association's "Checklist of Money Laundering Prevention Guidelines and Procedures" sets forth a list of customer identification measures that financial institutions must take, as follows:

   (1) To establish a banking relationship with a customer, or to do business exceeding a certain dollar amount with a walk-in customer, or when it suspects that a customer's documents are insufficient to establish positive identification, a financial institution shall use a government-issued identity document or another identification document to confirm identity, and shall then keep a record of it.

(2) A financial institution shall take special care to confirm the identity of an individual or organization that opens a brokerage account, conducts transactions via a professional intermediary, or poses high risk to a bank's reputation.

(3) A financial institution shall exercise special precautions when dealing with a non-local customer, and shall understand why the customer has chosen to set up an account outside their home country.

(4) A financial institution shall conduct more thorough background checks on customers seeking personal wealth management services.

(5) A financial institution shall check more closely on customers that have been blacklisted by other financial institutions.

(6) A financial institution shall use identity confirmation procedures that enable them to identify non-face-to-face customers just as effectively as they identify other customers, and must further have special and adequate measures to reduce risk.

(7) If a financial institution discovers (without breaking any law or regulation), or finds it necessary to assume, that the funds flowing through a customer's account come from corruption or misuse of public assets, the institution must refuse to handle such funds or terminate the banking relationship altogether. (Information source: FSC, CBC)

VII.2 Financial institutions should include full originator information in the message or payment form accompanying the cross border wire transfer

The CBC has amended the “Guidance for Banking Enterprises to Operate Foreign Exchange Business” on December 21, 2005. According Article 4 of the new Guidance, any cross border wire transfer handled by banking enterprises is required to include full name, account number or I.D. and address of remitter in the message or payment form. (Information source: CBC)

VII.3 Financial institutions should include full originator information or the originator’s account number or a unique identifier within the message or payment form for domestic wore transfer

The Financial Information Service Company's "Rules for the Handling of Financial Information System Interbank Operations" require that all domestic wire transfers must have a transaction number that can be used to identify and track information on a specific wire transfer, therefore all information on an originator or the originator's account can be included in the wire transfer data or payment instruction that accompanies a wire transfer. (Information source: FSC, CBC)

VII.4 Financial institutions should ensure non-routine transactions are not batched

Financial institutions currently do this. Only salary payments and other routine transactions are batched. (Information source: FSC, CBC)

VII.5 Intermediary financial institutions in the payment chain should maintain all originator information with accompanying wire transfer

The Financial Information Service Company's "Rules for the Handling of Financial Information System Interbank Operations" require that the financial institution ordering a domestic wire transfer must include all information on the

originator or the originator's account in the wire transfer data or payment instruction that accompanies a wire transfer. (Information source: FSC, CBC)

VII.6 De minimize thresholds for wire transfer

1. A maximum of NT$30,000 currently applies when a financial card is used to make a wire transfer to an undesignated account (i.e. an account that the originator has not pre-registered with the financial institution to receive ATM transfers). Information on the transfer and the account must be handled in accordance with the Financial Information Service Company's "Rules for the Handling of Financial Information System Interbank Operations."

2. When a financial institution handles a domestic cash transfer of NT$30,000 to NT$1 million or a domestic account transfer of NT$30,000 or more, it must verify the originator's documentary proof of identity in accordance with the "Directions for Confirming Customer Identity in Domestic Remittance Operations of Financial Institutions," and must check identity documents against related transaction data.

3. For any currency transaction above a certain amount (NT$1 million), and for any suspected money laundering transaction, a financial institution is also required under Articles 7 and 8 of the MLCA to confirm the customer's identity, keep transaction records on file, and report the transaction to the MLPC. (Information source: FSC, CBC)

VII.7 Beneficiary financial institutions should adopt risk-based procedures for identifying and handling wire transfers that are not accompanied by full originator information

The Financial Information Service Company's "Rules for the Handling of Financial Information System Interbank Operations" require that all domestic wire transfers must have a transaction number that can be used to identify and track information on a specific wire transfer. In addition, the "Directions for Confirming Customer Identity in Domestic Remittance Operations of Financial Institutions" and Point 3 of the Bankers Association's "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" set out rigorous customer identification procedures and AML internal control procedures that financial institutions must observe when handling domestic funds transfers. Financial institutions in Chinese Taipei have thus already implemented effective risk management procedures. (Information source: FSC, CBC)

VII.8 Monitoring compliance of SR.VII with rules and regulations

As Chinese Taipei's competent authority in charge of financial supervision, the FSC uses financial examinations and other appropriate administrative means to monitor the compliance of financial institutions with the Money Laundering Control Act and the "Directions for Confirming Customer Identity in Domestic Remittance Operations of Financial Institutions." Where a violation is discovered, the FSC may administer sanctions pursuant to applicable laws and regulations, and is also empowered under Article 61-1 of the Banking Act to impose an official reprimand or order corrective action within a specified period of time. Depending on the severity of the circumstances, the FSC may also take other necessary actions, e.g. order suspension of part of the bank's business, require the bank to discharge officers or staff, or order that a director be discharged or prohibited from exercising his/her duties for a prescribed period of time. (Information source: FSC, CBC)

VII.9 Countries should ensure dissuasive civil and criminal sanctions for SRVII obligations

Violations of the Money Laundering Control Act may, of course, be dealt with in accordance with the applicable provisions of the Money Laundering Control Act, as provided for in points 17.1 through 17.4 of the Methodology for Assessing Compliance with the FATF 40 Recommendations and FATF 9 Special Recommendations. In addition, on the grounds that the bank has broken the law, the FSC is also empowered under Article 61-1 of the Banking Act to take appropriate measures. (Information source: FSC, CBC)

Unusual, Suspicious and other Transactions

3.6 Monitoring of transactions and relationships (R.11 & 21)

Summary

The FSC's "Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" provide as follows: "A bank shall make use of information systems to help inspect for unusual deposit account transactions. It shall also establish early warning criteria focusing on transaction amounts exceeding a certain threshold, transaction amounts clearly inconsistent with average account balances, or frequent use over a short period of electronic transaction functions, and shall assign a specific individual to inspect at least once per day, follow up as necessary, and prepare an inspection record, which shall be delivered in accordance with internal procedures to the proper supervisor for review." The Regulations further provide: "The inspection record referred to in the preceding paragraph and data pertaining thereto, shall be maintained for at least five years, and may be provided to the competent authority, relevant units, and internal audit units for review."

The BOAF adopted the similar regulation in the "Directions Governing Suspected Illegality or Obviously Irregular Transactions of Deposit Accounts for credit departments of Farmers' and Fishermen's Associations".

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. In addition, provisions addressing these matters are also set out in the "Taiwan Securities Central Depository Company Directions for the Monitoring of Deposits, Withdrawals, Book-entry Pledges, Out-trades, and Suspected Money Laundering Transactions." Also, overseas Chinese and foreign nationals investing in domestic securities do so in accordance with the provisions of the "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals."

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each checklist provides as follows: "Any single transaction involving receipt or payment of cash (any transaction booked as cash for accounting purposes qualifies as such), or any single banknote exchange transaction, of NT$1 million or more (or the foreign currency equivalent), or any single currency transaction involving receipt or payment of cash by a single customer (including the combined amount of multiple transactions on a single account in a

single business day) of NT$1 million or more (or the foreign currency equivalent), shall be reported via electronic media to the MLPC within five business days if the transaction is clearly inconsistent with the customer's status or income level, or with the nature of the customer's business. Transaction reports and transaction vouchers relating to a suspected money laundering transaction shall be kept on file in their original format for five years." (Information source: FSC, CBC)

Recommendation 11

11.1 Financial institutions should pay special attention to all complex, unusual large transactions, or unusual patterns of transactions that have no apparent or visible economic or lawful purpose

Please refer to the preceding summary of 3.6. (Information source: FSC, CBC, BOAF)

11.2 Financial institutions should examine the background and purpose of such transactions and set forth their findings in writing

Please refer to the preceding summary of 3.6. (Information source: FSC, CBC, BOAF)

11.3 Financial institutions should keep such findings available for competent authorities and auditors for at least five years

Please refer to the preceding summary of 3.6. (Information source: FSC, CBC, BOAF)

Recommendation 21

21.1 Financial institutions should give special attention to business relationships and transactions with persons from FATF Recommendations non-compliant countries

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires that when funds are wired into the country from a country named on the FATF list of Non-Cooperative Countries and Territories, the recipient makes a cash withdrawal or account transfer within five working days, and the transaction is clearly inconsistent with the customer's status or income level, or with the nature of the customer's business, the bank must pay special attention, and if it suspects a money laundering transaction it must confirm the customer's identity, keep the transaction record as evidence, and report to the MLPC.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. Also, overseas Chinese and foreign nationals investing in domestic securities do so in accordance with the provisions of the "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals."

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each of the checklists requires that when funds are wired into the country from a country named on the FATF list of NCCT, the

recipient makes a cash withdrawal or account transfer within five working days, and the transaction is clearly inconsistent with the customer's status or income level, or with the nature of the customer's business, the insurer must report to the MLPC within ten working days and copy the authority with jurisdiction over the line of business operated by the suspected money launderer. (Information source: FSC, CBC, BOAF)

21.1.1 Effective measures to ensure financial institutions are advised of concerns about weaknesses in the AML/CFT systems of other countries

1. Point 3, Paragraph 11 of the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" requires banks to ensure that their overseas branches and subsidiaries comply (where permissible under the local law of the overseas jurisdiction) with AML/CFT procedures that are equal in rigor to those adopted domestically. When the minimum requirements of the head office differ from those of the overseas jurisdiction where a branch unit is located, the branch unit must comply with the more stringent of the two standards, and if there is uncertainty as to the determination of stringency, the branch unit must report the situation to the Financial Supervisory Commission.

2. Whenever the United States government, acting via the American Institute in Taiwan, or other international related organizations provides the FSC with lists of terrorists and various financial institutions which provide service to the listed subjects, the FSC always promptly issues a circular requiring financial institutions to do a thorough inspection. If a financial institution discovers that it has been involved in listed transaction activities, it must classify the activities as suspected money laundering transactions and immediately report them to the MLPC for further analysis and investigation. (Information source: FSC, CBC, BOAF, MLPC)

21.2 Financial institutions should examine the background and purpose of no apparent economic or visible lawful purpose transactions and set forth their findings in writing

The FSC's "Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" provide as follows: "A bank shall make use of information systems to help inspect for unusual deposit account transactions. It shall also establish early warning criteria focusing on transaction amounts exceeding a certain threshold, transaction amounts clearly inconsistent with average account balances, or frequent use over a short period of electronic transaction functions, and shall assign a specific individual to inspect at least once per day, follow up as necessary, and prepare an inspection record, which shall be delivered in accordance with internal procedures to the proper supervisor for review." The Regulations further provide: "The inspection record referred to in the preceding paragraph and data pertaining thereto, shall be maintained for at least five years, and may be provided to the competent authority, relevant units, and internal audit units for review."

The BOAF adopted the similar regulation in the "Directions Governing Suspected Illegality or Obviously Irregular Transactions of Deposit Accounts for credit departments of Farmers' and Fishermen's Associations".

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires that financial institutions make use of information systems to help discover suspicious transactions,

and exercise closer monitoring of high risk customers. And financial institutions should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. Overseas Chinese and foreign nationals investing in domestic securities do so in accordance with the provisions of the "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals."

Chinese Taipei has a "Checklist of Money Laundering Prevention Guidelines and Procedures" for life insurers, and another for non-life insurers. Each checklist provides as follows: "Any single transaction involving receipt or payment of cash (any transaction booked as cash for accounting purposes qualifies as such), or any single banknote exchange transaction, of NT$1 million or more (or the foreign currency equivalent), or any single currency transaction involving receipt or payment of cash by a single customer (including the combined amount of multiple transactions on a single account in a single business day) of NT$1 million or more (or the foreign currency equivalent), shall be reported via electronic media to the Ministry of Justice Investigation Bureau within five business days if the transaction is clearly inconsistent with the customer's status or income level, or with the nature of the customer's business." (Information source: FSC, CBC, BOAF)

21.3 Applying appropriate counter-measures to FATF Recommendations non-compliant countries

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires that when funds are wired into the country from a country named on the FATF list of NCCT, the recipient makes a cash withdrawal or account transfer within five working days, and the transaction is clearly inconsistent with the customer's status or income level, or with the nature of the customer's business, the bank must confirm the customer's identity, keep the transaction record as evidence, and report the to the MLPC.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each of the checklists requires that when funds are wired into the country from a country named on the FATF list of NCCT, the recipient makes a cash withdrawal or account transfer within five working days, and the transaction is clearly inconsistent with the customer's status or income level, or with the nature of the customer's business, the insurer must report to the MLPC within ten working days and copy the authority with jurisdiction over the line of business operated by the suspected money launderer. (Information source: FSC, CBC, BOAF)

3.7 Suspicious transaction and other reporting (R.13-14, 19, 25 & SR.IV)

Summary

Article 8 of the MLCA provide as follows: "For any financial transaction suspected to be a money laundering activity, the financial institutions referred to in this Act shall ascertain the identity of the customer and keep the transaction record as evidence, and report the suspect financial transaction to the Ministry of Justice Investigation Bureau. An administrative fine of no less than NT$200,000 and no more than NT$1 million shall be imposed upon violators."

The following situations must be reported:

1. The aggregate same-day deposits and/or withdrawals in a single account total at least NT$1 million (or its equivalent in foreign currency) and the transaction is clearly out of keeping with the customer's status or income level, or with the nature of the customer's business.
2. A single customer carries out multiple cash deposits or withdrawals at a single counter, and aggregate deposits or aggregate withdrawals total at least NT$1 million (or its equivalent in foreign currency), and the transaction is clearly out of keeping with the customer's status or income level, or with the nature of the customer's business.
3. Funds are wired into the country from a country named on the FATF list of NCCT, the recipient makes a cash withdrawal or account transfer within five working days, and the transaction is clearly inconsistent with the customer's status or income level, or with the nature of the customer's business.
4. The ultimate beneficiary of a transaction, or a party to a transaction, is named on a list of terrorists or terrorist organizations forwarded by the FSC; or transacted funds are known or reasonably suspected to be connected with terrorist activities or terrorist organizations, or are being used to finance terrorism.
5. A single customer at a single counter in a single transaction carries out multiple cash wire transfers, or asks to create a negotiable instrument (e.g. cashier's check, interbank check, bank draft), or purchases negotiable certificates of deposit, traveler's checks, beneficiary certificates, or other negotiable securities, where the amount exceeds NT$1 million (or the foreign currency equivalent) and the customer is unable to provide a reasonable use for the funds.
6. The transaction shows the signs of money laundering as set out in the Checklist of Money Laundering Prevention Guidelines and Procedures for Banks, and has been identified as an unusual transaction in accordance with the financial institution's internal procedures. (Information source: FSC)

Recommendation 13

13.1 financial institution should be required by law or regulation to report suspicious transactions to FIU

Please refer to the preceding summary of 3.7. (Information source: FSC, CBC, BOAF, MLPC)

13.2 The obligation to make a STR also applies to funds suspected of terrorism financing (including criteria IV.1)

Please refer to the preceding summary of 3.7. (Information source: FSC, CBC, BOAF, MLPC)

13.3 All suspicious transactions and terrorism financing should be reported regardless of the amount of the transaction (including criteria IV.2)

Please refer to the preceding summary of 3.7. (Information source: FSC, CBC, BOAF, MLPC)

13.4 Reporting suspicious transactions should apply to involve tax matters

Please refer to the preceding summary of 3.7. (Information source: FSC, CBC, MOJ, MLPC)

Additional Elements

13.5 Financial institutions should report STR to FIU when they suspect that funds are the proceeds of all criminal acts or related to terrorism financing

Please refer to the preceding summary of 3.7. (Information source: FSC, CBC, BOAF, MLPC)

Recommendation 14

14.1 Financial institutions and their employees should be protected by law for reporting STR to FIU in good faith

Pursuant to Paragraph 2 of Article 8 of the MLCA, financial institutions and their employees will be discharged from their confidentiality obligations to the customers when reporting suspicious financial transactions to the MLPC in good faith. (Information source: MLPC, MOJ, FSC)

14.2 Financial institutions and their employees should be prohibited by law from disclosing ("tipping off") any reported information

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires banks to report suspected money laundering transactions to the MLPC and the employees at all levels must maintain confidentiality, must not willfully leak information, and must treat as confidential all documents related to subject matter of the report.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

All reports filed by insurers pursuant to the MLCA must be treated as confidential.

Paragraph 2 of Article 11 of the MLCA stipulates: "Any employee of a financial institution, without a government official position, reveals, discloses or hands over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others, he or she shall be sentenced to imprisonment of not more than two years, detention, or fined not more than 500,000 NT ". (Information source: MLPC, MOJ, FSC)

Additional Elements

14.3 Measures ensure the personal information of staff of financial institutions that

make a STR are kept confidential by the FIU

The first section of Article 11 of the MLCA stipulates: “Any government official who reveals, discloses or turns over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others, he or she shall be sentenced to imprisonment of not more than three years”. The secrecy provision should be complied by the staffs of the MLPC who are all government officials. (Information source: MLPC)

Recommendation 19

19.1 Reporting threshold CTR to a national central agency with a computerized data base

The FSC's "Regulations Regarding Article 7 of The Money Laundering Control Act" provide as follows: "Any single transaction involving receipt or payment of cash (any transaction booked as cash for accounting purposes qualifies as such), or any single banknote exchange transaction, of NT$1 million or more (or the foreign currency equivalent), shall be reported the financial institution via electronic media to the Ministry of Justice Investigation Bureau within five business days." If any financial institution wants to file CTRs with paper form, it is necessary to get prior permission from the MLPC. For receiving the CTRs that reported by financial institutions, the MLPC has spent about NT$40,000,000 (about 1.2 million USD) to renew the IT equipments and develop computer software to secure the transmission of CTR files. (Information source: FSC, CBC, BOAF, MLPC)

Additional Elements

19.2 CTRs are maintained in a computerized data base and available to competent authorities for AML/CFT purposes

At present, about 99.9% of the CTRs are transmitted from financial institutions to the MLPC through electronic means and only few CTRs are transmitted by paper. All the electronic files and paper CTRs have been transferred to the computer database which is located at the campus of Investigation Bureau. The competent authorities can access the database following the “Operation Regulation of Money Laundering Prevention Center” for AML/CFT purposes. (Information source: MLPC)

19.3 Reporting large currency transactions is subject to strict safeguards to ensure proper use of the information

For safeguarding and controlling the proper use of CTRs, the MLPC established the so called “CTR’s Query Regulation” in December 2003 and amended in November in 2005. The regulation has been merged into the so called “Operation Regulation of Money Laundering Prevention Center” and has been reviewed and approved by the MOJ on November 1, 2006.

The key points of the regulation include:

- The transaction records shall be kept for at least l0 years in computer database.
- The MLPC and relevant authorities, including law enforcement agencies, prosecutors’ offices and courts, can access the database for investigating, prosecuting and convicting criminal cases.
- The detailed conditions to access CTR’s database:

1) If any suspicious transactions being found from the CTR's database, the MLPC shall initiate analyzing procedures and the information will be disseminated to authorities for further investigation when there is reasonable ground to suspect any criminal involved.

2) The staff from other divisions of Investigation Bureau can access the database for investigating criminal cases and getting prior permission from the director of the division.

3) Relevant authorities can access the database for investigating, prosecuting and convicting criminal cases, and it is necessary to raise a formal request to the MLPC.

- Supervisory:

1) The Director of the MLPC shall make a sample check per month to the query records that raised by the MLPC and other divisions of Investigation Bureau, and the ratio of the sample must be no less than the total query records. The check must be recorded and summit it to the Director General of Investigation Bureau for further review.

2) The records of query raised by relevant authorities shall be printed out quarterly and deliver it to the authorities for internal review.

3) The Ministry of Justice may review the check records.

4) Any violation of this regulation or other decrees being found, the MLPC shall coordinate the relevant authorities to ascertain the responsibility of the violation and take necessary actions including administrative and legal punishments. (Information source: MLPC)

Recommendation 25

25.2 Competent authorities, and particularly the FIU, should provide financial institutions with appropriate feedback

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which provides for appropriate recognition of bank employees who contribute to the fight against money laundering in either of the following ways:

1. A bank employee discovers a suspected money laundering transaction, reports it in accordance with the applicable provisions of the MLCA, and contributes significantly to efforts by prosecutors and/or police to prevent crime or solve a criminal case.

2. A bank employee takes part in AML training at home or abroad and shows excellent performance, or collects overseas laws and regulations, studies them, and puts develops materials that are very valuable to the AML activities of financial institutions.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

The MLPC has provided following feedbacks to financial institutions:

- Delivering the prints which published by the MLPC.
- Assisting financial institutions to educate employees to comply with AML/CFT requirements.
- Maintaining an updated website for providing the newest information to financial institutions including the related laws and regulations, compliant guidance for financial institutions, CTR and STR blank forms and reporting guidance, related research papers etc.
- Suggesting financial supervisory authorities and financial institutions to give appropriate rewards to the employees who report STRs in time and have contribution to investigate criminal cases. (Please refer to the statistics of Table 11)
- Providing online consultations to financial institutions for AML/CFT compliance. (Information source: MLPC, FSC, CBC, BOAF)

Special Recommendation IV

IV.1 Financial institutions should report to FIU (a suspicious transaction report – STR) when it suspects or has reasonable grounds to suspect that funds are linked or related to, or to be used for terrorism

Financial institutions find the beneficiaries or individuals conducting the transactions are in the list of terrorists or associated entities that designated or blocked by foreign governments and disseminated to financial institutions by the FSC under the request of foreign governments, or financial institutions have reasonable grounds to suspect the funds are linked to terrorist activities, terrorism or financing of terrorism. Then, the transactions have to be regarded as suspicious transactions and have be reported to the MLPC by the financial institutions within 10 business days upon the finding of the suspicious transactions, according to the Regulations Regarding Article 8 of the MLCA and the Checklist of Money Laundering Prevention Guidelines and Procedures for Banks. The MLPC ever received 11 related STRs after 911 terrorists attack happened and the information has been disseminated to domestic authorities and foreign counterparts for further investigations. (Information source: MLPC, FSC, CBC, BOAF)

IV.2 Countries should ensure that Criteria 13.3 – 13.4 (in R.13) also apply in relation to the obligations under SR IV

For any financial transaction being suspected to be a money laundering activity, the financial institutions shall ascertain the identity of the customer and keep the transaction record as evidence, and report the suspect financial transaction to the designated authority under Paragraph 1 of Article 8 of the MLCA. According to the above mentioned Regulations, all suspicious transactions should be reported to the MLPC regardless the amount of the transactions and it is also applicable to transactions involving tax matters. (Information source: FSC, CBC, BOAF, MLPC)

Internal controls and other measures

3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)

Recommendation 15

15.1 Financial institutions should establish and maintain internal procedures, policies

and controls to prevent ML and FT

Banks are required under the Bankers Association's "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" to adopt internal money laundering prevention guidelines and procedures, the content of which must include operating rules, internal control procedures, and employee training and incentives.

In a circular dated April 6, 2004, the FSC's predecessor agency called on banks to incorporate the "FATF 9 Special Recommendations on Combating the Financing of Terrorism" and the "revised FATF 40 Recommendations of 2003" into their employee AML/CFT training programs.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue. In addition, Article 42 of the Regulations Governing Offshore Funds requires as follows: "The general agent and sub-distributor(s) shall put in place internal control systems including effective procedures for Know Your Customer practices, sales conduct, and procedural principles to be complied with under laws and regulations.

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Both checklists set forth the following requirements regarding the reporting of suspected money laundering:

1. Any employee or solicitor who discovers an unusual transaction must report it to the AML compliance officer.
2. The AML compliance officer must decide as quickly as possible whether the transaction should be reported.
3. If the AML compliance officer decides that reporting is necessary, the matter should be immediately remanded to the original employee to fill out a report form as shown in the attachment.
4. The report form must be presented to the unit supervisor for approval and then forwarded to the head office.
5. The appropriate unit at the head office must sign and present the report form to the assistant general manager or another person of equivalent rank for approval, and then reports it to the MLPC.

In addition, each "Checklist of Money Laundering Prevention Guidelines and Procedures" must also contain provisions relating to employee training and incentives. (Information source: FSC, CBC, BOAF)

15.1.1 Financial institutions should develop appropriate compliance management

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which provides as follows: "A bank shall appoint an assistant general manager or another person of equivalent or higher rank as AML compliance officer to coordinate implementation of the bank's money laundering prevention guidelines and procedures, and shall also designate a specific unit as its AML unit. The assistant general manager shall have previously participated in AML training, and a person newly appointed to the position shall take part in AML training within six months. A branch business unit shall also designate a senior supervisor to oversee AML work."

The Taiwan Securities Association, the Securities Investment Trust and

Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures " for their respective members, and the Checklists address this issue.

Chinese Taipei's national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members. Each checklist provides as follows: "In order to effectively achieve the goal of preventing money laundering, an insurance company shall appoint an assistant general manager (or another person of equivalent or higher rank) who has previously participated in AML training to oversee the effective implementation of the company's money laundering prevention guidelines and procedures. (Information source: FSC, CBC, BOAF)

15.1.2 AML/CFT compliance officer and other appropriate staff should have timely access to customer identification data and other CDD information, transaction records, and other relevant information

The FSC's "Regulations Governing Implementation by Banks of Internal Control and Auditing Systems" provide that when a bank carries out a general audit, its internal audit report must disclose the following:

1. Audit scope; summary commentary; financial status; capital adequacy; business performance; asset quality; legal compliance; internal controls; interested party transactions; operational controls and internal controls for each type of business; management of customer data confidentiality; information management; employee education on maintenance of confidentiality; and the status of implementation of self-audits. For each of these items the report shall include an assessment.
2. Any failure by a business unit to implement corrective action in response to: (1) examination opinions provided or deficiencies discovered by a financial examination agency, CPA, internal audit unit, or self-audit personnel; or (2) improvements called for in a declaration made in accordance with the bank's internal control system.

The BOAF has issued "Regulations Governing Implementation of Internal Control and Auditing Systems by the Credit Departments of Farmers' and Fishermen's Associations" demanding all the Credit Departments of Farmers' and Fishermen's Associations to comply with the requirements.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

The "Regulations Governing Implementation by Insurance Enterprises of Internal Control and Audit Systems" provide that when an insurance enterprise carries out a general audit, its internal audit report must disclose the following:

1. Audit scope; summary commentary; financial status; capital adequacy; business performance; asset quality; legal compliance; internal controls; operational controls and internal controls for each type of business; management of customer data confidentiality; information management; and the status of implementation of self-audits. For each of these items the report shall include an assessment.

2. Any failure by a business unit to implement corrective action in response to: (1) examination opinions provided or deficiencies discovered by a financial examination agency, CPA, internal audit unit, or self-audit personnel; or (2) improvements called for in a declaration made in accordance with the bank's internal control system. (Information source: FSC,CBC,BOAF)

15.2 Financial institutions should maintain an adequately resourced and independent audit function to test compliance

The FSC's "Regulations Governing Implementation by Banks of Internal Control and Auditing Systems" require that banks establish an internal audit committee directly under the board of directors to implement audit affairs in a spirit of independence and impartiality. The internal unit shall report the results of such audits at least semi-annually to the boards of directors and supervisors. Banks are required to establish a chief auditor system to exercise overall administration of audit matters. The chief auditor must possess leadership ability and the ability to effectively oversee audit work, and must possess qualifications that satisfy the provisions of the "Regulations Governing Qualification Requirements for Responsible Persons of Banks." The chief auditor's occupational rank shall be the equivalent of assistant general manager, and he or she may not concurrently hold any position that might conflict with or otherwise impede the audit work.

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which provides as follows: "A bank's internal audit unit shall determine what matters require auditing and carry out periodic audits in accordance with the internal control measures and other related rules that it has adopted. If it discovers that any unit has committed an error in implementing the management measures, it shall periodically submit reports for review by the assistant general manager in charge of auditing, or by another person of equivalent occupational rank, and shall make the information available for reference in on-the-job training. Where an auditor discovers upon inspection any deliberate cover-up of a material regulatory violation, the proper unit from the head office shall handle the matter appropriately. A bank's audit unit may charge a specific individual with responsibility for randomly checking transactions involving large amounts and ascertaining the propriety of such transactions." (Information source: FSC, CBC, BOAF)

15.3 Financial institutions should establish ongoing employee training

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which requires that banks regularly hold or arrange for their employees to participate in on-the-job AML training. The checklist includes the following provisions:

1. Pre-job training: Training programs for newly hired bank employees must at least provide several hours of coursework focusing on AML-related laws and regulations as well as the legal liability of financial services personnel.
2. On-the-job training:
    1) Preliminary legal awareness training: When the MLCA came into force or new amended, each bank must act as quickly as possible to conduct legal awareness training. Personnel need to be familiarized with the Money Laundering Control Act and related laws and regulations, and the bank needs to inform employees of its compliance measures. This training must be

planned by the money laundering compliance department and turned over to the training department for implementation.

2) Ongoing on-the-job training:

a) A bank's training department is required to run annual AML-related training courses to improve employee judgment, bolster the bank's AML capabilities, and avoid legal infractions by bank employees.

b) The aforementioned training can also be included as part of other professional training programs.

c) In addition to bank-trained instructors, specialists from the MOJ, FSC, academic institutions, and other organizations can also be hired as necessary to teach AML training programs.

d) In addition to introducing AML-related laws and regulations, AML courses must also discuss actual case histories so that course attendees can understand the characteristics of money laundering and the different types and indicators of suspicious transactions, and spot them when they occur.

e) The department in charge of planning or overseeing bank employee training programs must periodically look into the implementation of AML training and remind employees who have not received AML training that they need to do so.

f) In addition to on-the-job training carried out in-house, banks can also dispatch employees to take part in courses held by outside training organizations.

3) Lectures: To enhance bank employees' understanding of AML-related laws and regulations, banks can arrange lectures by academics and experts.

The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

Chinese Taipei has a "Checklist of Money Laundering Prevention Guidelines and Procedures" for life insurers, and another for non-life insurers. Each of the checklists requires insurance companies to hold, or arrange for their employees to participate in, regular AML training programs. The checklists provide as follows:

1. This company shall include AML content in its on-the-job training programs for office and non-office personnel, to ensure that all employees understand how AML laws and regulations relate to the practical side of AML work. In addition, the company may as necessary hire specialists from the MOJ, FSC, academic institutions, and other organizations to teach AML training programs.

2. When an employee of this company travels overseas for professional development or to take part in a study trip, he or she shall take advantage of the opportunity to gain a detailed understanding of the anti-money laundering practices of overseas insurers engaged in insurance of the person, and may on a case-by-case basis be granted special recognition if his or her findings can be applied domestically. (Information source: FSC,CBC,BOAF)

15.4 Financial institutions should put screening procedures to ensure high standards of employees

The internal controls and audit regimes of financial institutions set forth procedures that must be carried out and rules pertaining to personnel management systems, including hiring, promotions, evaluations, recognition and discipline, training, job rotation, mandatory vacation, and other personnel management operations. Under the internal personnel management rules of financial institutions, a person to whom any one of the following applies is not allowed in principle to be financial institution employee:

1. Has received a final and unappealable conviction for engaging in civil disorder, treason, or corruption, or is subject to a warrant for arrest in connection with such a crime and the case remains unclosed.
2. His or her citizen's rights have been revoked, and remain unreinstated.
3. Has been received a prison sentence, and the sentence has yet to expire.
4. Has been declared bankrupt and his or her rights remain unreinstated, or has been placed under judgment of interdiction and the interdiction has not been voided.
5. Has received or guaranteed a loan from a financial institution and the loan remains unpaid beyond the due date.
6. Has engaged in embezzlement of funds.
7. Has previously been fired by the competent authority or a financial institution.
8. Has been convicted of fraud or breach of fiduciary duty.
9. Is currently blacklisted by financial institutions.

The Bankers Association has adopted the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," which provides that when any of the follow situations applies with respect to a bank employee, the bank must conduct random checks of the business matters handled by that employee, and may as necessary request assistance from its audit unit:

1. The bank employee leads an extravagant lifestyle that is inconsistent with his or her level of income.
2. The bank employee is required by rule to take a vacation but refuses, without reason, to do so.
3. The bank employee is unable to provide a reasonable explanation for a large amount of money in his or her personal account.

The "Regulations Governing Responsible Persons and Associated Persons of Securities Investment Trust Enterprises" and the "Regulations Governing Responsible Persons and Associated Persons of Securities Investment Consulting Enterprises" set out positive and negative qualification requirements for personnel associated with these two types of enterprises. In addition, Article 7, Paragraph 1 of the Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets expressly requires service providers in securities and futures markets to give important consideration to "employees' integrity and values" when establishing their internal control systems.

In principle, a person to whom any of the following applies may not be hired as an insurance solicitor:

1. Has no legal disposing capacity or limited disposing capacity.
2. Has made a false statement in a registration application document.
3. Has previously been convicted by a final and unappealable judgment of a crime under the Organized Crime Prevention Act, and has not completed serving the

sentence, or five years have not elapsed since completion of the sentence, expiration of the suspended sentence, or pardon.

4. Has received a final and unappealable sentence for a fixed prison term or a sentence of greater severity for committing forgery, embezzlement, fraud, or breach of trust, and execution of the sentence has not been completed or three years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.
5. Has received a final and unappealable sentence for violating the Insurance Act, Banking Act, Financial Holding Company Act, Trust Enterprise Act, Act Governing Bills Finance Business, Financial Asset Securitization Act, Real Estate Securitization Act, Securities and Exchange Act, Futures Trading Act, Securities Investment Trust and Consulting Act, Foreign Exchange Control Act, Credit Cooperative Act, Money Laundering Control Act, or any other financial regulatory act, and execution of the sentence has not been completed or three years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted.
6. Has been declared bankrupt, and his or her rights have not been reinstated.
7. Has undergone a material loss of creditworthiness that has yet to be settled or three years have not yet passed since settlement.
8. There is factual proof that the solicitor has engaged in or otherwise been involved with any other dishonest or improper activities in the past three years. (Information source: FSC,CBC,BOAF)

Additional Elements

15.5 Compliance officer should be able to act independently and to report to senior management

The FSC's "Regulations Governing Implementation by Banks of Internal Control and Auditing Systems" provide as follows: "A bank shall designate a head office management unit under the board of directors or the general manager to bear responsibility for planning, managing, and implementing the legal compliance system, and shall further appoint a senior officer to serve as the head office legal compliance officer and exercise overall administration of legal compliance matters, reporting at least once every half-year to the board of directors and board of supervisors. The head office, domestic business units, overseas branches, information unit, asset custody unit, and other administrative units shall appoint a person to serve as compliance officer and bear responsibility for implementing legal compliance matters. "The Taiwan Securities Association, the Securities Investment Trust and Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

Article 27 of the "Regulations Governing Implementation by Insurance Enterprises of Internal Control and Audit Systems" provides as follows: "An internal auditor or legal compliance officer at an insurance enterprise who suggests corrective action to address a material internal control deficiency or a violation of statute or regulation shall immediately prepare a report if the suggestion is not accepted by the management, and shall inform the supervisor(s) and notify the competent authority." (Information source: FSC, CBC, BOAF)

Recommendation 22

22.1 Financial institutions should ensure foreign branches and subsidiaries AML/CFT measures consistent with home country requirements and the FATF Recommendations

The FSC's "Directions Concerning the Establishment of Foreign Branches by Domestic Banks" provides as follows: "Any offshore branch conducts a business according to the local financial regulations and business practices but does not comply with the financial regulations of Chinese Taipei. It shall be first reported to the competent authority for approval."

Article 6, Paragraph 1 of the "Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets" already provides that a service enterprise must consider the overall operational activities of its "head office" (interpreted to include branch offices) and subsidiaries to establish effective internal control systems.

The "Directions for Review of Establishment of Overseas Branch Units by Insurance Enterprises" requires insurance enterprises to file with the competent authority if an overseas subsidiary or branch office intends, in order to accommodate local insurance laws and regulations or business practices, to operate a particular line of insurance but does not comply with the insurance laws and regulations of Chinese Taipei. (Information source: FSC, CBC)

22.1.1 Financial institutions should pay particular attention to their branches and subsidiaries in countries which do not or insufficiently apply the FATF Recommendations

Please refer to the preceding description of 22.1. (Information source: FSC, CBC)

22.1.2 Branches and subsidiaries in host countries should apply the higher AML/CFT standard between home and host countries

Please refer to the preceding description of 22.1. (Information source: FSC, CBC)

22.2 Financial institutions should inform home country supervisor when a foreign branch or subsidiary is unable to observe appropriate AML/CFT measures because this is prohibited by local (i.e. host country) laws, regulations or other measures

Please refer to the preceding description of 22.1. (Information source: FSC, CBC)

Additional Elements

22.3 Applying consistent CDD measures at the group level, taking into account the activity of the customer with the various branches and majority owned subsidiaries worldwide

The FSC's "Directions Concerning the Establishment of Foreign Branches by Domestic Banks" provides as follows: "Any offshore branch conducts a business according to the local financial regulations and business practices but does not comply with the financial regulations of Chinese Taipei. It shall be first reported to the competent authority for approval."

The FSC's "Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" provide as follows: "A bank shall establish clear 'Know

Your Customer' policies and procedures, standards for the opening of deposit accounts, customer identification, monitoring of deposit accounts and transactions, and necessary training." It further provides: "A bank's overseas subsidiaries or branch offices shall, to the extent allowed under the law of their local jurisdictions, abide by such rules."

Paragraph 1, Article 6 of the "Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets" already provides that a service enterprise must consider the overall operational activities of its "head office" (interpreted to include branch offices) and subsidiaries to establish effective internal control systems. In addition, overseas Chinese and foreign nationals investing in domestic securities do so in accordance with the provisions of the "Regulations Governing Investment in Securities by Overseas Chinese and Foreign Nationals."

The "Directions for Review of Establishment of Overseas Branch Units by Insurance Enterprises" provide that when an overseas subsidiary or branch office of an insurance enterprise intends, in order to accommodate local insurance laws and regulations or business practices, to operate a particular line of insurance but does not comply with the insurance laws and regulations of Chinese Taipei, the matter must be reported to the competent authority. (Information source: FSC, CBC)

3.9 Shell banks (R.18)

Summary

Banks in Chinese Taipei are subject to a rigorous system of regulation and licensing. Article 52 of the Banking Act provides that "a bank is a juristic person and, shall only be organized in the form of a company limited by shares." It further provides that "the stock of a bank shall be publicly issued." The establishment of shell banks is thus not allowed. (Information source: FSC)

Recommendation 18

18.1 Countries should not approve the establishment or accept the continued operation of shell banks

Banks in Chinese Taipei are subject to a rigorous system of regulation and licensing. Article 52 of the Banking Act provides that "a bank is a juristic person and, shall only be organized in the form of a company limited by shares." It further provides that "the stock of a bank shall be publicly issued." An applicant seeking to establish a commercial bank must have minimum paid-in capital of at least NT$10 billion, and the capital contributions of promoters and shareholders are limited to cash.

Article 56 of the Banking Act provides that "after a business license has been issued to a bank, the central competent authority must revoke the bank's permit if the particulars in the original application are discovered to have been materially untrue." (Information source: FSC, CBC)

18.2 Financial institutions should not be permitted to enter into, or continue, correspondent banking relationships with shell banks

Point 3, Paragraph 10 of the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks" requires financial institutions to adopt policies

and procedures concerning cross-border correspondent banking, and to incorporate this suggestion by means of a questionnaire. (Information source: FSC, CBC)

18.3 Financial institutions should satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks

The FSC's "Principles for Handling of Bank Insourcing" provides that a bank is only allowed to insource operations that are among the lines of business listed on the bank's business license, and may only insource from direct subsidiaries, overseas branches, the overseas branches of a single domestic bank, or other banks. In conducting insourced operations, a bank must abide by the provisions of the Banking Act, MLCA, Data Protection Act, and other laws and regulations. It must further exercise proper control over the insourced operations, establish a firewall to keep documents and customer records connected with insourcing separate from the bank's own records, and report to the FSC for recordation. (Information source: FSC, CBC)

Regulation, supervision, monitoring and sanctions

3.10 The supervisory and oversight system - competent authorities and SROs; Role, functions, duties and powers (including sanctions) (R.17, 23, 29 and 30)

Summary

The FSC's Banking Bureau monitors and regulates the banking market, bills market, and banking enterprises, and is responsible for drafting, formulating, and implementing policies, laws, and regulations connected therewith. Paragraph 1, Article 61-1 of the Banking Act provides: If there is a possibility that a bank has violated laws and regulations or its articles of incorporation, or disturbed the sound operation [of the financial system], the competent authority, in addition to issuing an official reprimand and ordering corrective action within a specified period of time, may also take any of the following actions, as the circumstances merit:

1. Revoke the resolutions of board or shareholders meetings.
2. Suspend part of the bank's business.
3. Order the bank to discharge managers or staff members.
4. Dismiss directors or supervisors from their positions or suspend them from execution of the duties of those positions for a specified period.
5. Take any other necessary disposition.

Article 149 of the Insurance Act provides: If an insurance enterprise violates laws or regulations or is suspected of improper management, the competent authority may first issue an official reprimand or order it to take corrective action within a specified period of time, and may, depending on the circumstances, take the following disciplinary actions:

1. Restrict the scope of its business or the amount of its new contracts.
2. Order the insurance enterprise to increase its capital.

If an insurance enterprise does not comply with the disciplinary actions of the preceding paragraph, the competent authority shall take the following disciplinary actions as circumstances merit:

1. Revoke the resolutions of board or shareholders meetings.
2. Order removal of its managers or employees from their positions.

3. Dismiss its directors or supervisor(s), or suspend them from their duties for a certain period of time.
4. Take any other necessary action. (Information source: FSC)

Recommendation 17

17.1 Dissuasive criminal, civil or administrative sanctions are available to deal with natural or legal persons covered by the FATF Recommendations that fail to comply with national AML/CFT requirements

Paragraph 3, Article 7 and Paragraph 4, Article 8 of the MLCA provide for administrative fines, and Paragraphs 1 and 2, Article 11 of the same Act provide for criminal liability.

Please also refer to the description of the 3.10 “summary”. (Information source: FSC, CBC, DOC, BOAF, MOJ, MOI)

17.2 Countries should designate an authority empowered to apply these sanctions

Please refer to the description of the 3.10 “summary”. (Information source: FSC, CBC, DOC, BOAF, MOJ, MOI)

17.3 Sanctions should be available to the directors and senior management of financial institutions

Please refer to the description of the 17.1. (Information source: FSC, CBC, DOC, BOAF, MOJ, MOI)

17.4 The range of sanctions should be broad and proportionate to the severity of a situation

Article 6 of the Regulations Governing Offshore Funds requires general agents, sub-distributors, and the centralized securities depository enterprise to handle transaction records in compliance with the provisions of the MLCA. Please also refer to the description of the 17.1. (Information source: FSC, CBC, DOC, BOAF, MOJ, MOI)

Recommendation 23

23.1 Financial institutions are subject to adequate AML/CFT regulations and supervisions and are effectively implementing the FATF Recommendations

A bank's internal audit unit must determine what matters require auditing and carry out periodic audits in accordance with its internal control measures and other related rules. If it discovers that any unit has committed an error in implementing the management measures, it must periodically submit reports for review by the vice president in charge of auditing, or by another person of equivalent occupational rank, and must make the information available for reference in on-the-job training. Where any deliberate cover-up of a material regulatory violation is discovered, the proper unit from the head office must handle the matter appropriately. A bank's audit unit may charge a specific individual with responsibility for randomly checking transactions involving large amounts and ascertaining the propriety of such transactions. In addition, a bank's audit unit may charge a specific individual with responsibility for randomly checking transactions involving large amounts and ascertaining the propriety of such transactions.

The Taiwan Securities Association, the Securities Investment Trust and

Consulting Association, and the Taiwan Futures Association have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures" for their respective members, and the Checklists address this issue.

In addition to implementing AML/CFT rules in accordance with the applicable provisions of the MLCA, insurance enterprises are also required, in order to effectively achieve the goal of preventing money laundering, to appoint a vice president (or another person of equivalent or higher rank) who has previously participated in AML training, to oversee the effective implementation of the company's money laundering prevention guidelines and procedures. (Information source: FSC, CBC, BOAF)

23.2 A designated competent authority or authorities has/have responsibility for ensuring that financial institutions adequately comply with AML/CFT

The "Organic Act Governing the Establishment of the Financial Supervisory Commission" provides that the FSC is the competent authority for development, monitoring, regulation, and examination of financial markets and financial service enterprises.

As prescribed in the "Organizational Act of the Bureau of Agricultural Finance, Council of Agriculture, Executive Yuan", the BOAF shall be responsible for supervising agricultural financial institutions, planning and promoting agricultural loan in policy aid.

(Information source: FSC, CBC, BOAF)

23.4 The regulatory and supervisory measures that apply for prudential purposes should apply in a similar manner for AML/CFT

Chinese Taipei's measures satisfy this recommendation. The FSC monitors to ensure the stability of financial institutions and financial markets, and is engaged in an ongoing effort to bring Chinese Taipei's system more closely in line with the international system. Accordingly, the concrete measures set forth in the Basel Core Principles have been incorporated into our AML/CFT objectives.

Paragraph 3, Article 7 and Paragraph 4, Article 8 of the MLCA provide for administrative fines, and Paragraphs 1 and 2, Article 11 of the same Act provide for criminal liability. (Information source: FSC, CBC, BOAF)

23.6 Money or value transfer service or money or currency changing service should be subject to effective systems for monitoring and ensuring compliance with national requirements to AML/CFT

Article 29 of the Banking Act bars non-banks from providing domestic or foreign remittance services. It also requires the competent authority to act in concert with the judicial police authorities to take enforcement action against violators, and to refer cases for prosecution.

Paragraph 3, Article 7 and Paragraph 4, Article 8 of the MLCA provide for administrative fines, and Paragraphs 1 and 2, Article 11 of the same Act provide for criminal liability. (Information source: FSC, CBC)

23.7 Financial institutions should be licensed or registered and appropriately regulated, and subject to supervision or oversight for AML/CFT purposes

Under Article 52 of the Banking Act, the requirements for establishment of

banks or other financial institutions to be established in accordance with the banking act or other laws shall be as prescribed by the central competent authority. And Article 137 of the Insurance Act also sets forth requirements regarding the criteria for establishing an insurance enterprise.

Article 3 and Article 28 of the "Agricultural Finance Act", the "Regulation Governing Business of the Credit Department of Farmers' and Fishermen's Associations" and the "Regulations Governing the Establishment and Approvals of the Agricultural Bank of Taiwan" have respectively provide relating regulations for the establishment of agricultural financial institutions.

Article 5 of the MLCA defines the term "financial institution" to include banks, trust investment companies, credit cooperatives, farmers' association credit departments, fishermen's association credit departments, bills finance companies, postal organizations that operate saving and remittance services, bills finance companies, credit card companies, insurance company, securities firms, securities investment trust enterprises, securities finance enterprises, securities investment consulting enterprises, centralized securities depository enterprises, futures commission merchants, and trust enterprises. Each of the above is governed by its own set of regulations, and is subject to regulation and oversight regarding its AML/CFT measures.

Paragraph 3, Article 7 and Paragraph 4, Article 8 of the MLCA provide for administrative fines, and Paragraphs 1 and 2, Article 11 of the same Act provide for criminal liability. (Information source: FSC, CBC, BOAF)

Recommendation 29

29.1 Supervisors should have adequate powers to monitor and ensure compliance by financial institutions on AML/CFT

Article 45 of the Banking Act provides as follows: "The central competent authority may, at any time, appoint a designee, entrust an appropriate institution or direct a local competent authority to appoint a designee to examine the business, financial affairs and other relevant affairs of a bank or related parties. It may also direct a bank or related parties to prepare and submit, within a prescribed period of time, balance sheets, property inventories or other relevant documents for examination." In addition, Article 129-1 of the Banking Act provides for an administrative fine of not less than NT$2 million and not more than NT$10 million for a bank that commits any of the following acts:

1. Refuses to be investigated or refuses to open the vault or other storage facilities.
2. Conceals or damages books and documents related to business or financial conditions.
3. Refuses to reply, or responds falsely, to inquiries of the investigator without legitimate reason.
4. Fails to provide financial reports, property inventories, or other related data or reports in a timely, honest, or complete manner, or to pay investigation fees within the specified period(s) of time.

According to the regulation of Paragraph 1, Article 7 of the Agricultural Finance Act, the Council of Agriculture, Executive Yuan may entrust the FSC to conduct on-site examination to the agricultural financial institutions and the information sharing centers. In addition, according to the regulations of Paragraph 2 and 3, Article 7 of the same Act, the Council, at any time, may dispatch personnel to inspect the

operations, finance and other related responsibilities of the Agricultural Bank of Taiwan, the Credit Department of Farmers' and Fishermen's Associations and related parties or order the bank, credit departments or related parties to prepare and submit, within a prescribed period of time, balance sheets, property inventories or other relevant documents for examination. The Council may also authorize professional specialists to inspect the required items, reports or information mentioned in the preceding paragraph and the expenses should be burdened by the bank or credit departments. In addition, Article 48 of the Agricultural Finance Act provides for an administrative fine of not less than NT$2 million and not more than NT$10 million for violating any of the following acts:

1. Refuses to be investigated or refuses to open the vault or other storage facilities.
2. Conceals or damages books and documents related to business or financial conditions.
3. Refuses to reply, or responds falsely, to inquiries of the investigator without legitimate reason.
4. Fails to provide financial reports, property inventories, or other related data or reports in a timely, honest, or complete manner, or to pay investigation fees within the specified period(s) of time.

Supervisory agencies are authorized by law to monitor securities investment trust enterprises, securities investment consulting enterprises operating discretionary investment services, securities finance enterprises, centralized securities depository enterprises, and the general agents and sub-distributors of offshore funds, to ensure that they run their businesses in compliance with the MLCA.

Article 148 of the Insurance Act provides that "the competent authority may, at any time, dispatch officers to inspect the business and financial conditions of an insurance enterprise, or order an insurance enterprise to report, within a prescribed limit of time, the condition of its business," and "the competent authority may engage an appropriate agency or professional expert to conduct the inspection referred to." All customers as well as all transaction records and data fall within the scope of such financial examinations.

Article 168-1 of the Insurance Act provides: The competent authority may at any time dispatch an officer or commission an appropriate institution or expert to inspect the business and financial conditions of an insurance enterprise, or order an insurance enterprise to report the status of its business within a specific time limit. A responsible person or an employee of the insurance enterprise who commits any of the following acts shall be assessed an administrative fine of not less than NT$1.8 million and but not more than NT$9 million:

1. Refuses to be investigated or refuses to open the vault or other storage facilities.
2. Conceals or damages books and documents related to business or financial conditions.
3. Refuses to reply, or responds falsely, to inquiries of the investigator without legitimate reason.
4. Fails to provide financial reports, property inventories, or other related data or reports in a timely, honest, or complete manner, or to pay investigation fees within the specified period(s) of time.

Any financial institution fails to confirm a customer's identity, keep transaction records on file, or file with the designated authority in accordance with Articles 7 and 8 of the MLCA is subject to an administrative fine of not less than NT$200,000 and

not more than NT$1 million. Furthermore, Paragraphs 1 and 2, Article 11 of the same Act provide for criminal liability.

(Information source: FSC, CBC, BOAF)

29.2 Supervisors should have the authority to conduct inspections of financial institutions to ensure compliance

Article 45 of the Banking Act provides as follows: "The central competent authority may, at any time, appoint a designee, entrust an appropriate institution or direct a local competent authority to appoint a designee to examine the business, financial affairs and other relevant affairs of a bank or related parties. It may also direct a bank or related parties to prepare and submit, within a prescribed period of time, balance sheets, property inventories or other relevant documents for examination."

Article 2 of the "The Provisional Organic Regulations of the Financial Examination Bureau of the Financial Supervisory Commission, Executive Yuan " authorizes the Financial Examination Bureau to carry out financial examinations on financial holding companies, banking enterprises, securities enterprises, futures enterprises, insurance enterprises, and their overseas branch units.

Points 4 and 5 of the "Directions for the Examination of Financial Institutions by the Financial Supervisory Commission, Executive Yuan" (which were issued pursuant to authorization under Paragraph 2, Article 2 and Article 29 of the FSC Organic Act) empower the FSC, acting either on its own or in consultation with other institutions, to appoint personnel to carry out on-site financial examinations. And there are two types of financial examinations:

1. Routine examinations: Risk-oriented examinations focusing primarily on the examinee's financial, operational, and overall business status.
2. Targeted examinations: Examinations focus on particular aspects of the examinee's business.

If the FSC Financial Examination Bureau discovers during a financial examination that the examinee has failed to confirm a customer's identity, that it has opened an account for a party that has previously been reported to the Joint Credit Information Center with a possible fraud account, or that it has failed to report a customer's possible money laundering transaction to the MLPC as required by the MLCA, the Bureau will include such matters in its examination opinion.

According to the regulations of Paragraph 2 and 3, Article 7 of the same Act, the Council, at any time, may dispatch personnel to inspect the operations, finance and other related responsibilities of the Agricultural Bank of Taiwan, the Credit Department of Farmers' and Fishermen's Associations and related parties or order the bank, credit departments or related parties to prepare and submit, within a prescribed period of time, balance sheets, property inventories or other relevant documents for examination. The Council may also authorize professional specialists to inspect the required items, reports or information mentioned in the preceding paragraph and the expenses should be burdened by the bank or credit departments. Furthermore, according to the Item 2 and 4 of the "Guidelines for Examining the Agricultural Financial Institutions and Information Sharing Centers by FSC Entrusted by COA", the Bureau of Examination, FSC will be responsible to conduct the examination in following frequency:

1. Special examination or common examination at least once in 2 years to the headquarters of agricultural financial institutions and the information sharing centers.
2. Sampling examination to the branches, decided by the Bureau when conducting examination to the headquarters. (Information source: FSC, CBC, BOAF)

29.3 Supervisors should have the power to compel production of or to obtain access to all records, documents or information relevant to monitoring compliance

Article 5 of the FSC Organic Act provides as follows: "In carrying out a financial examination, the FSC and its subordinate agencies may, as necessary: (1) require a financial institution, a related party thereof, or a public company to produce relevant account books, documents, electronic files, and other such materials; or (2) notify an examinee to appear at a designated office to answer questioning." Article 5 further provides: "In a case involving suspected financial crime, the FSC and any subordinate agency thereof may present the facts of the case to a prosecutor in seeking permission from the latter to file a motion in the court of jurisdiction for issuance of a search warrant. Once the search warrant has been issued, the FSC or its subordinate agency may, accompanied by judicial police authorities, enter and search the suspected hiding place of the relevant account books, documents, electronic files, and other such materials or evidence. No one other than the parties mentioned above may take part in the search. The personnel who conduct a search shall transport all relevant materials and evidence obtained during the search to the FSC or a subordinate agency thereof, where it shall be handled in accordance with the law."

In addition, Point 10 of the "Directions for the Examination of Financial Institutions by the Financial Supervisory Commission, Executive Yuan" provides as follows: "While an examination is ongoing, an examiner may notify the examined institution to prepare relevant statements and furnish pertinent vouchers, documents, and account books so the examiner can inspect them or request detailed explanations, and the examined institution shall prepare and furnish such items truthfully. An examiner may make photocopies of them as necessary. An examiner may request relevant personnel of an examined institution to sign records furnished by the examinee."

With respect to a financial institution that fails to furnish all material records, Chinese Taipei has the following penal provisions:

1. Article 5 of the FSC Organic Act provides as follows: "Where an examinee obstructs, avoids, or refuses to allow an examination of the type set forth under paragraph 1, refuses to furnish relevant account books, documents, electronic files, or other such materials, or refuses without legitimate reason to appear for questioning, the FSC or a subordinate agency is empowered, unless another law provides to the contrary, to impose an administrative fine of not less than fifty thousand and not more than two-hundred fifty thousand New Taiwan Dollars, and may impose consecutive penalties until the examinee cooperates with the examination, appears for questioning, or furnishes the relevant account books, documents, electronic files, or other such materials."
2. In addition, related penal provisions are also set out in Article 129-1 of the Banking Act, Article 178 of the Securities and Exchange Act, and Article 168-1 of the Insurance Act.

   According to the Paragraph 2 and 3, Item 5 of the "Guidelines for Examining the

Agricultural Financial Institutions and Information Sharing Centers by FSC Entrusted by COA", the staffs of the agricultural financial institutions and information sharing centers should honestly provide related paper documents and computer media records for the business examination and should not be allowed to make any excuse to delay or conceal. It is also applicable to other departments of the Farmers' and Fishermen's Associations when involving the business with the credit departments.

If an examinee refuses to furnish relevant account books, documents, electronic files, or other such materials for business examination, or refuses without legitimate reason to appear for questioning, the FSC shall pass the situation with evidence to the COA for further handling. Furthermore, the Article 48 of Agricultural Finance Act provides for an administrative fine of not less than NT$2 million and not more than NT$10 million for violating any of the following acts:

1. Refuses to be investigated or refuses to open the vault or other storage facilities.
2. Conceals or damages books and documents related to business or financial conditions.
3. Refuses to reply, or responds falsely, to inquiries of the investigator without legitimate reason.
4. Fails to provide financial reports, property inventories, or other related data or reports in a timely, honest, or complete manner, or to pay investigation fees within the specified period(s) of time.

(Information source: FSC, CBC, BOAF)

29.3.1 The power to compel production of or to obtain access for supervisory purposes should not need court order

Please refer to the preceding description of 29.3. (Information source: FSC, CBC, BOAF)

29.4 The supervisor should have adequate powers of enforcement and sanction against financial institutions, and their directors or senior management for failure to comply with requirements on AML/CFT

Paragraph 3, Article 7 and Paragraph 4, Article 8 of the MLCA provide for administrative fines, and Paragraphs 1 and 2, Article 11 of the same Act provide for criminal liability.

Paragraph 1, Article 61-1 of the Banking Act provides: If there is a possibility that a bank has violated laws and regulations or its articles of incorporation, or disturbed the sound operation [of the financial system], the competent authority, in addition to issuing an official reprimand and ordering corrective action within a prescribed time period, may also take any of the following actions, as the circumstances merit:

1. Revoke the resolutions of board or shareholders meetings.
2. Suspend part of the bank's business.
3. Order the bank to discharge managers or staff members.
4. Dismiss directors or supervisors from their positions or suspend them from execution of the duties of those positions for a specified period.
5. Take any other necessary action.

When an investment trust enterprise, securities investment consulting enterprise operating discretionary investment services, securities finance enterprise, centralized securities depository enterprise, or a general agent or sub-distributor of an offshore fund violates the MLCA, supervisory agencies are authorized by law to impose

appropriate sanctions.

Article 149 of the Insurance Act provides: If an insurance enterprise violates laws or regulations or is suspected of improper management, the competent authority may first issue an official reprimand or order it to take corrective action within a specified period of time, and may, depending on the circumstances, take the following disciplinary actions:

1. Restrict the scope of its business or the amount of its new contracts.
2. Order the insurance enterprise to increase its capital.

If an insurance enterprise does not comply with the disciplinary actions of the preceding paragraph, the competent authority shall take the following disciplinary actions as circumstances merit:

1. Revoke the resolutions of board or shareholders meetings.
2. Order removal of its managers or employees from their positions.
3. Dismiss its directors or supervisor(s), or suspend them from their duties for a certain period of time.
4. Take any other necessary action. (Information source: FSC,CBC,BOAF)

Recommendation 23

23.3 Supervisors should take legal or regulatory measures to prevent criminals from holding or being the beneficial owner in a financial institution

A person to whom any of the following applies is barred under the "Regulations Governing Qualification Requirements for Responsible Persons of Banks" from serving as a responsible person of a bank:

1. Has no legal capacity or limited legal capacity.
2. Has committed a crime under the Organized Crime Prevention Act, and has been found guilty by a final and unappealable judgment.
3. Has previously received a final and unappealable sentence to a punishment of not less than imprisonment for counterfeiting of currency, counterfeiting of securities, embezzlement, fraud, or breach of trust, and execution of the sentence has not been completed or ten years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.
4. Has previously received a final and unappealable sentence to a punishment of not less than imprisonment for forgery, offense involving secret information, usury, impairment of creditor rights, or a violation of the Tax Collection Act, the Trademark Act, the Patent Act, or other acts or regulations governing industry and commerce, and execution of the sentence has not been completed or five years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.
5. Has received a final and unappealable sentence as punishment for corruption and execution of the sentence has not been completed or five years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.
6. Has received a final and unappealable sentence for violating the Banking Act, the Financial Holding Company Act, the Trust Enterprise Act, the Act Governing Bills Finance Business, the Financial Asset Securitization Act, the Real Estate Securitization Act, the Insurance Act, the Securities and Exchange Act, the Futures Trading Act, the Securities Investment Trust and Consulting Act, the Foreign Exchange Control Act, the Credit Cooperative Act, the Agricultural

Finance Act, the Farmers' Association Act, the Fishermen's Association Act, the MLCA, or any other financial regulatory act, and execution of the sentence has not been completed or five years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.

7. Has been declared bankrupt and his or her rights have not yet been reinstated.
8. Served as a responsible person of a juristic person at the time it was declared bankrupt, where five years have not yet passed since the close of bankruptcy, or where reconciliation has not been performed.
9. A financial institution has refused to honor the person's negotiable instruments and has not resumed honoring them, or the person again had a negotiable instrument dishonored for insufficient funds within three years after the financial institution resumed honoring the person's negotiable instruments.
10. Has undergone a material loss of creditworthiness that has yet to be settled or three years have not yet passed since settlement.
11. The competent authority has ordered the person's replacement or discharge due to a violation of the Banking Act, the Financial Holding Company Act, the Trust Enterprise Act, the Act Governing Bills Finance Business, the Financial Asset Securitization Act, the Real Estate Securitization Act, the Insurance Act, the Securities and Exchange Act, the Futures Trading Act, the Securities Investment Trust and Consulting Act, the Credit Cooperative Act, the Agricultural Finance Act, the Farmers' Association Act, the Fishermen's Association Act, or any other financial regulatory act, and five years have not yet passed since replacement or discharge.
12. Has received a final and unappealable court order to undergo correction and training, or has been ordered to perform forced labor for larceny or the handling of stolen goods, and execution of the punishment has not yet been completed or five years have not yet passed since completion.
13. There is factual proof that the person has engaged in or otherwise been involved with any other dishonest or improper activities, demonstrating unsuitability to serve as a responsible person of a bank.

The Securities Investment Trust and Consulting Act and various secondary regulations authorized thereunder set out both positive and negative qualification requirements for anyone who would serve as a responsible person at a securities investment trust or consulting enterprise. Article 68 of the Securities Investment Trust and Consulting Act, for example, bars anyone who has violated a relevant law or committed a relevant crime within a certain period of time from acting as a promoter (regardless whether exercising such duties as a natural person, or as the representative or designated representative of a juristic person), responsible person, or associated person of a securities investment consulting enterprise; and where such a person is already serving as a responsible person or associated person, he or she shall be dismissed, and may not serve as a director, supervisor, or manager, and the competent authority shall request the competent authority for corporate registration by letter to void or revoke the registration of such person.

Anyone who has completed a criminal sentence within the past certain period of time is prohibited under a number of laws from acting as a promoter, director, supervisor, manager, or associated person of futures exchange, futures clearing house, or futures enterprise. These include the Futures Trading Act (Subparagraphs 1 and 5, Paragraph 1, Article 28; Article 44 as applied mutatis mutandis under Article 28; and

Article 55 as applied mutatis mutandis under Article 28), the Standards Governing the Establishment of Futures Commission Merchants (Subparagraphs 1 and 5, Paragraph 1, Article 4), the Standards Governing the Establishment of Managed Futures Enterprises (Subparagraphs 1 and 5, Paragraph 1, Article 6), and the Regulations Governing Futures Advisory Enterprises (Subparagraphs 1 and 5, Paragraph 1, Article 19).

A person to whom any of the following applies is barred under the "Regulations Governing Required Qualifications for Responsible Persons of Insurance Enterprises" from serving as a responsible person of an insurance enterprise:

1. Has no legal capacity or limited legal capacity.
2. Has committed a crime under the Organized Crime Prevention Act, and has been found guilty by a final and unappealable judgment.
3. Has previously received a final and unappealable sentence to a punishment of not less than imprisonment for counterfeiting of currency, counterfeiting of securities, embezzlement, fraud, or breach of trust, and execution of the sentence has not been completed or ten years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.
4. Has previously received a final and unappealable sentence to a punishment of not less than imprisonment for forgery, offense involving secret information, usury, impairment of creditor rights, or a violation of the Tax Collection Act, the Trademark Act, the Patent Act, or other acts or regulations governing industry and commerce, and execution of the sentence has not been completed or five years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.
5. Has received a final and unappealable sentence as punishment for corruption and execution of the sentence has not been completed or five years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.
6. Has received a final and unappealable sentence for violating the Insurance Act, the Banking Act, the Financial Holding Company Act, the Trust Enterprise Act, the Act Governing Bills Finance Business, the Financial Asset Securitization Act, the Real Estate Securitization Act, the Securities and Exchange Act, the Futures Trading Act, the Securities Investment Trust and Consulting Act, the Foreign Exchange Control Act, the Credit Cooperative Act, the MLCA, or any other financial regulatory act, and execution of the sentence has not been completed or five years have not yet passed since execution of the sentence was completed, probation expired, or pardon was granted, as the case may be.
7. Has been declared bankrupt and his or her rights have not yet been reinstated.
8. Served as a responsible person of a juristic person at the time it was declared bankrupt, where five years have not yet passed since the close of bankruptcy, or where reconciliation has not been performed.
9. A financial institution has refused to honor the person's negotiable instruments and has not resumed honoring them, or the person again had a negotiable instrument dishonored for insufficient funds within three years after the financial institution resumed honoring the person's negotiable instruments.
10. Has undergone a material loss of creditworthiness that has yet to be settled or three years have not yet passed since settlement.
11. The competent authority has ordered the person's replacement or discharge due to a violation of the Insurance Act, the Banking Act, the Financial Holding Company Act, the Trust Enterprise Act, the Act Governing Bills Finance Business, the

Financial Asset Securitization Act, the Real Estate Securitization Act, the Securities and Exchange Act, the Futures Trading Act, the Securities Investment Trust and Consulting Act, the Foreign Exchange Control Act, the Credit Cooperative Act, or any other financial regulatory act, and five years have not yet passed since replacement or discharge.

12. Has received a final and unappealable court order to undergo correction and training, or has been ordered to perform forced labor for larceny or the handling of stolen goods, and execution of the punishment has not yet been completed or five years have not yet passed since completion.
13. Is serving as a responsible person of another insurance enterprise or a financial holding company, bank, trust company, credit cooperative, the credit department of a farmers' (fishermen's) association, bills finance company, securities company, securities finance company, securities investment trust enterprise, securities investment consulting enterprise, or futures commission merchant.
14. There is factual proof that the person has engaged in or otherwise been involved with any other dishonest or improper activities, demonstrating unsuitability to serve as a responsible person of an insurance enterprise.
15. Is otherwise restricted by law. (Information source: FSC,CBC,BOAF)

23.3.1 Directors and senior management of financial institutions should be evaluated on the basis of “fit and proper” criteria

Please refer the description of 23.1. (Information source: FSC,CBC,BOAF)

23.5 money or value transfer service, or a money or currency changing service should be licensed or registered

Article 29 of the Banking Act bars non-banks from providing domestic or foreign remittance services. It also requires the competent authority to act in concert with the judicial police authorities to take enforcement actions against violators and to refer cases for prosecution; and if the organization concerned is a juristic person, the responsible person shall be jointly and severally liable for repayment of the relevant obligations. (Information source: FSC, CBC)

23.7 Financial institutions should be licensed or registered and appropriately regulated, and subject to supervision or oversight for AML/CFT purposes

Under Article 52 of the Banking Act, the requirements for establishment of banks or other financial institutions to be established in accordance with the banking act or other laws shall be as prescribed by the central competent authority.

Article 5 of the MLCA defines the term "financial institution" to include banks, trust investment companies, credit cooperatives, farmers' association credit departments, fishermen's association credit departments, bills finance companies, postal organizations that operate saving and remittance services, bills finance companies, credit card companies, insurance company, securities firms, securities investment trust enterprises, securities finance enterprises, securities investment consulting enterprises, centralized securities depository enterprises, futures commission merchants, and trust enterprises. Each of the above is governed by its own set of regulations, and is subject to regulation and oversight regarding its AML/CFT measures.

The Financial Services Act currently being drafted by the FSC contains provisions that will allow the FSC to exercise differential regulatory treatment with respect to financial service enterprises. The provisions also authorize the FSC to adopt

regulations dealing with differential regulatory treatment. (Information source: FSC, CBC, BOAF)

Recommendation 25

25.1 Competent authorities should establish guidelines to assist financial institutions for complying with AML/CFT requirements

According to the regulations of MLCA, the FSC has established the "Regulations Regarding Article 7 of The Money Laundering Control Act" and "Regulations Regarding Article 8 of The Money Laundering Control Act," the Bankers Association has issued the "Checklist of Money Laundering Prevention Guidelines and Procedures for Banks," and the national associations for both non-life and life insurance have each issued a "Checklist of Money Laundering Prevention Guidelines and Procedures " for their respective members.

For assisting financial institutions to comply with the requirements on AML/CFT, the MLPC provides the following prints or electronic files which can be downloaded from the MLPC website:

(1) “Cases Collection and Study of Money Laundering”.
(2) “Reporting Suspicious Transaction Q&A”.
(3) “Cross Platforms Data Transmission System Guideline for Reporting CTRs by using Electronic Media”.
(4) “AML/CFT Laws and Decrees Collection”.
(5) “The Directions and Examples for Reporting CTRs and STRs”.

(Information source: MLPC, FSC, CBC, BOAF)

3.11 Money or value transfer services (SR.VI)

Summary

Article 29 of the Banking Act bars non-banks from providing domestic or foreign remittance services. It also requires the competent authority to act in concert with the judicial police authorities to take enforcement action against violators and to refer cases for prosecution; and if the organization concerned is a juristic person, the responsible person shall be jointly and severally liable for repayment of the relevant obligations.

Article 125 of the Banking Act provides as follows: "Those who violate Paragraph 1, Article 29 of this Act shall be punished by imprisonment for not less than three years and not more than ten years, and may be handed a criminal fine of not less than NT$10 million and not more than NT$200 million. Those who obtain criminal income of NT$100 million or more shall be punished by imprisonment for more than seven years, and may also be handed a criminal fine of not less than NT$25 million and not more than NT$500 million. A financial information service business which operates interbank funds transfer and account clearing without obtaining the approval of the competent authority shall be punished in accordance with the preceding paragraph. Should a juristic person commit the offenses set out in the preceding two paragraphs, its responsible person shall be punished." (Information source: FSC)

Special Recommendation VI

VI.1 Competent authorities to register and/or license money or value transfer services

Not applicable in Chinese Taipei. (Information source: FSC, CBC)

VI.2 All MVT service operators are subject to the applicable FATF Forty Recommendations Nine Special Recommendations

Not applicable in Chinese Taipei. (Information source: FSC, CBC)

VI.3 Monitoring MVT service operators and ensuring that they comply with the FATF Recommendations

Not applicable in Chinese Taipei. (Information source: FSC, CBC)

VI.4 Each licensed or registered MVT service operator should maintain a current list of its agents which must be made available to the designated competent authority

Not applicable in Chinese Taipei. (Information source: FSC, CBC)

VI.5 Dissuasive criminal, civil or administrative penalties for SRVI obligations

Not applicable in Chinese Taipei. (Information source: FSC, CBC)

Additional Elements

VI.6 Implementing the measures set out in the Best Practices Paper for SR.VI

Not applicable in Chinese Taipei. (Information source: FSC, CBC)

4 Preventive Measures – Designated Non-Financial Businesses and Professions

4.1 Customer due diligence and record-keeping (R.12) (applying R.5, 6, 8-11 & 17 (only sanctions for these Recommendations))

Summary

Requirements for DNFBP to conduct CDD and keep transaction records in Chinese Taipei are mostly regulated in related laws, authority's supervisory regulations and self-regulated organization's ethic norms. For example, regulations for precious metals and stones distributors to conduct the CDD and keep the transaction records have been listed in the money laundering prevention guidelines and procedures which has detailed the reporting of CTRs and STRs, how to ascertain the identity of customers and keep the transaction records as evidence etc. (Information source: DOC)

Recommendation 12

12.1 DNFBP should be required to comply with the requirements set out in Recommendation 5

- **Precious metals and stones distributors:**

1. The present laws do not allow precious metals and stones distributors (Jewelry shops) to keep the anonym account or an account with a fake name.
2. In practicing business, for promoting the sales of new products and providing after-sales service, most of the Jewelry shops will keep the identity of customers and the transaction records.
3. According to the regulations of the Criminal Code for recovering loot of crimes, Jewelry shops will ask the identity of salesperson or the buyer with large amount of transaction for matching the requirements from law enforcement agencies.
4. According to the money laundering prevention guidelines and procedures for the precious metals and stones distributors, jewelry shops shall require customers to provide their identity for record when the amount of single currency transaction is over NT$ 1,000,000. This standard refers to Article 9 of the Business Accounting Law and related decrees from supervisory authorities.
5. According to Paragraph 2 of Article 2 in the money laundering prevention guidelines and procedures, any jewelry shop (no matter the amount is small or large) to be suspected of money laundering or terrorism financing activity, the shop shall ascertain the identity of the customer and keep the transaction record as evidence, and report the suspicious financial transaction to the designated authority, the MLPC.
6. According to Paragraph 2 of Article 2 in the money laundering prevention guidelines and procedures, jewelry shops shall confirm the customer's identity by phone or other ways after the transaction is done when suspect the reality and accuracy of the identity of customers.
7. Article 7 and 8 of the MLCA have respectively stipulated that financial institutions shall ascertain the identity of customers, keep the transaction records as evidence and report the financial transaction to the designated authority when any currency transaction exceeding a certain amount or financial transaction

suspected of money laundering. Moreover, the money laundering prevention guidelines and procedures for jewelry distributors define the standards, directions, report procedures and internal control and so on. Actually, jewelry shops, based on the concern transaction safety, will actively ascertain the identity and background and the need of the customer.

8. The money laundering prevention guidelines and procedures for jewelry distributors define that jewelry shops shall ascertain the identity of the agent and record it as evidence when the transaction conducted by a proxy.
9. According to the money laundering prevention guidelines and procedures for jewelry distributors, jewelry shops shall ascertain the identity of the beneficiary agent and the identity of the person he/she represents for.
10. In practicing business, jewelry shops will build up the customers information based on the need of marketing and promotion and also set good relationship and keep in touch with the potential customers or old customers.
11. Jewelry shops shall ascertain and investigate the identity of occasional customers and customers with large amount of transaction and take some measures for risk management based on the concern about safety of the transaction. If a customer has unusual large amount of smurfing transactions, jewelry shops shall ascertain the identity of the customers and report STR to the designated organization according to the regulations of the money laundering prevention guidelines and procedures for jewelry distributors.
12. For ensuring the accuracy and value of customer's transaction information, jewelry shops certainly will take note of the necessary, latest and suitable information. If a customer has unusual large amount of smurfing transactions, jewelry shops shall ascertain the identity of the customers and report STR to the designated organization according to the regulations of the money laundering prevention guidelines and procedures for jewelry distributors.
13. So far, Chinese Taipei has not defined the relevant regulations for high risk customers, but the regulations for suspicious transactions of money laundering are defined and reinforced. Based on the reason that the customers conducting suspicious transactions shall be regarded as high risk customers, it can be said that Chinese Taipei has the relevant regulations to enforce CDD on high risk customers. (Information source: DOC)

- **Real estate agents:**

1. Land Administration Agents:

Land Administration Agent Act is explicitly acted to maintain the security of real estate transactions, secure the property rights of public and establish real estate transaction system. The Act regulates all land administration agents have to be qualified of professional knowledge and operate business based on sincerity and honesty for protecting the rights and interests of clients. The land administration agents shall accurately check the identification of client when accept the trust to process real estate transaction, issue receipt when receive any document from clients and record the steps and situations happened in written document during the process. The record should be kept at least 15 years. Hence, the Land Administration Agent Act has clearly required all land administration agents to ascertain the identity of customer and keep the transaction records as evidence.

2. Real Estate Broking agencies:

The purposes of enacting the Real Estate Broking Management Act are to manage the real estate broking industry, set up trade order of real estate, ensure dealers' rights and interests and promote the trade market of the real estate to be developed healthily. According to the regulations of the Act and its implementation rules, the real estate broking agencies should verify the trading target and relevant information of the ownership, then should record it in the real estate statement for fully disclosing the real estate information to clients. The real estate broking agencies should record and retain the detail procedures during trading the property for authorities to inquire and supervise.

- **Trusts and Accountants:**
  - **Requirements applying to trusts:**

Under current law, banks and trust enterprises are not allowed to accept anonymous accounts or false name accounts. The Customer due diligence procedures is the same as those set out in the Checklist of Money Laundering Prevention Guidelines and Procedures for Banks. The records maintenance period is also the same, i.e. five years.

  - **Requirements applying to accountants:**

1. **Current measures:** The current CPA Act and related regulations set out a number of requirements for how to handle violations of the law (including infractions of the Money Laundering Control Act) by CPAs in the course of their professional practice. These include the following:

   1) Statement on Auditing Standards No. 29 (Consideration of Laws and Regulations in an Audit of Financial Statements) requires CPAs auditing financial statements to be alert to the possibility of legal compliance failures by the audited party, and to consider as necessary the possibility of giving a qualified opinion or an adverse opinion, or of withdrawing from the audit.

   2) In addition, the administrative sanctions and civil liabilities to be borne by any CPA who commits legal infractions through either intention or neglect are set out in the CPA Act, as follows:

      i. Administrative sanctions: According to Articles 17, 39, and 41 of the CPA Act, if a CPA engages in improper conduct, violates or neglects his professional duties, is sentenced to punishment for a criminal offense, receives administrative sanction for a legal infraction that is serious enough to affect the CPA's reputation, or otherwise violates any provision of the CPA Act, an interested party, the competent authority for a particular case, or the National CPA Association, may report the pertinent facts and evidence to the local competent authority, and the local authority shall refer the case to the central competent authority for disciplinary action against the CPA named.

      ii. Civil liability: Articles 17 and 18 of the CPA Act provide that "a CPA shall not engage in any improper conduct, nor violate or neglect his professional duties in the performance of any assigned or requested service," and that "a CPA shall be liable to compensate his appointing party, client, or any interested party for losses caused by

him in violation of the aforementioned provision."

2. **Future measures:** Chinese Taipei is planning to amend its CPA Act. Among other changes, the competent authority will be empowered to examine the operations and operations-related financial matters of an accounting firm that has been approved to handle certification on behalf of public companies, and a reporting mechanism will be established for cases in which CPAs refuse to provide certification, so that the competent authority can exercise appropriate regulation of CPA firms and hopefully nip improprieties in the bud through proactive supervision. (Information source: FSC)-

- **Lawyers:** Chinese Taipei does not obligate attorneys to implement customer due diligence and keep records during preparing or practicing financial transaction for clients. The supervisory authority MOJ, however, has begun to invite bar associations and other related agencies to study the matter. (Information source: MOJ)

- **Notaries:**

  - It is provided in Article 6 of the Notary Law that the party concerned or other privy, is entitled to apply to any notary in whatever region for a notarial deed or certificate to evidence a juristic act or fact, or a notarial authentication of a signature or private writing unless regulated by laws. Therefore, there is seldom a continuous or long-term relationship between a notary and the notarization applicants.

  - It is provided in Article 73 of the Notary Law that in the execution of a notarial deed or a certificate of authentication, the notary is obliged to request the applicant to present a national Identification Card or other identity documents to verify the applicant's identity. If the applicant is an alien, a passport or other identity document issued by his/her own country's embassy, consulate or legation shall be presented. Therefore, a notary shall check and verify the applicant's identity before issuing a notarial deed. If the applicant cannot present appropriate identification papers, the notary shall allow a given period of time within which documents may be corroborated or refuse the request for notarization.(Information source: Criminal Department of Judicial Yuan)

12.2 DNFBP should be required to comply with the criteria set out under Recommendations 6 and 8-11

- **Precious metals and stones distributors:**

1. Regarding CDD to PER customers, the related regulations are stipulated in the laws and decrees of banking sector, but not applicable to jewelry shops at this stage.

2. In terms of large amount transactions and/or Suspicious Transactions, both "face to face" transaction and "non face-to-face" transaction are applicable to the same criteria set in Chinese Taipei. As such, the current risk management approach adopted shall have included special and effective CCD measures for the "non face-to-face" customers.

3. As there is no regulation concerning the situation where jewelry shops can conduct CDD through third parties, the Recommendation 9 is not applicable in here.

4. According to Paragraph 1 of Article 38 of the Business Accounting Act, all accounting documents, except those should be permanently kept or unsettled accounting events, shall be kept for at least five years after the completion of annual

closing procedures, and according to Para. 2 of the preceding Article, all the accounting books and financial statements shall be kept for at least ten years after the completion of annual closing procedures; provided that this shall not apply to unsettled accounting events. According to Paragraph 1, Article 3 of the money laundering prevention guidelines and procedures for jewelry distributors, the jewelry shops shall archive the integrated transaction records and vouchers on suspicious and large amount currency transactions for at least 5 years.

5. According to Paragraphs 1 and 2, Article 2, of the money laundering prevention guidelines and procedures for jewelry distributors, the jewelry shops shall safely archive the integrated transaction records and vouchers on suspicious and large amount currency transactions, and report to the designated institution, the MLPC. Moreover, According to Paragraph 1, Article 3 of the money laundering prevention guidelines and procedures for jewelry distributors, the jewelry shops shall archive the integrated transaction records and vouchers on suspicious and large amount currency transactions for at least 5 years. (Information source: DOC)

- **Real estate agents:** In order to prevent criminals to launder the proceeds of crime through real estate transactions, land administration agents and real estate broking agencies should comply with the regulations of the Real Estate Broking Management Act and the Land Administration Agent Act when operate the professional businesses. They have to verify the trading target and relevant information of the ownership, record and retain the detail procedures during trading the property. In addition, if any suspicious transaction being found, the land administration agents or real estate broking agencies should ascertain the client's identification, retain the transaction records and report STR to the MLPC directly or be forwarded through associations. The so called suspicious transactions include such as a client frequently engages in real estate transactions in a short time but are incongruent to the social status and income of the client, reasonable grounds to believe the client is used as a front person to engage in the transaction, the transaction price is obviously abnormal from the market and has no reasonable explanation from the client or the transactions are related to PEPs and the funds are suspected to be derived from embezzling public interests etc. Based on the considerations that every operation procedure of land administration agents and real estate broking agencies has been strictly regulated, the special attributes of real estate registration system and transaction mode in this jurisdiction, it is believed that the real estate agents expose comparatively low risks to money laundering threads.(Information source: LAD of MOI)
- **Trusts and Accountants:** Requirements applying to trust enterprises regarding customer identification, the number of years that transaction vouchers must be kept on file, internal control systems and procedures, and unusual transactions involving large amounts, are the same as those set out in the Checklist of Money Laundering Prevention Guidelines and Procedures for Banks. Trust enterprises are not currently allowed to outsource customer due diligence to third parties. The remainder, please refer to the response to preceding question regarding "Trusts and Accountants" (Information source: FSC)
- **Lawyers:** Chinese Taipei does not obligate attorneys to implement customer due diligence and keep records during preparing or practicing financial transaction for clients, and does not need to identify if the client is a PEP or not. The MOJ, however, has begun to invite bar associations and other related agencies to study the matter. (Information source: MOJ)

- **Notaries:**
  - Recommendation 6: Please refer description in 12.1.
  - Recommendation 8: It is provided in Article 80 and 81 of the Notary Law, a notarial deed should bear the facts experienced by the notary and all other essential contents prescribed by the Notary Law. A notarial deed or certificate shall be signed by the notary and all persons present after being read out to, or due reading and acknowledged by the present persons pursuant to Article 84 of the Notary Law. Therefore, currently the notarial deed or certificate of authentication is still a paper-based document, a notary can not make such document without a present applicant, and a notarial deed for a non-face to face legal transaction via new technology device is not yet permitted.
  - Recommendation 9: It is provided in Article12 of the Notary Law that a notary may inquire the concerned authorities, organizations or individuals about the information related to notarization and request their assistance if necessary. The notary may consult foreign authorities, organizations or individuals also. Nevertheless, the notary may have difficulties when making such inquires.
  - Recommendation 10: As provided in the Rules for Preservation and Destruction of the Notarial Documents and Registers, the notarial documents and registers are kept on file for different periods based on the natures of the papers with a minimum of five years.
  - Recommendation 11: It is provided in Article18 of the Notary Law that the original notarial deed or certificate made by a notary, the affiliated documents, the duplicate and the photocopy of the documents that have been authenticated and the registers which are made pursuant to laws shall be kept and preserved in district court or the notary office. Because of the manpower insufficiency of the district court and the notary office, the recommendation of organizing other written materials for inquiry purpose is not workable. (Information source: Criminal Department of Judicial Yuan)

12.3 Dissuasive criminal, civil or administrative penalties for Recommendation 12 obligations

- **Precious metals and stones distributors:** The MOJ and the DOC jointly announced an order on October 1, 2003 to designate jewelry shops as a kind of financial institutions. Since then, all jewelry shops have to burden the obligations stipulated in the MLCA. Any jewelry shop and its employee violates the obligations may face administrative penalty or criminal penalty. According to the regulation of the MLCA, jewelry shops is obligated to report CTRs and STRs to the MLPC and the violation shall be fined between $200,000 NT to $1 million NT. (Information source: DOC)
- **Real estate agents:** (Information source: LAD of MOI)
  - **Land Administration Agents:**

    According to the regulation of Article 26 of the Land Administration Agent Act, for securing real estate transactions and safeguarding the property rights of people, land administration agents should not have any improper behavior to violate the Act when accept trust from clients to engage in the professional business. If any violation of the Act that has caused interest loss of the clients or third thirties, the agents are imposed the responsibilities to compensate the loss.

Article 27 of the Act stipulates that the land administration agents are forbidden to have the following behaviors: 1) against the Act to operate business; 2) permitting others to operate business by using his professional certificate; 3) soliciting business by illegal ways; 4) spreading ads beyond the permitted business scope; 5) requesting, arranging or receiving remuneration out of the Act permission; 6) registering the ownership of real estate to authorities with fake certificate on intention. In addition, according with Article 28 of the Act, the land administration agents should provide the business operation records to authorities for supervision under request. Any violation of Article 27, 28 of the Act, the ethic code or the terms of reference of the associations, the land administration agents shall be punished by documentary warning, suspending business operation or revoking the professional certificate.

- **Real Estate Broking Agencies:**

  In order to effectively perform the obligations of real estate broking businesses and brokers to ascertain clients' identification and verify the entrusted real estate targets, the real estate broking businesses should designate broker to sign name on the real estate description and on the written contact and comply with the Ethic Rules which stipulated by the National Real Estate Broking Agency's Association. Any real estate broking business violates the Act or the Ethic Rules being found shall be fined between NT$ 60,000 to NT$ 300,000, and the broker will be punished with documentary warning.

- **Trusts and Accountants:** The MLCA provides for fines and criminal punishment for involvement in money laundering, failure to confirm customer identity, and failure to report a suspected money laundering transaction, and these provisions all apply to trust enterprises. Please also refer to the response to the preceding question 12.1 regarding "Trusts and Accountants". (Information source: FSC)

- **Lawyers:** Although there is a self-disciplinary mechanism and penalty procedure under the Attorney Regulation Act and the Attorney Ethics Code, there is no criminal, civil or administrative penalty to obligate an attorney to observe the FATF recommendations on AML/CFT. For taking the same steps with international community and to meet the requirements of FATF recommendations, the MOJ, however, has begun to invite bar associations and other related agencies to study this matter. (Information source: MOJ)

- **Notaries:** The obligations of a notary to verify the applicant's identity and preserve the notarial documents and registers when performing the notarial duties are explicitly stipulated in the Notary Law and the Rule for Preservation and Destruction of the Notarial Documents and Registers. If violated, the supervisory authority may give notice to, warn or take disciplinary against a notary based on the seriousness of the breach. (Civil Department of Judicial Yuan)

4.2 Monitoring transactions and other issues (R.16) (applying R.13-15, 17 & 21)

Summary

Chinese Taipei has designated some kinds of DNFBP, including jewelry shops and trusts, as financial institutions to burden the obligations stipulated in the MLCA. To the surveillance of financial transactions and business operations, all the industries have to establish proper mechanism on AML/CFT depending on the risks and threats, including CDD, transaction records keeping, CTRs and STRs reporting etc. Although the other kinds of DNFBP are not included or designated in the MLCA, the current laws and decrees of practicing business, regulations from supervisory authorities and

professional ethic norms have regulated financial transactions and business operations. The purpose of above mentioned laws, decrees and regulations is for keeping the transparency of transactions, protecting the clients and extending to comply with the requirement on AML/CFT in some degree. The requirements include forwarding suspicious financial transactions which may be involved in ML/FT to the MLPC, maintaining secrecy obligation, reinforcing internal control and training etc, and the punishment of violation has been clearly stipulated in them. (Information source: DOC)

Recommendation 16

16.1 DNFBP should be required to comply with the requirements set out in Recommendation 13 (Criteria 13.1 – 13. 4) under specific circumstances

- **Precious metals and stones distributors:** According to Article 7 & 8 of the MLCA and Para. 1 & 2, Article 2 of the money laundering prevention guidelines and procedures for jewelry distributors, the jewelry shops shall safely archive the transaction records and vouchers on the suspicious transactions and large amount currency transactions, and report same to the designated authority, the MLPC. (Information source: DOC)
- **Real estate agents:** In order to take the same steps with the international community on AML/CFT and safeguard the marketing order and transaction safety, real estate broking agencies and land administration agents should verify the clients' identifications and keep transaction records and so on when they are entrusted to engage in related transactions for clients or apply registration of real estate ownership for clients. If any suspicious transaction being found, they should inform the associations (self regulated organization) with a written report and the associations may forward the report to the MLPC when it is necessary. (Information source: LAD of MOI)
- **Trusts and Accountants:** All trust enterprises in Chinese Taipei at this point are concurrently operated by banks, therefore both banks and trust enterprises are subject to the same criteria regarding the cash transaction thresholds and the types of suspected money laundering transactions that trigger the requirement to report to the MLPC. Reporting procedures are also the same. Please also refer to the response to the preceding question of 12.1 regarding "Trusts and Accountants" (Information source: FSC)
- **Lawyers:** So far, Chinese Taipei does not obligate attorneys to file STR to the MLPC when any suspect being found during preparing or practicing financial transaction for clients. The MOJ, however, has begun to invite bar associations and other related agencies to study matters such as international requirements to attorneys on AML/CFT in hopes of establishing an effective control mechanism. In doing so, the MOJ has taken into consideration of self discipline among attorneys and related business secrets. (Information source: MOJ)
- **Notaries:** According to Article14 of the Notary Act, unless otherwise regulated by law, a notary and his/her designated clerks or assistants shall keep confidential all information revealed during the process of notarization. A notary reviews the effectiveness and establishment of juristic acts only, he/she does not engage in the financial transaction activities. The present law does not require a notary to report to the Financial Intelligence Unit (FIU) when he/she suspect or have reasonable grounds to suspect that a fund is the proceed of a criminal activity. Only if the obligation of reporting can be put into the Anti-Money Laundry Act, then a notary to report the

suspicious transaction will be possible. (Information source: Civil Department of Judicial Yuan)

16.2 There should be appropriate cooperation between SRO and the FIU when Lawyers, legal professionals and accountants file STR to SRO instead of FIU

- **Precious metals and stones distributors:** According to Article 7 & 8 of the MLCA and Para. 1 & 2, Article 2 of the money laundering prevention guidelines and procedures for jewelry distributors, the jewelry shops shall safely archive the transaction records and vouchers on the suspicious transactions and large amount currency transactions, and report same to the designated authority, the MLPC. (Information source: DOC)
- **Real estate agents:** During the processes of real estate broking agencies and land administration agents operating the business, they should verify the identifications of sellers and buyers, and sustain the copy of the documents as records. If any suspicious money laundering being found, they should disclose the information to the associations (self-regulated organizations). The co-operation model between the self-regulated organizations and the MLPC for dealing with the suspicious transaction reports can be referred as financial institutions to report STRs. (Information source: DOC of MOI)
- **Trusts and Accountants:** Trust enterprises in Chinese Taipei at this point are required to report transactions to the MLPC if they involve cash transfers meeting a certain threshold, or if they involve suspected money laundering. The same reporting criteria and procedures apply to both trust enterprises and banks, i.e. after entering into a contract, a trust enterprise must report to the Ministry of Justice Investigation Bureau within five business days if the transaction in which the assets were placed in trust involved a cash transfer meeting a certain threshold. The remainder, please refer the "Trusts and Accountants" description of 12.1. (Information source: FSC)
- **Lawyers:** So far, Chinese Taipei has no regulation obligating attorneys to report STRs and, therefore, there is no such a reporting mechanism. As soon as the MOJ is leaguing with bar associations to develop an appropriate mode of cooperation with the MLPC. (Information source: MOJ)
- **Notaries:** It is provided in Article 38 of the Notary Law that the notary shall not be a broker or act as an intermediary for the loans or real estate transactions. If violated, it will lead to a disciplinary action. Because the notary do not carry out the real estate transactions and manage the applicants' money or other assets, the obligation to report the preparing or carrying out real estate transactions, as suggested in Recommendation 16 (a) and provided in Recommendation 12(d), is not applicable to the notary. As to the obligation to report suspected transactions, see the description in 16.1. (Information source: Civil Department of Judicial Yuan)
- **Cooperation between SRO and the FIU:** According to the present MLCA, dealers in precious metals or stones (jewelry stores) and trust companies have been designated as financial institutions and have to comply with the obligations imposed by the MLCA, including reporting STRs to MLPC. As to the other DNFBPs, the Department of Land Administration, the supervisory of real estate agents, has already required all real estate agents to disclose STR to the Associations (SRO) after any suspicious transaction being found. The Associations have to forward the STR to the MLPC if there are reasonable grounds to believe or suspect the financial transaction involving ML/FT and no violation with the professional privilege of secrecy. The

MLPC will treat the STRs the same as from general financial institutions and proceed to follow-up analyzing procedures. (Information source: MLPC)

16.3 In the circumstances set out in criterion 16.1, the criteria set out under Recommendations 14, 15 and 21 should apply in relation to DNFBP

- **Precious metals and stones distributors:** According to Article 7 & 8 of the MLCA and Para. 1 & 2, Article 2 of the money laundering prevention guidelines and procedures for jewelry distributors, the jewelry shops shall safely archive the transaction records and vouchers on the suspicious transactions and large amount currency transactions, and report same to the designated authority, the MLPC. (Information source: DOC)
- **Real estate agents:** When real estate broking agencies and land administration agents report STRs to the MLPC directly or through the associations to forward, all the information should be kept secrecy. Besides, the authorities have suggested the industries to set up proper internal control procedures on AML/CFT and educate their employees to comply with the related laws and regulations. (Information source: LAD of MOI)
- **Trusts and Accountants:** Both trust enterprises and banks are subject to the same provisions regarding: the requirement to maintain the confidentiality of customer and transaction records connected with their reports of suspected money laundering transactions; AML internal control systems and procedures; and dealings with countries on the FATF NCCT list. Please also refer to the response to the preceding question of 12.1 regarding “Trusts and Accountants”. (Information source: FSC)
- **Lawyers:** At present, when an attorney in this nation reports a case of suspicious transaction to the MLPC, there is no provision to exempt the responsibility of the attorney for leaking secret. The MOJ and bar associations are studying to accept proper money laundering prevention for attorneys. On the occasion, the requirements of this recommendation will be met. (Information source: MOJ)
- **Notaries:**
  - Recommendation 14: Same description as in 16.1.
  - Recommendation 15: There are similar anti-money laundry and record-keeping measures as provided in the present Notary Law and Rule for Preservation and Destruction of the Notarial Documents and Registers. The obligation of a notary to report is suggested in 16.1.
  - Recommendation 21: The competent authorities should inform notaries the countries which do not or insufficiently observe the RATF Recommendations for the purpose of adopting adequate measures. (Information source: Civil Department of Judicial Yuan)

Additional Elements

16.5 Reporting requirement extended to the rest of the professional activities of accountants, including auditing

The "Regulations Governing Implementation by Banks of Internal Control and Auditing Systems," "Regulations Governing the Implementation of Internal Control and Audit Systems by Trust Enterprises," "Regulations Governing the Implementation of Internal Control and Audit Systems by Bills Houses," and "Regulations Governing

Implementation of Internal Control and Audit Systems by Insurance Enterprises" require that when the annual financial statements of the aforementioned financial institutions are audited and certified by a CPA, the CPA must be requested to audit the internal control system and provide comments on the accuracy of the filings with the competent authorities, on the implementation of the company's internal control system and its legal compliance officer system, and on the appropriateness of the company's policy on bad debts provisions.

In addition, Article 10 of the "Regulations Governing Auditing and Certification of Financial Statements by Certified Public Accountants" (adopted pursuant to authorization granted in Article 8, Paragraph 2 of the CPA Act) provides as follows: "When a certified public accountant is hired to audit financial statements, the question of whether the subject of the audit has abided by the relevant laws shall be considered in accordance with the Statement of Auditing Standards No. 29 (Consideration of Laws and Regulations in an Audit of Financial Statements)." SAS No. 29 provides that when planning an audit, a CPA shall develop an appropriate understanding of the laws and regulations relating to the party to be audited, and of the party's legal compliance situation, before carrying out the audit procedure.

In summary, if a financial institution violates Article 7 and 8 of the MLCA by failing to report a transaction meeting a certain threshold or a suspected money laundering transaction, when a CPA shall provide an opinion on the financial institution's failure to duly submit a report when carrying out an audit. If such a failure has a material impact on the company's financial statements and the financial institution fails to make disclosure or take corrective action, the CPA is required to issue a qualified or adverse audit opinion. (Information source: FSC)

16.6 DNFBP required to report to the FIU when funds are suspected the proceeds of all criminal acts that would constitute a predicate offence for money laundering

- **Precious metals and stones distributors:** The industry has been designated as financial institutions and has to burden the obligations stipulated in the MLCA. According to Article 7 & 8 of the Act and Para. 1 & 2, Article 2 of the money laundering prevention guidelines and procedures for jewelry distributors, the jewelry shops shall safely archive the transaction records and vouchers on the suspicious transactions and large amount currency transactions, and report same to the designated authority, the MLPC. (Information source: DOC)
- **Real estate agents:** If there are reasonable grounds to believe that the transaction funds are derived from the proceeds of crime during the processes of real estate broking agencies and land administration agents operating the business, they should report the information to the associations which can forward the information to the MLPC when necessary, according to the requirement from MOI on March 9, 2006. (Information source: LAD of MOI)
- **Trusts and Accountants:** Just like banks, trust enterprises are required to report all suspected money laundering transactions to the MLPC. Please also refer to the response to the preceding question of 12.1 regarding “Trusts and Accountants” (Information source: FSC)
- **Lawyers:** So far, attorneys do not have such obligation, but the MOJ has invited bar associations and other related agencies to study this problem. (Information source: MOJ)
- **Notaries:** For the reason of protecting social order, a notary is expected to report to

the Financial Intelligence Unit (FIU) when he/she suspects or has reasonable grounds to suspect a fund could be the proceeds of all criminal acts that would constitute a predicate offence for money laundering in executing notarial affairs. As to the reporting obligation of notaries is described in16.1. (Information source: Civil Department of Judicial Yuan)

- **Report to the FIU:** All dealers in precious metals or stones (jewelry stores) and trust companies have already been required to directly file STRs to the MLPC when transaction funds are suspected the proceeds of criminal acts that would constitute predicate offences for money laundering. Real estate agents are required to file STRs to the Associations, and then the STRs will be forwarded to the MLPC when appropriate after being reviewed by the Associations. (Information source: MLPC)

4.3 Regulation, supervision and monitoring (R. 24-25)

Summary

Chinese Taipei has designated parts of the DNFBPs to burden the obligations as general financial institutions described in the MLCA, including jewelry shops, real estate dealers and trusts. The professions have to establish proper prevention mechanism on AML/CFT depending on the risks of money laundering and terrorists financing threats to monitor their financial transactions and business operations, including CDD, keeping transaction records, reporting CTRs and STRs etc. Although the other DNFBPs are not included in the so called financial institutions scope of the MLCA, the professions still have to abide by the related decrees and ethic norms from supervisory authorities and SROs which have properly regulated the financial transactions and business operations. The main purpose of these regulations is for protecting the clients and keeping the transparency of financial transactions, but also fairly meets the requirements on AML/CFT which include reinforcing CDD, internal control, training, confidentiality requirement and encouraging them to forward suspicious transaction information to SRO or the MLPC. There are some punishment regulations for the violations of the above mentioned decrees and norms. (Information source: FSC)

Recommendation 24

24.1 Ensuring casinos (including Internet casinos) are subject to a comprehensive regulatory and supervisory regime

Casino is prohibited by law in Chinese Taipei. According Article 268 of the Criminal Code, any person who furnishes a place to gamble or assembles persons to gamble for the purpose of gaining benefits shall be punished with not more than 3 years imprisonment; in addition thereto, a fine of not more than 3,000 *yuan* may be imposed. (Information source: FSC, MOJ, MLPC)

24.1.1 Ensuring a designated competent authority has responsibility for AML/CFT regulatory and supervisory regime

(Please refer the description of 24.1) (Information source: FSC, MOJ, MLPC)

24.1.2 Casinos should be licensed by a designated competent authority

(Please refer the description of 24.1) (Information source: FSC, MOJ, MLPC)

24.1.3 A competent authority should take necessary measures to prevent criminals from holding or being the beneficial owner or controlling

interest, holding a management function in, or being an operator of a casino

(Please refer the description of 24.1) (Information source: FSC, MOJ, MLPC)

24.2 Ensuring DNFBP are subject to effective systems for monitoring and ensuring compliance with AML/CFT requirements

- **Precious metals and stones distributors:** The jewelry shops have set up several jewelry industry associations that work as SROs to cooperate with the authorities to supervise members' measures on AML/CFT. (Information source: DOC)
- **Real estate agents:** (Information source: LAD of MOI)

i. Land Administration Agents and Real Estate Broking Agencies being comprehensively regulated:

(i) **Land Administration Agents:** In accordance with the regulations of the Land Administration Agent Act, land administration agents should ascertain the identification of client and the relationship to the entrusted subject before accept the commission. After receiving the related documents from the client, the land administration agent should issue receipt to the client and record the progress of the transaction. The record should be retained for at least 15 years for authorities to examine and supervise when necessary. Land administration agents should be honest to execute the professional business and it is strictly prohibited to have any neglect of the obligations or misconduct which may conduct damage to the client. The land administration agent has to pay the compensation for the damage that caused by his neglect or misconduct. When the supervisory authorities or registration authorities can conduct examination to the records or documents made by land administration agents who have no rights to evade, disturb or refuse the requirement. To conclude, after the Land Administration Agent Act came into force, in addition to safeguarding the security and the rights and interests of the public on real estate transactions, it also comparatively lowers the risks for land administration agents to engage in money laundering activities.

(ii) **Real Estate Broking Agencies:** Broking agency is a business which needs to get permission from supervisory authorities, meet the requirements of operating business, comply with the regulations of the Real Estate Broking Management Act and to be supervised and examined by the authorities. Therefore, broking agency, in addition to having the statutory responsibilities in real estate transactions, should endeavor to ascertain the status quo of the subject and the information of the owner ship so that the agent can provide the consumers with full information and record the business affairs during real estate transactions for meeting the inquiry and supervision of authorities. The possibility of using broking agencies to launder dirty money is fairly low.

ii. Non cash oriented of real estate transactions: Because of the unmovable and unique characteristics of real estate and its high value comparing to other products. The payment of real estate usually is not made by cash, but often by transferring from accounts or remittance via financial institutions. Both

payers (buyers) and payee (sellers) will then have left transaction records in financial institutions. Moreover, broking agents and land administration agents may not handle the money of the real estate trading when execute the business affairs. The possibility of committing the crime of money laundering is comparatively decreased.

iii. The complication and time taking of real estate trading: After brokering a deal, the real estate trading usually needs to go through the process of paying deposit, signing contract, paying taxes, mortgaging, and transferring the registration of ownership. The whole process involves in professional knowledge, and the procedure of registration is very complicated, including declaring various taxes. Moreover, the duration of trading is time consuming, and the information of related parties will be left on the trading contract. This situation will decrease the possibility of taking advantages of broking agency and Land Administration Agent to commit the crime of money laundering.

iv. Registration of real estate ownership and its alternation: In Taiwan, the current land ownership registration system is the combination of German system and Torrance system. Regarding the rights of real estate which is acquired, set, lost and changed by law, will only be valid with registry. Authorities have to be practically investigated, including the qualification of the applicant and its representative, the completeness of the application and the validity of the documents provided. Once the registration being completed, a certificate will be issued to prove the ownership and rights of the land and the building on it. Therefore, the parties in the real estate trading are required to apply for the registry of transferring the ownership to the authorities in order to validate the change. The parties in the real estate trading also need to provide the authorities with the documents of their identity for the substantial investigation. Therefore, it has difficulty for the criminals to hide the identity of the ownership of the real estate subject. Comparatively, the possibility of money laundering is greatly decreased.

To sum up, in order to effectively implement the measures on AML/CFT by land administration agents and real estate broking agencies, Ministry of the Interior will keep supervising the local authorities of municipalities, counties, and cities to regularly or irregularly examine the business of real estate, and also pay attention to the process of ascertaining customer's identification and trading records for interrupting the real estate industry being used as money laundering channel by criminals.

- **Trusts and Accountants:** Article 6 of the MLCA requires financial institutions (including trust enterprises) to formulate money laundering prevention guidelines and report them to the FSC and to the authority with jurisdiction over the line of business in question, for recordation. Please also refer to the response to the preceding question of 12.1 regarding "Trusts and Accountants". (Information source: FSC)
- **Lawyers:** The MOJ and bar associations are studying the related regulation mechanism. (Information source: MOJ)
- **Notaries:** The anti-money laundry authorities are suggested to submit drafts of law to the legislative authority to ensure that DNFBPs shall comply with the

AML / CFT requirements. (Information source: Civil Department of Judicial Yuan)

24.2.1 There should be a designated competent authority or SRO responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements

- **Precious metals and stones distributors:** Please refer the description of 24.2. (Information source: DOC)
- **Real estate agents:** MOI informed the National Business Union of Real Estate Associations, Land Administration Agent Association and Real Estate Selling Agent Associations of local municipalities, counties and cities on March 9, 2006 to forward the message of enhancing money laundering prevention to its members. When doing business, the members should ascertain the clients' identities and keep records or receipts of the transactions. If any suspicious transaction being found, members should report to the associations (self-regulated organization) they belong to. Meanwhile, the authorities also require the associations to include the policies of preventing money laundering into their constitutions or regulations of business ethic code and impose proper sanctions to those who do not comply with the self-regulated constitutions and ethic code. (Information source: LAD of MOI)
- **Trusts and Accountants**

  Trusts: The Financial Supervisory Commission (FSC) includes AML compliance among the items requiring attention in routine financial examinations at trust enterprises.

  Accountants:

  - **Current measures:** The current CPA Act and related regulations set out a number of requirements for how to handle violations of the law (including infractions of the MLCA) by CPAs in the course of their professional practice. These include the following:

    1. Statement on Auditing Standards No. 29 (Consideration of Laws and Regulations in an Audit of Financial Statements) requires CPAs to be alert when auditing financial statements about possible legal compliance failures by the audited party, and to consider as necessary the possibility of giving a qualified opinion or an adverse opinion, or of withdrawing from the audit.
    2. In addition, the administrative sanctions and civil liabilities to be borne by any CPA who commits legal infractions through either intention or neglect are set out in the CPA Act, as follows:

    1)Administrative sanctions: According to Articles 17, 39, and 41 of the CPA Act, if a CPA engages in improper conduct, violates or neglects his professional duties, is sentenced to punishment for a criminal offense, receives administrative sanction for a legal infraction that is serious enough to affect the CPA's reputation, or otherwise violates any provision of the CPA Act, an interested party, the competent authority for a particular case, or the National CPA Association, may report the pertinent facts and

evidence to the local competent authority, and the local authority shall refer the case to the central competent authority for disciplinary action against the CPA named.

2) Civil liability: Articles 17 and 18 of the CPA Act provide that "a CPA shall not engage in any improper conduct, nor violate or neglect his professional duties in the performance of any assigned or requested service," and that "a CPA shall be liable to compensate his appointing party, client, or any interested party for losses caused by him in violation of the aforementioned provision."

- **Future measures:** Chinese Taipei is planning to amend its CPA Act. Among other changes, the competent authority will be empowered to examine the operations and operations-related financial matters of an accounting firm that has been approved to handle attestation on behalf of public companies, and a reporting mechanism will be established for cases in which CPAs refuse to provide attestation, so that the competent authority can exercise appropriate regulation of CPA firms and hopefully nip improprieties in the bud through proactive supervision. (Information source: FSC)

- **Lawyers:** The MOJ and bar associations are studying the related regulation mechanism. (Information source: MOJ)
- **Notaries:** The anti-money laundry authorities should adopt DNFBPs as one sector that is subject to monitoring and ensuring the compliance with AML / CFT requirements to carry out the monitoring work. (Information source: Civil Department of Judicial Yuan)

Recommendation 25

25.1 Competent authorities should establish guidelines to assist DNFBP for complying with AML/CFT requirements

The Department of Commerce, MOEA has established a “Checklist of Money Laundering Prevention Guidelines and Procedures” for the Businesses dealing in jewelry. In addition, the Trust Association has adopted a "Checklist of Money Laundering Prevention Procedures for Trust Enterprises" for its members. Furthermore, the MLPC has published the “AML/CFT Laws and Decrees Collection” and other guidelines for private sector. (Information source: FSC)

4.4 Other non-financial businesses and professions-- Modern secure transaction techniques (R.20)

Summary

The current CPA Act and related regulations set out a number of requirements for how to handle violations of the law (including infractions of the MLCA) by CPAs in the course of their professional practice.

The FSC on March 23, 2005 issued the "Directions Concerning the Negative List for Banks Conducting Finance-Related Business." Under the Directions, a bank meeting specific conditions may conduct finance-related business provided that it submits a business plan and a statement of compliance with acts and regulations in

writing to the competent authority for recordation within 15 days after commencing operations. The intent of the Directions is to encourage financial institutions innovate and modernize their financial service technology.

The FSC's "Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" provide as follows: "A bank shall establish information systems to help inspect for unusual deposit account transactions. It shall also establish early warning criteria focusing on transaction amounts exceeding a certain threshold, transaction amounts clearly inconsistent with average account balances, or frequent use over a short period of electronic transaction functions, and shall assign a specific individual to inspect at least once per day, follow up as necessary, and prepare an inspection record, which shall be delivered in accordance with internal procedures to the proper supervisor for review." (Information source: FSC)

Recommendation 20

20.1 Applying Recommendations 5, 6, 8-11, 13-15, 17 and 21 to non-financial businesses and professions (other than DNFBP)

Chinese Taipei recognizes the serving patterns of financial sector are continually changing with the developments of technology and the globalization. The authorities have been closely paying attentions to the trends of ML/FT and developing proper measures to reduce the risks of ML/FT that have exposed to the financial sector. Especially, the authorities have encouraged financial institutions to keep abreast with the security technology relating to financial transactions in line with international standard for reducing the threats from ML/FT. Please also refer to the response to the preceding question 12.1 regarding “Trusts and Accountants”. (Information source: FSC)

20.2 Taking measures to encourage the development and use of modern and secure techniques for conducting financial transactions that are less vulnerable to money laundering

The FSC issued the "Directions Concerning the Negative List for Banks Conducting Finance-Related Business" on 23 March 2005. Under the Directions, a bank meeting specific conditions may conduct finance-related business provided that it submits a business plan and a statement of compliance with acts and regulations in writing to the competent authority for recordation within 15 days after commencing operations. The intent of the Directions is to encourage financial institutions innovate and modernize their financial service technology.

The FSC's "Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions" provide as follows: "A bank shall establish information systems to help inspect for unusual deposit account transactions. It shall also establish early warning criteria focusing on transaction amounts exceeding a certain threshold, transaction amounts clearly inconsistent with average account balances, or frequent use over a short period of electronic transaction functions, and shall assign a specific individual to inspect at least once per day, follow up as necessary, and prepare an inspection record, which shall be delivered in accordance with internal procedures to the proper supervisor for review." (Information source: FSC)

5 Legal Persons and Arrangements & Non-Profit Organizations

5.1 Legal Persons – Access to beneficial ownership and control information (R.33)

Summary

When the FSC and its subordinate agencies conduct financial examinations, they are empowered under Paragraph 1, Article 5 of the "Organic Act Governing the Establishment of the Financial Supervisory Commission" to require a financial institution to produce relevant documents. Paragraph 4 of the same Article further provides: "In a case involving suspected financial crime, the FSC and any subordinate agency thereof may present the facts of the case to a prosecutor in seeking permission from the latter to file a motion in the court of jurisdiction for issuance of a search warrant. Once the search warrant has been issued, the FSC or its subordinate agency may, accompanied by judicial police authorities, enter and search the suspected hiding place of the relevant account books, documents, electronic files, and other such materials or evidence." Therefore, once Chinese Taipei has complied with the aforementioned Recommendations 33.1 and 33.4, the FSC and its subordinate agencies should be able to rely on Article 5 of the FSC Organic Act to obtain timely access to adequate, accurate and current information on the beneficial ownership and control of legal persons.

The "Checklist of Money Laundering Prevention Guidelines and Procedures for Futures Commission Merchants," however, does not require legal persons to furnish information on beneficial ownership and control when applying to open an account. If the Taiwan Futures Association adds provisions in this regard the next time it amends the Checklist, and if it then issues a circular requiring futures enterprises to revise their money laundering prevention guidelines and procedures to reflect the amended provisions of the Checklist, then Chinese Taipei may very well be compliant with the call for "adequate transparency" put forth in Recommendation 33.1, and with the call "to facilitate access by financial institutions to beneficial ownership and control information" mentioned in Recommendation 33.4. (Information source: FSC)

Recommendation 33

33.1 Measures to prevent the unlawful use of legal persons in relation to money laundering and terrorist financing by ensuring adequate transparency concerning the beneficial ownership and control of legal persons

The "Checklist of Money Laundering Prevention Guidelines and Procedures for Futures Commission Merchants," however, does not require legal persons to furnish information on beneficial ownership and control when applying to open an account. If the Taiwan Futures Association adds provisions in this regard the next time it amends the Checklist, and if it then issues a circular requiring futures enterprises to revise their money laundering prevention guidelines and procedures to reflect the amended provisions of the Checklist, then Chinese Taipei may very well be compliant with the call for "adequate transparency" put forth in Recommendation 33.1, and with the call "to facilitate access by financial institutions to beneficial ownership and control information" mentioned in Recommendation 33.4. (Information source: FSC, MOJ)

33.2 Competent authorities should be able to obtain or have access timely to adequate, accurate and current information on the beneficial ownership and control of legal persons

When the FSC and its subordinate agencies conduct financial examinations, they are empowered under Paragraph 1, Article 5, of the "Organic Act Governing the Establishment of the Financial Supervisory Commission" to require a financial institution to produce relevant documents. Paragraph 4 of the same Article further provides: "In a case involving suspected financial crime, the FSC and any subordinate agency thereof may present the facts of the case to a prosecutor in seeking permission from the latter to file a motion in the court of jurisdiction for issuance of a search warrant. Once the search warrant has been issued, the FSC or its subordinate agency may, accompanied by judicial police authorities, enter and search the suspected hiding place of the relevant account books, documents, electronic files, and other such materials or evidence." Therefore, once Chinese Taipei has complied with the aforementioned Recommendations 33.1 and 33.4, the FSC and its subordinate agencies should be able to rely on Article 5 of the FSC Organic Act to quickly obtain or access adequate, accurate and current information on the beneficial ownership and control of legal persons.

According to the regulation stipulated in Article 16 of the “Police Powers Act”, police authorities, based on the purposes of performing the vested jurisdiction, have the power to disseminate individual’s information to authorities under request and necessity or vice versa.

According to the authorization of Decree #09510002020 which was promulgated on May 23, 2006 by FSC, the MLPC has the power to obtain additional information from financial institutions including accounts and banking records of the customers which is not included in the suspicious reports. The request shall be raised by the MLPC under the needs for analyzing or investigating ML/FT cases and shall get prior permission from the Director General of Investigation Bureau. (Information source: FSC, MOJ, CIB, MLPC)

33.3 Countries should take appropriate measures to ensure legal persons which can issue bearer shares are not misused for money laundering and the principles set out in criteria 33.1 and 33.2 apply equally to legal persons that use bearer shares

All listed companies are not permitted to issue bearer shares in the territory of Chinese Taipei. (Information source: FSC, MOJ)

33.4 Measures to facilitate access by financial institutions to beneficial ownership and control information

Financial institutions needing to check basic identification information for individuals or legal persons, or information concerning beneficial ownership and control, can use the website of the Joint Credit Information Center, the Market Observation Post System, the MIO's combined website for the Department of Population Administration and the Department of Conscription, and the website for the DOC, MOEA. It would be fair to describe disclosure in Chinese Taipei as open and transparent.

The "Checklist of Money Laundering Prevention Guidelines and Procedures for Futures Commission Merchants," however, does not require legal persons to furnish information on beneficial ownership and control when applying to open an account. If the Taiwan Futures Association adds provisions in this regard the next time it amends the Checklist, and if it then issues a circular requiring futures enterprises to revise their money laundering prevention guidelines and procedures to reflect the amended provisions of the Checklist, then Chinese Taipei may very well be compliant with the

call for "adequate transparency" put forth in Recommendation 33.1, and with the call "to facilitate access by financial institutions to beneficial ownership and control information" mentioned in Recommendation 33.4. (Information source: FSC, MOJ)

5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)

Recommendation 34

34.1 Taking measures to prevent the unlawful use of legal arrangements in relation to money laundering and terrorist financing by ensuring adequate transparency concerning the beneficial ownership and control of trusts and other legal arrangements

When a trust enterprise signs a trust agreement, the customer must furnish the same documentation that is required of a customer seeking to open a bank account, i.e. the trust enterprise must ask for double identification documents and keep copies.

When signing a trust agreement with either an individual or a non-individual, in the case of a self-benefit trust, the trust enterprise will have already verified the identity of the individual or non-individual. In the case of a beneficiary trust, the individual or non-individual must furnish personal and account information for the beneficiary. The identity of the beneficiary will have already been verified when the beneficiary account was opened at a financial institution, so there is no problem with AML compliance. (Information source: FSC, MOJ)

34.2 Competent authorities should be able to obtain or have access timely to adequate, accurate and current information on the beneficial ownership and control of trusts and other legal arrangements

All financial institutions, including trust enterprises, are required to promptly report STRs to the MLPC once the suspicious transactions being found.

According to the regulation stipulated in Article 16 of the “Police Powers Act”, police authorities, based on the purposes of performing the vested jurisdiction, have the power to disseminate individual’s information to authorities under request and necessity or vice versa.

According to the Decree #09510002020 of FSC promulgated on May 23, 2006, the MLPC has the power to access additional information from financial institutions including accounts and banking records of the customers, which is concerned but not included in the suspicious reports. The access shall be raised by the MLPC based on the needs for analyzing or investigating ML/FT cases and shall get prior permission from the Director General of Investigation Bureau. (Information source: FSC, MOJ, CIB, MLPC)

34.3 Measures to facilitate access by financial institutions to beneficial ownership and control information

Chinese Taipei has such measures in place. A customer entering into a trust agreement must furnish information on beneficial ownership and control, and the information must be kept on file by the trust enterprise. (Information source: FSC, MOJ)

5.3 Non-profit organizations (SR.VIII)

Summary (Information source: DOSA, DOCA)

At present, the MOI is in charge of the supervision of 148 national social welfare foundations, 164 religious organizations and 6,905 social groups. In addition, there are more than 10,000 local social welfare groups scattered nationwide which supervised by local governments. All sorts of Non-profit organizations of the time have been participating in many public affairs, making every endeavor to assist the carrying out of government's policy and promoting public welfare. Non-profit organizations pay not only close attention to disadvantaged groups in the rapid changing structure of the diversified society in particular, but also pouring into a huge amount of financial, manpower and material resources to those governmental policies are insufficient. The government mainly provides guidance and supervision through laws, regulations and governing policies in hopes of helping non-profit organizations operates regularly and develop healthily.

Due to the geographic location and historic background of Chinese Taipei in international community, it is not currently the main target of terrorist activities and therefore comparatively exposes low risks to the threads of terrorist activities. However, Chinese Taipei, as a member of the global village, deeply recognizes the responsibilities to commonly interrupt the spreads of terrorist activities for maintaining the peace of this world. There are many active measures being taken on preventing NPO to be exploited by terrorist organizations and its associates, including compulsory registration, transparency of finance and activity, reinforcement of administration, computerization of related information and information sharing to authorities.

Special Recommendation VIII

VIII.1 Countries should review the adequacy of laws and regulations that relate to non-profit organizations that can be abused for the financing of terrorism(Information source: DOSA,DOCA)

1. Registration of national NPO:
   - The establishment or change of social welfare foundations and religious organizations has to comply with the regulations of Civil Code and Regulations on Supervision of Interior Business Incorporated Foundations.
   - For arranging the establishment of social welfare foundations and religious organizations, applicants shall prepare all the required documents and apply to MOI.
   - Once the foundation is approved by MOI, director of the Legal Person shall register to the local court and summit the documents verified by MOI within 30 days. A copy of the registration certificate shall be sent to MOI within 30 days for future reference.
   - After the registration, all the assets contributed by donors shall be transferred under the control of the legal person within 3 months and the authority shall conduct examination to the business of the foundation and check the progress of the progress simultaneously.
   - The operation afterwards shall fully comply with the regulations of Civil Code,

"Rules of Interior Affairs Guidance for Legal persons", "Statute of Benevolent Contribution", and pamphlets about foundation affairs published by the competent authorities.

- The permit of registration may be repealed if the deadlines stipulated in the mentioned regulations above are not followed.
- Any important initiation including change and innovation of target business, disposition of real estate and the setting of financial burden shall gain the agreement of the board of Directors and be reported to MOI for further reference. Any cases involved in registration modification including the name of the legal representative, location of the chief office, Directors' reelection, changes of the assets and the statutes of benevolent contribution shall be done as Civil Law and Tally of General Non-contentious Cases prescribed.

2. Financial and activity's transparency of NPO:
   - According to the regulations of the Enforcement Act of the Part of General Principles of the Civil Law, the court shall make public announcement immediately to be read and browsed by the third person. Moreover, according to the regulations of the Act Governing Non-Litigation Procedure, court registry office shall make public announcement within three days after any case registered by the legal representative, publishing on the bulletin, local newspapers and the bulletin board in the registry office for more than 7 days. All items about the registration of national social welfare foundation have to follow the prescribed regulations whereupon.
   - The basic information, including title, address, chairman, telephone number, liaison, date of the establishment, permitted number, registered number, sum of the fund and services, of all levels of social welfare foundations from nation, provinces, counties/cities and the national level of religious organizations should be regularly updated and published on the website of MOI for populaces' reference. In addition, the information of local religious organizations which under the supervision of local government shall be published respectively on websites of local governments by the authorities.
   - The representatives of legal persons shall register to the jurisdictional court with the permission certificate and relevant documents verified by the authorities within 30 days and continuously publish announcement on newspapers 3 days.
   - All national social welfare foundations should issue receipts with consecutive serial number, keep detailed records and regularly make announcement to public when receive donations from public and these matters have been listed in the key items of assessment which conducted by the MOI. Shown from the assessment result in 2006, only two national social welfare foundations did not issue donation receipts accordingly and 67% of the foundations have routinely announced their credits.
   - Although there are not relevant regulations about information publication in Civil Code and Regulations on Supervision of Interior Business Incorporated Foundations, some regulations can be introduced in the "Administrative Procedure Act" and the "Government Information Publication Act" by authorities. Besides, the "Administration Act for Legal Person" has been drafted by Ministry of Justice and is pending for legislation. The procedures of

disseminating information related to the operation and finance of the legal person to the authority for future reference and the obligation to make related information public have been clearly defined in the Act.

3. Supervisory mechanism of NPO:

- Activity and operation guidance and assistance: According to the regulations of the "Rules of Guidance for Legal Persons", social welfare foundations and religious organizations have to file the reports of annual planning activities and annual budget to the supervisory authorities 3 months before the beginning of a new year and have to file the reports of the planned activities implementation and financial statements to the supervisory authorities in 3 months after the end of the year. In order to understand the operating situation of a social welfare foundation or a religious organization, officials from the supervisory authorities may be assigned occasionally to inspect its operation depending on need or attend the board meeting as a role of consultant and advisor, supervising the meetings are regularly held and making sure that the organization affairs are functioning normally.

- Financial supervision and examination: The authorities endure the mission to assist and instruct social welfare foundations and religious organizations to fill in financial statements so as to examine if their annual budget & accounts, application of the fund, income & expenses and assets & liabilities have fully met statutes' requirements for keeping the foundations and organizations in well-developed condition. The financial statement shall be verified by an accountant if the fund of the foundation is over NT$ 30 million. The social welfare organizations whose annual expenditures are under 60% of the total revenue derived from interests breeding and other regular incomes should be asked to improve immediately, and if the annual expenditures under 70% of the general incomes shall be required to pay income tax according the statute's regulations. Furthermore, if the funds of religious organizations are deposited in financial institutions as time deposits, the certificates of deposits shall be disclosed to authorities every six months for further supervision. In 2004 and 2006, MOI has entrusted accounting firms to conduct financial management examination to social welfare foundations nationwide. All shortages being found in the examination have been disseminated to the social welfare foundations or religious organizations for further improvement, and the examination results have been disseminated to law enforcement agencies for screening any violation of statutes.

- Assessment of NPO：In 2005, MOI conducted a nationwide evaluation to the 129 national social welfare foundations which were established before 2004. The evaluated items include organization affairs, operation affairs, financial management and achievements of operations. The verified faults were disseminated to foundations for taking further improvement within a time limit and the improvement would be traced by authorities. Furthermore, the evaluation reports were posted on the website of MOI.

  For understanding the practical business operation and ensuring the healthy development of religious organizations, MOI ever conducted on-site interviews to all national religious organizations in 2005 which being aimed at assisting religious organizations to be familiar with the procedures of applying modification of organization, declaring financial statements and requesting

religious organizations to cooperate with authorities on related matters. This movement is still under procession.

- Communication and propaganda：For reinforcing the communication and establishing cooperation mechanism, MOI holds outreach forum every year to solve common problems, share working experiences on promoting business and discuss specific chosen topics for social welfare foundations.
- Sanctions： Any national social welfare foundation will be informed and required to improve in a time limit when violates the related laws or statutes. If the social welfare foundation does not take any measure to improve the situation in the time limit, the permission certificate shall be revoked according to Article 32, 34 of Civil Code and Article 19 of the Regulations on Supervision of Interior Business Incorporated Foundations.

4. Computerization of NPO related data:
   - MOI has developed an accounting system software in 2004 which have been disseminated to all social welfare foundations for assisting them to set up an integrated accounting system,
   - MOI has arranged budget in 2006 for developing the named “Information Management System of National Social Welfare Foundation of Legal Persons“ which can provide complete information for inquiry, statistic and analysis to meet the goal of information sharing with competent agencies.

VIII.2 Countries should have measures in place to ensure that terrorist organizations cannot pose as legitimate non-profit organizations, including for the purpose of escaping asset freezing or seizing measures(Information source: DOSA)

1. Low risks of terrorist organizations to pose as legitimate NPO: According to Article 10 of the Regulations on Supervision of Interior Business Incorporated Foundations, the members of the Board of Directors of legal persons should be limited to less than 31 in religious organizations or less than 19 in other kinds of legal persons. At present, there are only 4 national social welfare foundations that have the maximum 19 Directors and the others have 5-17 Directors. Due to the members of the Board of Directors of legal persons are not many, it is not difficult for authorities to screen the background of each member of the Boards. Furthermore, there are many measures in place to supervise the establishment, activities and financial management of the legal persons. The government has reasonable grounds to believe that terrorist organizations are not easy to pose as legitimate NPO in this jurisdiction and engage in terrorist activities or terrorism financing.
2. Prior permission needed for engaging in international charitable activities: Social welfare foundations have to follow the “Statute of Benevolent Contribution” to operate its activities which are mainly held in this jurisdiction. There are only 3 foundations among the national 148 foundations, including World Vision of Taiwan, Buddhist Compassion Relief Tzu Chi Foundation and Taiwan Fund for Children and Families etc, frequently participate in international charitable activities and the others participate in international charitable activities only when serious disasters occurred in other countries or jurisdictions, just like the South Asia tsunami, or other special needs. The foundations should get agreement from the Board of Directors and inform MOI to get approval from the authorities which

in charge of international affairs prior participating in the international charitable activities.

VIII.3 Countries should have measures in place to ensure that funds or other assets collected by or transferred through nonprofit organizations are not diverted to support the activities of terrorists or terrorist organizations (Information source: DOSA)

1. According to the regulation of Article 32 of the Civil Code, the authorities that have the power to issue establishment certificates to legal persons may conduct examination on financial management, compliance with related laws and the practical operation. In addition, Article 16 of the Regulations on Supervision of Interior Business Incorporated Foundations stipulates that annual budget & final statements should be sent to MOI for further review in 3 months before the annual starting and after the annual closing. If the fund of the foundation is over NTD$ 30 million which should be deposited in financial institution, a certification from accountant for the reports shall be attached. The year expenditures of social welfare organizations on its target businesses shall be over 60% of the year revenue which derived from interests breeding and other regular incomes. According to the "Applicable Standard of the Tax-exempt for Educational, Cultural and Charitable Organizations", the year expenditure of the organization should not be less than 70% of the year revenue otherwise will be taxed. MOI entrusted accounting firms to conduct a nationwide financial management examination to national social welfare foundations in 2004 and directly conducted assessment by itself to the foundations in 2005, but did not find any fund being used to finance or being transferred to unidentified organization.

2. The "Charity Donation Destined for Social Welfare Funds Implementation Regulations" had been promulgated and came into force on May 25, 2006. Article 19 and Article 20 of the Regulations respectively stipulates "Final usage for all financial funds and gifts solicited through charity donations, must be destined for the pre-designated usages only, no other usage alternatives shall be permitted. If balance remaining after official charity donation activities shall have terminated, then pending presentation of official written requests [in accordance with original charity donation purposes], as well as pending final approval from governmental agencies-in-charge, such balances may be appropriated. Any appropriation actions of charity donation remaining balances, shall be executed within three{3} years time limitation, starting from the official termination date of relevant original activities.", "All fund raising groups must hand-over relevant documentations, stating detailed operation data, such as: donators, donated funds/items, total solicited charity donations, expenditures inventory, outcome of open investigations, etc., to respective governmental agencies-in-charge, for file-keeping and future reference; such actions must be executed within thirty{30} days, starting from the following day of the official termination date of relative charity donations activities. Such documentations must be reviewed and finally approved by relevant Board of Directors meetings. If due to proper cause, then extension may be requested; maximal extension period is set for thirty (30) additional calendar days." Any violation of the Act being found, the authorities, according Article 26 of the drafted Act, may issue warning to the organization and require improvement in a time limit. If the organization fails to improve in the time limit, it may be punished by a fine between NTD $20,000 to $100,000 and consecutive punishments may be imposed.

6 National and International Co-operation

6.1 National co-operation and coordination (R.31 & 32)

Summary

Formulation of the policies against money laundering and terrorism financing and the legislation of the draft MLCA and the draft Counter Terrorist Act are all under the charges of the MOJ, and the MLPC of the Investigation Bureau is a unit under the Ministry. Besides, the prosecutors of the various prosecutorial agencies under the MOJ are the principal investigation bodies according to the Criminal Procedure Code. The prosecutors have the power to direct the officers from the Investigation Bureau, the National Police Administration under the Ministry of the Interior, and the National Coastguard Administration in conducting criminal investigations. Therefore, the coordination and cooperation mechanism for criminal investigations is pretty integrity in this nation. While making related policies, the MOJ counts much on the law enforcement experiences and financial intelligence of the Investigation Bureau and the National Police Administration. All these agencies have very close working relationship and cooperation on AML/CFT. For setting up closer connection between financial supervisory agencies and law enforcement agencies for anti money laundering and combating terrorist financing, every related agency has assigned a contact person and the MOJ has established the "Improving AML/CFT Measures Coordination Forum" in June 2005. The forum gathers all representatives from AML/CFT related authorities to review the current measures and discuss the improving actions can be taken for complying with the international standards.

There are a number of measures in place to coordinate domestic authorities on establishing AML/CFT strategies, policies and practical operations. The top goal of these measures is to create a better operational environment for authorities to identify and investigate ML/FT cases. (Information source: MOJ, MLPC)

Recommendation 31

31.1 Policy makers, the FIU, law enforcement and supervisors and other competent authorities should have effective mechanisms to cooperate, co-ordinate on AML/CFT

At top level, there is a specific meeting named "the Executive Yuan Social Security Forum" to integrate the opinions from various ministries on social security policies including the effective mechanism of AML/CFT. The forum is hosted by the Prime Minister and the participants include the Ministers of related ministries and the CEOs of relevant authorities.

In addition, the Economic Crime Prevention Center of Investigation Bureau has established a periodical conference named "Economic Crime Prevention Forum" which participated by the representatives from various authorities from judicial departments, law enforcement agencies and divisions (including the MLPC), immigration departments, financial supervisory agencies, international trade and commercial administration departments. The main mission of the forum is to coordinate the authorities for taking measures on combating economic crimes, hunting fugitives and AML/CFT. (Information source: MOJ, MLPC)

Additional Elements

31.2 Mechanisms for consultation between competent authorities, the financial sector and other sectors (including DNFBP) that are subject to AML/CFT laws, regulations, guidelines or other measures

As the competent authority for the legislation of the MLCA and the Counter Terrorism Act and for policy making in this aspect, the MOJ consults with the related agencies for professional views. This is especially necessary because the Ministry has the power to regulate attorney business but has no power to regulate other professionals such as accountants, real estate broking agencies, land administration agents and notaries. As the MOJ is the competent authority of money laundering control, all other agencies would consult with it whenever there is any doubt about the policy and implementation. When necessary, the Ministry calls these agencies into meetings to find out comprehensive answers and solutions.

Supporting authorities to investigate ML/FT cases and coordinating related matters are two major functions of the MLPC. The Center provides consultation to the competent authorities, financial sector and other sectors through the following mechanisms:

- Hosting “Forum for Compliance Officers from banks”: In the forum, all the compliance officers of AML/CFT from important domestic and foreign banks are invited to get together for discussing the new methods, trends, techniques of Ml/FT, the problems that banks may face and the solutions on AML/CFT and the feedback mechanism between MLPC and banks. The forum would be held at least once of two years.
- Organizing “Amending MLCA Seminar”: In the seminar, scholars who own the expertise in this field, judges, prosecutors, representatives from the MOJ, financial supervisory authorities, Investigation Bureau, Criminal Investigation Bureau and all staff of MLPC are invited to participate in the discussion of the practical problems caused by the MLCA and amending suggestions to the Act. This seminar would be held about once a year.
- Providing online consultations to financial institutions for AML/CFT compliance and relevant authorities for investigating ML/FT cases.
- Assigning experts from the MLPC to assist relevant authorities for tracing the flow of illegal funds when requests are raised by the relevant authorities. (Information source: MOJ,FSC,CBC,CIB,MLPC)

6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)

Summary

Owing to the current international political climate, Chinese Taipei has encountered substantial difficulties in promoting the signing and ratification of, and accession to, such international agreements as the Vienna Convention, the Palermo Convention and the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism (the Terrorist Financing Convention). However, in order to reinforce international efforts to combat money laundering and financing of international terrorists, Chinese Taipei has actively not only participated in related APG meetings and events, while promoting the signing of bilateral agreements or MOUs on AML/CFT. Chinese Taipei has signed related agreements with Palau, Paraguay and Marshall Islands, and a related MOU with the Philippines.

(Information source: MOFA)

Recommendation 35

35.1 Countries should sign and ratify and fully implement the Vienna Convention, the Palermo Convention and the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism (the Terrorist Financing Convention)

Chinese Taipei withdrew from the UN and its affiliated organizations in 1971 for political reasons. Since then, Chinese Taipei has been excluded from participating in any UN activity or kept from signing any international convention, including the 1988 Vienna Convention and the 2000 Palermo Convention. Notwithstanding, Chinese Taipei is determined to implement the requirements of these conventions by enacting or revising related laws and enhancing law enforcement. For instance, Chinese Taipei promulgated the MLCA in 1996, which is the first piece of legislation dedicated to anti-money laundering in the Asia Pacific region, and established the MLPC under the MOJ to serve as the FIU of this jurisdiction. Chinese Taipei is also seeking to criminalize the financing of terrorism in accordance with the UN Convention against Terrorism Financing. In this respect, the Counter Terrorism Act has been drafted and is currently under review by the legislature. (Information source: MOJ, MOFA)

Additional Elements

35.2 Signing, ratification and implementation of other relevant international conventions

Chinese Taipei cannot participate in international conventions for political reasons, but still abides by the requirements of these conventions by criminalizing money laundering/terrorism financing and confiscating the proceeds of the offenders. (Information source: MOJ, MOFA)

Special Recommendation I

I.1 Countries should sign and ratify and fully implement the Terrorist Financing Convention

Like other members of the international community, Chinese Taipei seeks to fully abide by the UN related convention by criminalizing the act of financing terrorism. The draft of the Counter Terrorism Act was completed in 2004. It is still under review by the legislature of Chinese Taipei. (Information source: MOJ, MOFA)

I.2 Countries should fully implement the United Nations Security Council Resolutions relating to the prevention and suppression of FT

Regarding counter-terrorist activities, Chinese Taipei is willing to fully abide by the UN related convention by criminalizing the act of financing terrorism. The draft of Counter Terrorism Act was completed in 2004. It is under the process of review by its legislature now. The Financial Supervisory Commission issued a guideline on August 4, 2004, demanding all financial institutions to file STRs with the MLPC should the final beneficiary or parties of the financial transaction have been found to be a terrorist or terrorist group for further investigation. (Information source: MOJ, MOFA)

6.3 Mutual Legal Assistance (R.36-38, SR.V, R.32)

Summary

Chinese Taipei has signed an agreement of mutual legal assistance in criminal matters with the US. The agreement covers supplying and collecting financial records, obtaining testimony from an individual, providing related documents, prompting an individual to give testimony on his own accord, and assisting with freezing and confiscating the property of a criminal.

Chinese Taipei is also willing to provide appropriate legal assistance to other nations that have no agreement with this nation. In requesting such assistance, the requesting nation must follow the provisions of the "Law in Supporting Foreign Courts on Consigned Cases" to deliver document, investigate evidence or assist with other criminal matters.

Since April 30, 2002, the MOJ has supplied other nations with at least 42 cases of assistance in criminal matters, and fully cooperated with the prosecutorial agencies and courts of these nations in the joint crackdown on crime. (Information source: MOJ)

Recommendation 36

36.1 Countries should provide the widest possible range of mutual legal assistance in AML/CFT investigations, prosecutions and related proceedings

1. Chinese Taipei has signed an agreement of mutual legal assistance in criminal matters with the US. The agreement covers supplying and collecting financial records, obtaining testimony from an individual, providing related documents, prompting an individual to give testimony on his own accord, and assisting with freezing and confiscating the property of a criminal.
2. Chinese Taipei is also willing to provide appropriate legal assistance to other nations that have no agreement with this nation. In requesting such assistance, the requesting nation must follow the provisions of the "Law in Supporting Foreign Courts on Consigned Cases" to deliver document, investigate evidence or assist with other criminal matters. (Information source: MOJ,CIB,MLPC)

36.1.1 Countries should provide mutual legal assistance in a timely, constructive and effective manner

Upon receiving such a request, the MOJ, as a rule, passes it immediately to the Taiwan High Prosecutors' Office for dispatching to the prosecutors' office of the jurisdiction to assign a prosecutor versed in the foreign language to take charge of the related investigations. If it is necessary, the MOJ may agree with the consigning nation to send prosecutors or judicial police to Taiwan to join in the judicial investigation. (Information source: MOJ, CIB, MLPC)

36.2 Mutual legal assistance should not be prohibited or made subject to unreasonable, disproportionate or unduly restrictive conditions

1. According to Subparagraph 4, Paragraph 1, Article 4 of the Agreement on Mutual Legal Assistance in Criminal Matters between the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan, implementation of the Agreement is not preconditioned by the fact of dual criminality. This is to say that even if a criminal offense does not constitute a

crime in this country, Chinese Taipei may still provide legal assistance.

2. According to the Law in Supporting Foreign Courts on Consigned Cases, the legal assistance by this nation is not preconditioned by signing agreement on mutual legal assistance. As long as the requesting nation declares reciprocity with this government, Chinese Taipei is still willing to provide legal assistance in order to facilitate international mutual assistance in criminal matters. (Information source: MOJ)

36.3 Clear and efficient processes for the execution of mutual legal assistance requests in a timely way and without undue delays

1. In keeping with the Agreement on Mutual Legal Assistance in Criminal Matters between the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan, the MOJ announced the "Guidance for Prosecutorial and Police Agencies Implementing the Taiwan-American Agreement on Mutual Legal Assistance in Criminal Matters" for observance by law enforcement agencies when request the US for legal assistance.

2. As for the nations that have no agreement with this nation, there is also a standard procedure to follow according to the Law in Supporting Foreign Courts on Consigned Cases. In practice, the implementation procedure is, in general, based on the "Guidance for Prosecutorial and Police Agencies Implementing the Agreement on Mutual Legal Assistance in Criminal Matters between the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan," which is aimed at ensuring the efficiency in giving legal assistance to foreign nations. (Information source: MOJ)

36.4 A request for mutual legal assistance should not be refused on the sole ground that the offence is also considered to involve fiscal matters

Chinese Taipei has no restrictions on such situations. (Information source: MOJ)

36.5 A request for mutual legal assistance should not be refused on the grounds of laws that impose secrecy or confidentiality requirements on financial institutions or DNFBP

According to Article 136 of the Criminal Procedure Code, prosecutors and judges all have the power to seize objects that can be used as evidence. Therefore, when a foreign nation requests Chinese Taipei to obtain document or financial records from financial institutions for perusal, the prosecutor may request the financial institution's permission in writing. In some cases, the prosecutor may go to the financial institution in person or designate a judicial police officer to go there to read or impound the document. The MOJ has not even rejected such kinds of legal assistance on the excuse of protection of secrets. (Information source: MOJ)

36.6 The powers of competent authorities required under R.28 should also be available for use in response to requests for mutual legal assistance

According to Article 136 of the Criminal Procedure Code, prosecutors and judges all have the power to seize objects that can be used as evidence. According to Paragraph 1 of Article 128 of the Criminal Procedure Code, if necessary, a prosecutor may petition the court to issue a search warrant. This is to say that with regard to matters of legal assistance requested by a foreign nation, the prosecutorial agencies can act according to the provisions of the Criminal Procedure Code. (Information source: MOJ, CIB, MLPC)

36.7 Devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country

The Criminal Code of Chinese Taipei is based on the territorial principle. All offenses committed in the territory are subject to the Criminal Code of this nation. As long as part of the offense or the result of the offense occurs in the territory, it is considered an offense in this nation. In a case of a transnational offense, it is true that multiple nations may have the rights of adjudication, according to the laws of this nation. But this has never happened. At present, Chinese Taipei does not have the mechanism for international consultations on the venue of trial. (Information source: MOJ)

Additional Elements

36.8 The powers of competent authorities required under R.28 available for use when there is a direct request from foreign judicial or law enforcement authorities to domestic counterparts

According to Article 6 of the Law in Supporting Foreign Courts on Consigned Cases, the investigation of evidence commissioned by a foreign nation shall be conducted by the prosecutor in accordance with the Criminal Procedure Code. For this reason, this provision applies to the investigation of the contents of the 28th recommendation when it is requested by foreign judicial or law enforcement authorities. It is not to be treated differently simply because it is a case of legal assistance consigned by a foreign nation. (Information source: MOJ, CIB, MLPC)

Recommendation 37

37.1 Mutual legal assistance should be rendered in the absence of dual criminality

According to the Law in Supporting Foreign Courts on Consigned Cases, Chinese Taipei is willing to provide assistance even in the absence of dual criminality as long as the commissioning foreign court declares, according to the Law in Supporting Foreign Courts On Consigned Cases, that if a court of the nation commissions the foreign nation to make an investigation, that foreign nation will do accordingly. (Information source: MOJ)

37.2 The requested state (that is rendering the assistance) should have no legal or practical impediment to rendering assistance where both countries criminalize the conduct underlying the offence

According to the Law in Supporting Foreign Courts on Consigned Cases, Chinese Taipei is willing to provide assistance even in the absence of dual criminality. But if the request is about a case of extradition, according to Article 2 of the Extradition Act, the case must meet the conditions that it is punishable in both nations. (Information source: MOJ)

Recommendation 38

38.1 Appropriate laws and procedures to provide an effective and timely response to mutual legal assistance requests by foreign countries related to the identification, freezing, seizure, or confiscation of proceeds, assets or instruments from ML/FT or predicate offences

1. If a nation that has no agreement on mutual assistance with this nation and asks for

mutual assistance in criminal matters, it should be handled in accordance to the Law in Supporting Foreign Courts on Consigned Cases. Prosecutors' offices or courts may investigate the evidence according to the real intention of the request and the regulations of the Criminal Procedure Code.

2. After receiving the commission, the prosecutors of this nation may petition, in accordance with Paragraph 2 of the MLCA, the court for permission to ban the withdrawal and transfer of money, payment and disbursement from the account, changing hands of ownership for the property involved in a case of money laundering, and take other related measures.

3. Through the signing of the Agreement on Mutual Legal Assistance in Criminal Matters between the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan, Chinese Taipei has established an integrated mechanism for handling search, impoundment, and confiscation affairs. (Information source: MOJ,CIB,MLPC)

38.2 The requirements in Criterion 38.1 should also be met where the request relates to property of corresponding value

According to the current law, there is no difference with regard to property claims. (Information source: MOJ)

38.3 Arrangements for coordinating seizure and confiscation actions with other countries

Chinese Taipei is willing to actively help other nations that request the execution of impoundment and confiscation. (Information source: MOJ)

38.4 Establishing an asset forfeiture fund into which all or a portion of confiscated property will be deposited and will be used for law enforcement, health, education or other appropriate purposes

According to Paragraph 1, Article 12, of the MLCA, the MOJ may hand over the confiscated property or benefit, not including cash and securities, gained from the money laundering offenses to the prosecutorial and judicial police agencies or other units that have helped the crackdown on the money laundering for official use. On July 28, 2004, the MOJ announced the "Regulations Governing the Management, Delivery and Reasonable Uses of Property Confiscated for Being Used in an Offense."(Information source: MOJ)

38.5 Authorizing the sharing of confiscated assets when confiscation is directly or indirectly a result of coordinated law enforcement actions

1. According to Paragraph 1, Article 12, of the MLCA the MOJ may hand over the whole or part of the confiscated valuable articles or property gotten from the offenses to foreign governments or international organizations.

2. In keeping with Paragraph 3 of Article 12-1 of the MLCA, the Executive Yuan announced, on July 28, 2004, the Regulations Governing the Handover and Use of Property Confiscated from Money Laundering Offenses. According to the Regulations, a foreign government or organization or an international body may make a claim through the MOFA for the property, of which the handover will be made if it is approved by a review commission. (Information source: MOJ)

Additional Elements

38.6 Foreign non criminal confiscation orders (as described in criterion 3.7) recognized and enforced

At present, Chinese Taipei has no confiscation system for civil cases, so it is difficult to recognize and execute a writ made not for criminal confiscation. But, according to Article 17 of the Agreement on Mutual Legal Assistance in Criminal Matters between the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan, as long as the gains of an offense are articles that are subject to confiscation or impoundment by laws, America may ask this nation for assistance in the procedure of confiscation. (Information source: MOJ)

Special Recommendation V

V.1 Countries should ensure that Criteria 36.1 – 36.6 (in R.36) also apply to the obligations under SR. V

1. Although the act of participating in a terrorist activity or a terrorist organization has not yet been criminalized in Chinese Taipei, but if the act is culpable, it may be dealt with in accordance with the existing criminal laws. So, currently we can assist foreign nations with investigations into terrorist acts and make indictments according to the procedure set forth in the Law in Supporting Foreign Courts on Consigned Cases. In practice, Chinese Taipei has ever accepted other nations' requests for investigating the evidence about terrorist acts. The MOJ, as a rule, hands over such requests to prosecutorial agencies for active investigations according to the contents commissioned by said foreign governments.
2. The MOJ has drafted the Counter Terrorism Act and submitted it to the Executive Yuan for review. After passing the review of the Executive Yuan, the draft will be sent to the legislature for deliberation. After passing the legislature, it will become the enabling legislation of law enforcement. When legislation of the draft law is completed, participating in a terrorist activity, joining a terrorist organization, and financing a terrorist act will all become culpable. According to Article 16 of the draft law, the related provisions of the MLCA are all applicable to the crime of engaging in a terrorist act, participating in a terrorist organization and financing of terrorists. Therefore, after the draft law passes the legislature, Chinese Taipei can use it as the enabling legislation for investigating and indicting terrorist acts and providing foreign nations with more extensive mutual assistances. (Information source: MOJ,CIB,MLPC)

V.2 Countries should ensure that Criteria 37.1- 37.2 (in R.37) also apply to the obligations under SR.V

1. Although Chinese Taipei has not yet criminalized the acts of participating in terrorist activities and financing terrorist organizations, but if the act is culpable, it can still be dealt with in accordance with the existing criminal laws.
2. Furthermore, in accordance with the Law in Supporting Foreign Courts on Consigned Cases, Chinese Taipei is willing to offer assistance to a foreign nation even the offense is lack of dual criminality as long as the opposite nation can, in appliance with Article 4 of the law, declare that it is willing to assist the nation in a similar case. (Information source: MOJ)

V.3 Countries should ensure that Criteria 38.1 – 38.3 (in R.38) also apply to the obligations under SR.V

1. According to Article 16 of the draft of Counter Terrorism Act, the offenses of participating in a terrorist act, joining a terrorist organization, and financing of terrorists are all subject to the related provisions of the MLCA. After completion of legislation, we can investigate and indict a terrorist act on this basis.

2. Article 12 of the draft of Counter Terrorism Act states: "With regard to an element suspected, by fact, of using an account, currency, or other means of payment to engage in an terrorist act, the Director General of the National Coastguard Administration of the Executive Yuan, the Director General of the Investigation Bureau under the Ministry of Justice, and the Director General of the National Police Administration under the Ministry of the Interior may order to impose a ban on the withdrawal, transfer, payment, delivery, change of hands with regard to the property involved in a transaction for the terrorist activity within a period of six months after petitioning court to approve." So, after completion of legislation in the future, the authorities can use this as basis for assisting a foreign nation in identifying, freezing, impounding, and confiscating the property. (Information source: MOJ)

Additional Elements

V.6 Additional elements 36.7 – 36.8 (in R.36) apply in relation to the obligations under SR.V

The Criminal Code is based on the territorial principle. It is applicable to the offenses committed within the territory. Whatever the offense or its result is, if either part of the offense or its effect occurs in the territory, it is considered an offense. In a case of transnational offense, if either part of the offense or its effect happens in the territory, Chinese Taipei and the other nation shall all have the power of trying this case. Nevertheless, a dispute of this kind has never occurred. So far, Chinese Taipei does not have a mechanism for cross border negotiation on the venue of trial. (Information source: MOJ)

V.7 Additional elements 38.4 – 38.6 (in R.38) apply in relation to the obligations under SR.V

1. According to Article 16 of the draft of Counter Terrorism Act, engaging in a terrorist act, participating in a terrorist organization, and financing of terrorists are all criminal acts, to which the related provisions of the MLCA are applicable. According to Article 12-1 of the MLCA, the MOJ may hand over the confiscated property gained from the offense or the profit derived from the property, not including cash and securities, to the prosecutorial and judicial police agencies or another organization that have helped the pursuit of the crime for use in public business.

2. At present, Chinese Taipei has no confiscation system of the nature of a civil case, so it is difficult to recognize and execute a writ made not for criminal confiscation.

3. According to Article 17 of the Agreement on Mutual Legal Assistance in Criminal Matters between the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan, as long as the gains from the offense can be confiscated or impounded, the US may request us to help out in the confiscation procedure. (Information source: MOJ)

6.4 Extradition (R.39, 37 & SR.V)

Summary

Chinese Taipei has signed extradition pacts with 7 countries including the Commonwealth of Dominica, the Dominican Republic, the Republic of South Africa, the Kingdom of Swaziland, Republic of Malawi, the Republic of Costa Rica, and the Republic of Paraguay. This nation may raise or accept request to extradite criminals with the above mentioned countries. Other nations which have not signed extradition pact with this nation may also ask for extraditing criminals according to the regulations of the Law of Extradition. (Information source: MOJ)

Recommendation 37

37.1 Mutual legal assistance should be rendered in the absence of dual criminality

According to Article 2 of the Law of Extradition, this nation adopts the mechanism of dual criminality. Only if the offenses that are punishable by law in this nation as well as the requesting nation, the requests for extradition of the criminals can be approved. (Information source: MOJ)

37.2 The requested state (that is rendering the assistance) should have no legal or practical impediment to rendering assistance where both countries criminalize the conduct underlying the offence

If the offense can meet the conditions of dual criminality, the requesting nation may prepare an extradition request in accordance with Article 10 of the Law of Extradition and forward it to this nation through the diplomatic channel. According to Article 15 of the law, the MOFA should send the extradition request attached with related documents to the MOJ once it has been received, and the MOJ will dispatch it to the prosecutorial organization of the offender's domicile locality for action. In an emergency, the requesting nation may, in keeping with Article 12 of the Law of Extradition, use a letter or cable to request this nation to arrest and detain the extradited offender. (Information source: MOJ)

Recommendation 39

39.1 Money laundering should be an extraditable offence

Any person who launders money for himself or for a third party and the money is derived from an offense prescribed in Article 3 of the MLCA will commit the crime of money laundering in this nation. If an offender who has committed the crime of money laundering in other nation flees to this nation, the other nation may raise request to this nation according to the existing treaty between the two nations or the Law of Extradition for an extradition. (Information source: MOJ)

39.2 Countries should either a) extradite their own nationals or b) prosecute cases where extradition requests by other countries are not granted

1. According to Article 4 of the Law of Extradition, if the subject of the extradition is a citizen of this nation, the request should be rejected. But this provision does not apply if the said person obtains the citizenship of this nation after the request of extradition is made.
2. If the reason for not agreeing to the extradition is that the offense committed in the foreign domain is prescribed in Article 2 and the proviso of Article 3 (the maximum

penalty is one year in prison), the government should, according to Paragraph 2 of the Law of Extradition, immediately refer the offender to the competent court for action after the rejection of request is made.

3. Article 6 and Article 7 of the Criminal Code are based on the principle of blood lineage. If a public servant commits a specific offense outside this nation's domain or if a citizen of this nation commits an offense in a foreign domain, which carried a principal penalty of more than three years imprisonment, this nation's Criminal Code still applies. Therefore, in these cases, it is the duty of the prosecutorial agencies and court to pursue the case and try the offender even though the nation has rejected the request for extradition. (Information source: MOJ)

39.3 Countries should cooperate with each other to ensure the efficiency of the prosecution where extradition requests by other countries are not granted

If other nations request Chinese Taipei for an extradition, it will be processed rapidly and efficiently within the limits of laws. (Information source: MOJ)

39.4 Countries should adopt measures or procedures that will allow extradition requests and proceedings relating to ML to be handled without undue delay

There is no specially designed procedure for extraditing money laundering offenders, but any request for an extradition is raised by other nation, Chinese Taipei is willing to process the request rapidly and efficiently within the limits of laws. (Information source: MOJ)

Additional Elements

39.5 Simplified procedures of extradition in place by allowing direct transmission of extradition requests between appropriate ministries

1. In an emergency, a requesting nation may, in keeping with Article 12 of the Extradition Act, be exempt from producing a request paper. It will do for it to use a letter or a cable to request or nation to detain the person to be extradited.
2. According to Articles 10 and 11 of the Extradition Act, when a nation makes an extradition request to this nation, it should produce related legally certified evidence, the bill of indictment, and the court's verdict. According to Article 17 of the same law, when the nation's court accepts the request, the prosecutor shall bring the said person to the scene and refer him to the court within 24 hours. The court shall tell, in compliance with Article 18 of the Extradition Act, the offender the fact and evidence based on which the extradition request is made and ask him to produce his rebuttal paper with 60 days. The court shall close the case within 30 days after receiving the rebuttal paper and submit the case to the president of the nation for decision.
3. There is no simplified extradition procedure of application after the offender agrees to give up his rights. (Information source: MOJ)

Special Recommendation V

V.4 that Criteria 39.1 – 39.4 (in R.39) also apply to extradition proceedings related to terrorist acts and FT

Under the draft Act of Counter Terrorist Action, engaging in a terrorist action, participating in a terrorist organization and financing a terrorist organization are all criminal. Therefore, when the draft law passes the legislature, the Extradition Act or

extradition treaties will become applicable to extradition procedures for offenders of the crime of engaging in terrorist activities, participating in a terrorist organization or financing a terrorist. (Information source: MOJ)

Additional Elements

V.8 The additional element 39.5 (in R.39) apply extradition proceedings related to terrorist acts or FT

When the draft law passes the legislature, the Extradition Act or extradition treaties will become applicable to extradition procedures for offenders of engaging in terrorist activities, participating in a terrorist organization or financing a terrorist. But, in this nation, there is no stipulation that an offender may agree to give up his rights and that a simplified procedure can be used in an extradition case. (Information source: MOJ)

6.5 Other Forms of International Co-operation (R.40, SR.V & R.32)

Summary

When the development of emerging technology and transportation is speeding the transnational movement of illegal funds and criminals, the national boundary is no longer the natural barrier of criminals. Recognizing international cooperation is playing an important role for a country to effectively deter money laundering, terrorist financing and other transnational organized crimes, the authorities of Chinese Taipei, based on the vested functions of organization, all spare no effort to establish possible channels to exchange ML/FT intelligence with counterparts from international community.

Chinese Taipei has signed Agreements or MOU with 5 countries in the past few years for mutual legal assistance and information exchange on AML/CFT, and also actively participate related international fora and activities which held by the APG and the Egmont Group. (Information source: MLPC)

Recommendation 40

40.1 Countries should ensure that their competent authorities are able to provide the widest range of international cooperation to their foreign counterparts

For enhancing international cooperation, Chinese Taipei has many measures in place which include:

- Joining the membership of relevant international organizations for exchanging information such as the Egmont Group.
- Assigning law enforcement liaison officers to post in other countries.
- Keeping close communication and cooperation with other country's law enforcement liaison officers.
- Maintaining cooperation channels with related international organization such as Interpol.
- Spontaneously providing information to international counterparts or upon request based on the principles of mutual benefits, reciprocity and subject to Data Protection Law. (Information source: MOJ)

40.1.1 Countries should be able to provide such assistance in a rapid, constructive and effective manner.

1. With regard to ordinary requests for legal assistance made by foreign nations whether they have signed an agreement or not with this nation, the Ministry of Justice, as a rule, hands them down according to established procedure to a prosecutorial organization to provide the assistance in accordance with the intention of the request. In recent years, this nation has received and taken care of more than 40 requests for legal assistance in criminal matters from different nations, including America, England, Poland, Denmark, Switzerland, Belgium, and Liechtenstein. In all cases, the assistance has been completed satisfactorily.
2. With regard to the exchange of money laundering intelligence, the Investigation Bureau of the Ministry of Justice proceeds rapidly via Egmont Group Secured Website.
3. From the above mentioned mechanism, the Ministry of Justice, the Investigation Bureau and Criminal Investigation Bureau are capable to provide timely and effective assistance to foreign counterparts.
4. The MLPC puts all requests from foreign counterparts in high priorities and assign dedicated staffs to deal with the matters. In general, most of the requests will be responded in one to two weeks except the especially complicated cases. (Information source: MOJ)

40.2 Clear and effective gateways, mechanisms or channels to facilitate and allow for prompt and constructive exchanges of information directly between counterparts

The MLPC exchanges information may through the following channels under the authorization of the MLCA and the Data Protection Law:

- If the counterpart is a member of the Egmont Group, the MLPC will exchange information through the Egmont Secured Website.
- If the counterpart is not a member of the Egmont Group but has signed MOU or Agreement, the MLPC also can directly exchange information by fax or letter or email depending on the speed and confidentiality concerned of case.
- Furthermore, the MLPC still can exchange information with the counterpart based on mutual benefits and reciprocity through other governmental communication channels, such as diplomatic channel. (Information source: MLPC,CIB)

40.3 Exchanges of information should be possible both (a) spontaneously and upon request and (b) in relation to both money laundering and the underlying predicate offences

The MLPC is vested the power to exchange information spontaneously and upon request under the following principle: “The information or documents obtained from the respective Authorities will not be disseminated to any third party, nor be used for administrative or prosecutorial or judicial purposes without prior consent of the disclosing Authority. The information obtained can only be used in connection with investigations related to money laundering originating from specific categories of criminal activity. The predicate offenses for the offense of money laundering are defined as acts that would be criminal offenses under both jurisdictions penal laws,

had the offense been committed in that jurisdiction."

(Information source: MLPC, CIB)

40.4 Ensuring all competent authorities to be authorized to conduct inquiries on behalf of foreign counterparts

1. Chinese Taipei has established the Money Laundering Control Center under the Investigation Bureau of the Ministry of Justice to serve as a financial intelligence unit and to exchange intelligence with related agencies abroad.

2. The Ministry of Justice is revising the MLCA. Added to it will be Article 8-3 which states: "When a foreign government or an international organization requests this nation for legal assistance in investigating and pursuing a criminal offense, unless otherwise prescribed in the law, the Investigation Bureau under the Ministry of Justice may, on the basis of reciprocal favored treatment, provide it with the notification data and investigation results set forth in Articles 7, 8, and 8-2 of this law." This additional article clearly empowers the Investigation Bureau to exchange intelligence with a foreign organization. This also consists with the provisions of the nation's Act of Protection for Computer-Processed Personal Data.

3. If the inquiries are in the scope of information exchange level, all competent authorities only have to comply with their own mechanism to provide information to foreign counterparts under request or spontaneity which are based on mutual benefits and reciprocity and without violation of the Data Protection Law. If the inquiries from foreign counterparts need to cooperate with legal operations, then the authorization from the Ministry of Justice, the authority of dealing with mutual legal assistance in this jurisdiction, will be required. (Information source: MOJ)

40.4.1 Ensuring FIU is authorized to make inquiries on behalf of foreign counterparts: (a) searching its own databases, including with respect to information related to suspicious transaction reports (b) searching other databases to which it may have direct or indirect access

According to the mission of MLPC vested by the Executive Yuan and the regulation of the "Operation Regulation of Money Laundering Prevention Center", the MLPC is authorized to exchange information with foreign counterparts and is authorized to conduct inquiries related information on behalf of foreign counterparts. The information includes searching its own database with respect to STRs, CTRs and Cross Border Currency Movement Reports, and searching certain law enforcement databases, administrative databases, commercial databases and other public commercial databases. (Information source: MLPC)

40.5 Law enforcement and other authorities should be authorized to conduct investigations on behalf of foreign counterparts

1. Chinese Taipei has established the Money Laundering Control Center under the Investigation Bureau of the Ministry of Justice to serve as a financial intelligence unit for exchanging intelligence with related agencies abroad and, at the same time, investigating the individual cases that occur in the domain of this nation.

2. If it is a case of legal assistance in evidence investigation, commissioned by a foreign nation. Except America that has signed an agreement on mutual legal

assistance with Taiwan and can directly ask the Ministry of Justice for such assistance, all other nations that need such assistance must meet the requirement of the Law in Supporting Foreign Courts on Consigned Cases. When the Ministry of Justice received such a case through the Ministry of Foreign Affairs, it will hand it over to a prosecutorial organization to direct a judicial police organization to investigate the evidence. The Ministry of Justice is an organization that supervises the judicial administration of the nation's prosecutorial agencies. (Information source: MOJ)

40.6 Exchanges of information should not be made subject to disproportionate or unduly restrictive conditions

The MLPC is subject to the conditions stipulated in MOUs, Agreements, MLCA and Data Protection Law on exchanging information with foreign counterparts. General speaking, there is not any disproportionate or unduly restrictive condition only if the information exchange is based on mutual benefits, reciprocity and for facilitating public security. (Information source: MLPC, CIB, MOJ)

40.7 Requests for cooperation should not be refused on the sole ground that the request is also considered to involve fiscal matters

The MLPC exchanges information with foreign counterparts subject to the policies and regulations mentioned above and would not refuse any request which is solely involved fiscal matters. (Information source: MLPC, CIB, MOJ)

40.8 Requests for cooperation should not be refused on the grounds of laws that impose secrecy or confidentiality requirements on financial institutions or DNFBP

The secrecy or confidentiality requirements on financial institutions or DNFBP do not expose impediment for the MLPC to exchange information with foreign counterparts based on the policies and regulations mentioned above. (Information source: MLPC, CIB, MOJ)

40.9 Countries should establish controls and safeguards to ensure that information received by competent authorities is used only in an authorized manner

Paragraph 1, Article 11 of the MLCA stipulates: "Any government official who reveals, discloses or turns over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others, he or she shall be sentenced to imprisonment of not more than three years". Any information provided by foreign counterparts will be treated as suspect financial transaction report and be safeguarded according the above regulation. In addition, if the information has to be disseminated to competent authorities, the conditions of using the information will be clearly outlined prior the dissemination. (Information source: MLPC, CIB, MOJ)

Additional Elements

40.10 Mechanisms to permit a prompt and constructive exchange of information with non-counterparts

At present, all the individual cases of request made by foreign nations for legal assistance in criminal matters are handled in accordance with the Law in Supporting Foreign Courts on Consigned Cases, except for the US, which has signed an agreement with Chinese Taipei. However, the legal systems are different from

nation to nation and the agencies with the power of investigation are also different. As long as a request for assistance comes through the Ministry of Foreign Affairs, we will do the utmost to handle it flexibly irrespective the level it represents. When it receives the request, unless further complementation is required, the Ministry of Justice as soon as possible passes it to a prosecutorial organization for investigation by a police organization under the direction of the prosecutor.

The MLPC is subject to the conditions stipulated in MOUs, Agreements, MLCA and Data Protection Law on exchanging information. There is no specific inhibition to exchange information with non-counterparts. In practical operation, most cases are conducted to contact directly with the opposite side and only few cases are conducted indirectly through the mediate coordination from the law enforcement liaison officers of both sides or through other authorities. (Information source: MOJ, MLPC, CIB)

40.10.1 Requesting authority as a matter of practice disclose to the requested authority the purpose of the request and on whose behalf the request is made

1. Mutual legal assistance:

   1) According to the Law in Supporting Foreign Courts on Consigned Cases, the government accepts only cases commissioned by courts or prosecutorial organizations of foreign nations. Furthermore, the requesting nation must clearly express the purpose of the request (civil proceedings, criminal proceedings, or administrative proceedings).

   2) A revised version of the Law in Supporting Foreign Courts on Consigned Cases is being drafted. Article 8 of the new version law stipulates: “The court or prosecutorial organization of the requesting nation must declare that the materials obtained will not be used for any criminal proceedings not mentioned in the request.”

   3) Article 5 of the Agreement on Mutual Legal Assistance in Criminal Matters between the Taipei Economic and Cultural Representative Office in the United States and the American Institute in Taiwan also stipulates that the request bill must contain the name of the organization that requests the investigation and the purpose of the investigation. Article 8 of the Agreement stipulates that the requested party may ask the requesting party not to use the materials and evidence obtained under this Agreement for investigation, indictment and lawsuit proceedings not mentioned in the request unless the two parties have otherwise agreed on this matter.

2. Information exchange:

   The MLPC is a member of the Egmont Group and is willing to comply with the statement of purpose on information exchange which clearly describes the requesting authority has to disclose the purpose of the request and on behalf the request is made. (Information source: MOJ, MLPC, CIB)

40.11 Can the FIU obtain from other competent authorities or other persons relevant information requested by a foreign counterpart FIU

The MLPC can access relevant information from other competent authorities

when dealing with the related matters on AML/CFT including the information requested by a foreign counterpart FIU, and the access must be under the strict restriction and control mechanism following the guidance of "The Working Manual of Money Laundering Prevention" and "Operation Regulation of Money Laundering Prevention Center". (Information source: MLPC)

Special Recommendation V

V.5 Countries should ensure that Criteria 40.1 – 40.9 (in R.40) also apply to the obligations under SR.V.

1. When the draft of Counter Terrorism Act completes the legislation, participating in terrorist activities, joining a terrorist organization, and financing of terrorists will all become criminal acts. According to Article 15 of the draft Act, all the related provisions of the MLCA are applicable to these offenses.
2. For preventing terrorist activities, the government of Chinese Taipei and authorized organizations may, based on the principle of reciprocity, enter into cooperative treaties or other international written agreements relating to the prevention of international terrorist activities with foreign governments, institutions or international organizations. (Article 19 of the draft of Counter Terrorism Act)
3. The Ministry of Justice is revising the MLCA. Added to it will be Article 8-3 which states: "When a foreign government or an international organization requests this nation for legal assistance in investigating and pursuing a criminal offense, unless otherwise prescribed in the law, the Investigation Bureau under the Ministry of Justice may, on the basis of reciprocal favored treatment, provide it with the notification data and investigation results set forth in Articles 7, 8, and 8-2 of this law." This additional article clearly empowers the Investigation Bureau to exchange intelligence with a foreign organization. This also consists with the provisions of the Data Protection Law in this jurisdiction.
4. Financing of terrorists is listed as an indicator of reporting STRs in financial institutions and the MLPC is vested the power to share the information and take necessary steps to coordinate with foreign counterparts as handling money laundering cases. (Information source: MOJ, MLPC, CIB)

Additional Elements

V.9 Do additional elements 40.10 – 40.11 (in R.40) apply in relation to the obligations under SR.V

1. When the draft of Counter Terrorism Act completes the legislation, participating in terrorist activities, joining terrorist organization and financing of terrorists will all become criminal acts.
2. According to Paragraph 1 of Article 4 of the draft of Counter Terrorism Act, "The National Security Bureau is in charge of orchestrating the collection and processing of counter terrorist intelligence and supplying the Executive Yuan's counter terrorist task force, intelligence agencies and other related agencies with information about internationally identified terrorist organizations, terrorists, or suspected terrorist organizations and suspected terrorists."
3. Paragraph 2, Article 4 of the draft of Counter Terrorism Act stipulates: "All

intelligence agencies shall actively collect intelligence and information related to terrorist actions at home land and abroad, and disseminate them to the National Security Bureau in time; other government agencies obtain intelligence related to terrorist actions shall, besides disposing the intelligence according their power and responsibility, immediately forward it to the National Security Bureau regardless the secret-keeping provisions of other laws." Judging from the draft Act, Chinese Taipei obviously has adopted a more flexible and mobile system of intelligence collection and integration.

According to the Authorized Regulations of MLCA Article 8, any financial transaction involved in terrorist financing should be regarded as suspicious financial transaction of money laundering and has to be reported to the MLPC in 10 business days after being found. (Information source: MOJ, MLPC, CIB)

7 Other Issues

(None)

Acronym

BOAF	Bureau of Agriculture Finance
CBC	Central Bank of China
CIB	Criminal Investigation Bureau
CTR	Currency Transaction Report
DLA	Department of Land Administration, Ministry of Interior
DNFBP	Designated Non-Financial Businesses and Professions
DOC	Department of Commerce, Ministry of Economic Affairs
DOSA	Department of Social Affairs, Ministry of Interior
FSC	Financial Supervisory Commission
MJIB	Investigation Bureau, Ministry of Justice
MLAA	Mutual Legal Assistance Agreement
MLAT	Mutual Legal Assistance Treaty
MLCA	Money Laundering Control Act
MLPC	Money Laundering Prevention Center, FIU of Taiwan
MOEA	Ministry of Economic Affairs
MOFA	Ministry of Foreign Affairs
MOI	Ministry of Interior
MOJ	Ministry of Justice
NPA	National Police Administration, Ministry of Interior
NPO	Non Profit Organization
DCA	Department of Civil Affairs, Ministry of Interior
STR	Suspicious Transaction Report

Appendix 1 (AML/CFT related laws and regulations of Chinese Taipei)

1 Money Laundering Control Act

Promulgated on October 23, 1996,
Amended and promulgated on February 6, 2003.
Amended and promulgated on May 30, 2006.

Article 1
This Act is explicitly enacted to regulate unlawful money-laundering activities and to eradicate related serious crimes.

Article 2
As used in this Act, the crime of "money-laundering" is defined as any person who—
1. Knowingly disguises or conceals the property or property interests obtained from a serious crime committed by themselves or;
2. Knowingly conceals, accepts, transports, stores, intentionally buys, or acts as a broker to manage the property or property interests obtained from a serious crime committed by others.

Article 3
As used in this Act, "serious crimes" include the following crimes:
1. The crimes of which the minimum punishment is 5 years or more imprisonment.
2. The crimes prescribed in Articles 201 and 201-1 of the Criminal Code.
3. The crimes prescribed in Paragraph 1 of Article 240, Paragraph 2 of Article 241, and Paragraph 1 of Article 243 of the Criminal Code.
4. The crimes prescribed in Paragraph 1 of Article 296, paragraph 2 of Article 297, Paragraph 2 of Article 298, and Paragraph 1 of Article 300 of the Criminal Code.
5. The crimes prescribed in Paragraphs 2, 4, 5 of Article 23, and Paragraph 2 of Article 27 of the Act for the Prevention of Child Prostitution.
6. The crimes prescribed in Paragraph 2 of Article 8, and Paragraph 2 of Article 11, Paragraphs 1-3 of Article 12, Paragraphs 1 and 2 of Article 13 of the Statute for Fire Arms, Ammunition and Harmful Knives Control.
7. The crimes prescribed in Paragraphs 1 and 2 of Article 2, Paragraph 1 and 2 of Article 3 of the Statute for Punishment of Smuggling.
8. The crimes prescribed in Article 171 of the Securities and Exchange Act, in violation of Paragraphs 1 and 2 of Article 155, and Paragraph 1 of Article 157-1 of the Securities and Exchange Act.
9. The crimes prescribed in paragraph I of Article 125 of the Banking Act.
10. The crimes prescribed in Articles 154 and 155 of the Bankruptcy Law.
11. The crimes prescribed in Paragraph 1and 2 of Articles 3, 4 and6 of the Organized Crime Prevention Act.

The following crimes also fall into the category of the "serious crimes" if the property or property interests obtained from the commission of the crime(s) exceeds NT 20 million dollars:
1. The crimes prescribed in Paragraph 2 of Article 336 of the Criminal Code.
2. The crimes prescribed in Articles 87 and 91 of the Government Procurement Act.

Article 4
As used in this Act, the "property or property interests obtained from the commission of the crime" means:

1. The property or property interests obtained directly from the commission of the crime.
2. The remuneration obtained from the commission of the crime.
3. The property or property interests derived from the above two subsections. This provision, however, is not applicable to a third party who obtains in good faith the property or property interests prescribed in the preceding two subsections.

Article 5

As used in this Act, the "financial institutions" include the following institutions:

4. banks;
5. trust and investment corporations;
6. credit cooperative associations;
7. credit department of farmers' associations;
8. credit department of fishermen's associations;
9. postal service institutions which also handle the money transactions of deposit, transfer and withdrawal;
10. negotiable instrument finance corporations;
11. credit card companies;
12. insurance companies;
13. securities brokers;
14. securities investment and trust enterprises;
15. securities finance enterprises;
16. securities investment consulting enterprises;
17. securities central depository enterprises;
18. futures brokers;
19. other financial institutions designated by the Ministry of Finance.

Businesses dealing in jewelry or other financial institutions likely to be used for money laundering are subject to the provisions governing financial institutions set forth in this Act after such businesses or financial institutions are so designated by the Ministry of Justice in consultation with other related competent authorities.

If the competent authorities for the institutions set forth in the above two paragraphs are ambiguous, the Executive Yuan shall designate the competent authorities for the institutions.

The Ministry of Justice may, as it deems necessary, require the institutions set forth in the paragraphs 1 and 2 of this Article to accept monetary instruments other than cash as payment for financial transactions.

Article 6

Every financial institution referred to in this Act shall establish its own money laundering prevention guidelines and procedures, and submit those guidelines and procedures to the competent authority and the Ministry of Finance for review. The content of the money laundering prevention guidelines and procedures shall include the following items:

1. The operation and the internal control procedures for money laundering prevention;
2. The regulatory on-job training for money laundering prevention instituted or participated in by the financial institution referred to in this Act;
3. The designation of a responsible person to coordinate and supervise the implementation of the established money laundering prevention guidelines and procedures;
4. Other cautionary measures prescribed by the competent authority and the Ministry of Finance.

Article 7

For any currency transaction exceeding a certain amount of money, the financial institutions

referred to in this Act shall ascertain the identity of customer and keep the transaction records as evidence, and submit the financial transaction, the customer's identity and the transaction records to the designated authority.
The amount and the scope of the financial transaction, the procedures for ascertaining the identity of the customer, and the method and length of time for keeping the transaction records as evidence referred to in the preceding paragraph shall all be established by the Ministry of Finance in consultation with the Ministry of Justice and the Central Bank of the Republic of China.
Any financial institution which violates the provisions set forth in the first paragraph of this Article shall be punished by a fine between $200,000 NT to $1 million NT.

Article 8
For any financial transaction suspected to be a money laundering activity, the financial institutions referred to in this Act shall ascertain the identity of the customer and keep the transaction record as evidence, and report the suspect financial transaction to the designated authority.
The reporting financial institution will be discharged from its confidentiality obligation to the customer if the institution can provide proof that it was acting in good faith when reporting the suspect financial transaction to the designated authority in compliance with the preceding paragraph of this Article.
The designated authority, and the scope and procedures of the reporting referred to in the first paragraph of this Article shall all be established by the Ministry of Finance in consultation with the Ministry of Interior, the Ministry of Justice and the Central Bank of the Republic of China.
Any financial institution which violates the provisions set forth in the first paragraph of this Article shall be fined between 200,000 NT and 1 million NT. However, if the violating financial institution is able to prove that the cause of such violation is not attributable to the intentional act or negligent act of its employee(s), no fine shall be imposed.

Article 8-1
Whenever the prosecutor obtains sufficient evidence to prove that the offender has engaged in money laundering activity by transporting, transmitting, or transferring a monetary instrument or funds through bank deposit, wire transfer, currency exchange or other means of payment, the prosecutor may request the court to order the financial institution to freeze that specific money laundering transaction to prevent withdrawal, transfer, payment, delivery, assignment or other related property disposition of the involved funds. The prosecutor on their own authority may freeze a specific money laundering transaction and request the court's approval within three days whenever the prosecutor has probable cause to believe that the property or property interests obtained by the offender from the commission of crime are likely to disappear under exigent circumstances. The prosecutor must immediately remove the hold on transaction if the prosecutor fails to obtain the court's approval within three days.
During the trial proceeding, the presiding judge has discretion to order a financial institution to freeze the offender's money laundering transactions for purposes of withdrawal, transfer, payment, delivery, assignment or other related property disposition.
The order to freeze the offender's money laundering transactions for withdrawal, transfer, payment, delivery, assignment or other related property disposition in a financial institution must be in writing and meet the requirements set forth in Article 128 of the Criminal Procedure Code.
The first paragraph of this Article also applies to foreign governments, foreign institutions or international organizations requesting our government to assist in a particular money

laundering activity based on the reciprocal treaties or agreements entered with our government relating to the prevention of money laundering activities, whenever the activity engaged by the offender constitutes a crime under Article 3 of this Act regardless of whether such activity is being investigated or tried in this jurisdiction.
The provisions set forth in the Chapter 4 of the Criminal Procedure Code are also applicable to financial institutions refusing to comply with an order set forth in the first two paragraphs.

Article 9
Any person engaging in money laundering activity referred to Subsection 1 of Article 2 of this Act shall be sentenced to imprisonment of not more than five years and, in addition thereto, be fined not more than 3 million NT.
Any person engaging in money laundering activity referred to Subsection 2 of Article 2 of this Act shall be sentenced to imprisonment of not more than seven years and, in addition thereto, be fined not more than 5 million NT.
The representative of a legal entity, the agent, employee or other worker of a legal entity or a natural person engaging within the scope of his or her employment in money laundering activities as set forth in the preceding three paragraphs shall be punished in accordance with the provisions set forth in the preceding three paragraphs of this Article. In addition, the legal entity or the natural person that the offender represents or works for, shall also be fined in accordance with the provisions set forth in the preceding three paragraphs, unless the representative of a legal entity or a natural person has done his or her best to prevent or stop the money laundering activities.
Any person who surrenders himself or herself to the authorities within six months after he or she has engaged in money laundering activities as set forth in the preceding three paragraphs, his or her sentence shall be exempted. Any person who surrenders himself or herself in later than six months after he or she has engaged in any of the money laundering activities set forth in the preceding four paragraphs, his or her sentence shall be reduced or exempted. Any person who confesses during the custodial interrogation or the trial that he or she has engaged in the money laundering activities set forth in the preceding four paragraphs, his or her sentence shall be reduced.

Article 10
Any person who engaged in the money laundering activity set forth in Subsection 2 of Article 2 of this Act to conceal, accept, transport, store, intentionally buy, or act as a broker to manage the property or property interests obtained from a serious crime or crimes committed by his or her lineal relatives, spouse or any other relatives living together or jointly owning the property, his or her sentences or fine may be reduced.

Article 11
Any government official who reveals, discloses or turns over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others, he or she shall be sentenced to imprisonment of not more than three years.
Any employee of a financial institution without a government official position reveals, discloses or hands over documents, pictures, information or things relating to the reported suspect financial transaction or reported suspect money laundering activity to others, he or she shall be sentenced to imprisonment of not more than two years, detention, or fined not more than 500,000 NT.

Article 12

The property or property interests obtained from the commission of a crime by an offender violating the provisions set forth in Article 9 of this Act, other than that which should be returned to the injured party or a third party, shall be confiscated, regardless of whether the property or property interests belong to the offender or not. Whenever the above property or property interests can not be confiscated in whole or in part, the value thereof shall be indemnified either by demanding a payment from the offender or by offsetting such value with the property of the offender.
The offender's property may be seized, if necessary, to protect the property or property interests obtained from the commission of a crime by an offender violating of the provisions set forth in Article 9 of this Act.
The first two paragraphs of this Article also applies to foreign governments, foreign institutions or international organizations requesting our government to assist in a particular money laundering activity based on the reciprocal treaties or agreements entered with our government relating to the prevention of money laundering activities, whenever the activity engaged by the offender constitutes a crime under Article 3 of this Act regardless such activity is being investigated or tried in this jurisdiction.

Article 12-1
The property or property interests confiscated, other than cash, investment securities or negotiable instruments, may be distributed by the Ministry of Justice to the prosecutor offices, the police departments, or other government agencies assisting the investigation of the money laundering activities for official use, in accordance with the provisions set forth in paragraph I of Article 12.
The Ministry of Justice may distribute the confiscated property or property interests in whole or in part to a foreign government, foreign institution or international organization which enters a treaty or agreement in accordance with Article 14 of this Act to assist our government in confiscating the property or property interests obtained by an offender from his or her commission of a crime or crimes.
The Executive Yuan shall promulgate regulations for management, distribution and use of the property or property interests mentioned in the preceding two paragraphs.

Article 13
Any person who does not comply with the payment of fines imposed under this Act within the prescribed time period, he or she shall be transfer to the Executive Bureau in the Ministry of the Justice for compulsory execution pursuant to the applicable law.

Article 14
The government of Chinese Taipei may, based on the principle of reciprocity, enter into cooperative treaties or other international written agreements relating to the prevention of money laundering activities with foreign governments, institutions or international organizations to effectively prevent and eradicate international money laundering activities.

Article 15
This Act shall go into effect six months after promulgation.
(the Articles amended on May 5, 2006 shall go into effect on July 1, 2006)

2 Counter Terrorism Act (Draft)

Drafted by the Ministry of Justice and pending for legislation

Article 1

This Act is formulated to prevent and control terrorist acts, ensure national security, promote international cooperation against terrorism, and jointly maintain world peace.

Article 2

The terrorist acts mentioned in this Act refer to the following planned, organized acts motivated from personal or organized political, religious, racial, ideological or other specific faith and intended to stir fears among the public:

1. Committing homicides
2. Inflicting critical wounds
3. Setting fires
4. Hurtling, planting, or detonating an explosive contrivance
5. Abducting people
6. Hijacking public or private boats, vehicles, aircraft or controlling their movement
7. Interfering in or sabotaging electronic, energy, or information systems
8. Setting off nuclear energy, radioactivity
9. Releasing poisons, gases, bacteria or other matters harming to human health

The terrorist organizations mentioned in this Act refer to syndicates formed by more than three persons and possessing an internal management structure aimed at engaging in terrorist acts.

The terrorists mentioned in this Act refer to people who perpetrate a terrorist act or join or finance a terrorist organization.

Article 3

To prevent and control terrorism, the Executive Yuan shall assemble the related ministries and agencies of the government to form an anti-terrorism action group, whose organization, tasks, and other related affairs shall be prescribed by the Executive Yuan.

When a terrorist act occurs or threatens to occur, the competent agencies at all levels responsible for peace and order, investigation and prevention, shall be subject to the command of the Anti-Terrorism Action Group of Executive Yuan.

When a terrorist act occurs or threatens to occur and this has caused or may cause damage, the governments at all levels shall activate the mechanism for disaster prevention and rescue in accordance with the Law of Disaster Prevention and Rescue and abide by the command of the Anti-Terrorism Action Group of Executive Yuan.

Article 4

The National Security Bureau shall be responsible for coordinating the gathering and processing of anti-terrorism intelligence. It shall also disseminate the intelligence in time to the Anti-Terrorism Action Group of Executive Yuan, law-enforcement agencies and related organizations about the internationally identified terrorist organizations, terrorists, or suspected terrorist organizations or terrorists. The law enforcement agencies and organizations shall keep secret of the intelligence received from the National Security Bureau. They shall not make public such intelligence without the National Security Bureau's prior agreement.

The various law enforcement agencies shall actively collect the intelligence and information related to foreign and domestic terrorist acts and shall immediately forward it

to the National Security Bureau. When other government agencies have obtained intelligence and information related to terrorist acts, they shall handle the intelligence and information according to the vested power and responsibility and immediately forward it to the National Security Bureau. This shall not be subjected to the secret-keeping provisions of other laws.

Article 5

The Ministry of National Defense shall properly adjust the organization and equipment of the military to support anti-terrorist actions.

Article 6

If there is a need for intercepting the communications of terrorist organizations or individual terrorists to ward off the harm of a terrorist act to the national security, the Director of the National Security Bureau may issue a communications interception warrant.

If the person subject to communications interception mentioned in the preceding paragraph has a household registration in Chinese Taipei, the issuance of the communications-interception warrant must be approved by the competent judge of the High Court of the locality of the National Security Bureau, except in the event of an emergency situation.

Under the circumstances of the preceding provision, the director of the National Security Bureau shall inform the competent judge of the High Court of the locality of the National Security Bureau about the issuance of the said warrant for the judge's after-the-fact approval. If no approval comes within forty-eight hours, the intercepting shall be stopped immediately.

To meet the need in handling a major terrorist attack and protect the people from immediate dangers and sufferings, the director of the National Security Bureau may order to cut off or restrict related communications.

Article 7

To prevent terrorists from using Internet to engage in terrorist acts, the telecom enterprises shall make their software and hardware facilities capable of preserving and providing the records of cross-border Internet on-line communications.

The afore-mentioned records of cross-border Internet on-line communications refer to the records of Internet transmission from the starting point to the destination point.

The telecom enterprises mentioned in paragraph I shall, based on the need of the Ministry of Justice's Investigation Bureau for cross-border on-line telecommunications records, plan the software and hardware requirement, the timetable of installation and the maintenance cost and discuss these with the Investigation Bureau. The facilities shall be installed after a decision is made in the discussions. If need be, the Directorate General of Tele-communications under the Ministry of Transportation and Communications shall help out.

If there are facts to substantiate the suspicions that terrorists are using Internet to engage in a terrorist act, the telecom enterprises shall, in keeping with the request of the law-enforcement agencies, preserve and provide the record of Internet on-line communications conducted at an Internet location within a specific area.

The communication records mentioned in the preceding paragraph shall be preserved at least ninety days. If necessary, the limitation may be extended, but not longer than another ninety days and only one extension is allowed.

The cost for installing and maintaining the software and hardware facilities mentioned in paragraph I shall be paid from the budget of the Investigation Bureau of the Ministry of Justice.

Article 8

If necessary, the law-enforcement authorities may detain a person when facts have led to the suspicion that he or she is a terrorist. The period of detention is limited to twenty four hours.

If the detention is resisted, the authorities may use compulsory force.

Article 9

If there are supporting facts, the law-enforcement authorities may impose an inspection to a place that is suspected of being a location for terrorists to keep their articles or equipment for use in a terrorist act, and the cars, boats, aircraft or other transportation vehicles that may be used by the terrorists.

To prevent a terrorist action, the law-enforcement authorities may enter a residence, building, or any other place for inspection if there are facts leading to the suspicions that terrorists would use or have used the facility and if the law-enforcement authorities believe that they have to enter the building or place because the life and property of the people are in danger.

Article 10

If it is necessary for preventing a terrorist act, the minister of Coast Guard Administration, Executive Yuan, the director-general of Investigation Bureau of the Ministry of Justice and the director-general of National Police Agency of the Ministry of the Interior may order the detention of, or a disposal ban on, movable, immovable, or other assets when facts have led to suspicions that terrorists are using them for terrorist acts.

The order of detention or disposal ban mentioned in the preceding paragraph shall not last for over a month. The period may be extended, but the extension shall not exceed two months and only one extension is allowed.

The assets detained according to the provisions of paragraph I, except those that shall be confiscated, foreclosed, destroyed, or returned after being converted into cash, shall immediately be returned to the owner if continued detention is not necessary. If no one comes to take it or there is no way for it to be returned, the national treasury shall be given the ownership. This provision also applies to the return of an asset after being converted into cash.

Article 11

If there are facts that terrorists use accounts, money transfer, currency or other instruments of payment for terrorist acts, the minister of Coast Guard Administration, Executive Yuan, the director-general of Investigation Bureau of the Ministry of Justice and the director-general of National Police Agency of the Ministry of the Interior may apply, within a period of six months, to the court for an order to ban the withdrawal, account transfer, payment, disbursement, or take other related disposal. In an emergency if there is reason to believe that without such an order a terrorist act cannot be prevented, the minister of Coast Guard Administration, Executive Yuan, the director-general of Investigation Bureau of the Ministry of Justice and the director-general of National Police Agency of the Ministry of the Interior may directly order an execution of such a measure, but they shall appeal to the court within three days to issue an after-the-fact order. If the court does not issue the order within three days, the execution shall be stopped.

In case of discontentment with the order mentioned in the preceding paragraph, the provisions on complaints set forth in Section Four of the Criminal Procedure Code shall apply mutatis mutandis.

Article 12

Those who have engaged in the terrorist acts set forth in paragraph I of Article 2 shall be sentenced to death, life imprisonment, or a prison term not less than ten years.

An attempt offense of the crime set forth in the preceding paragraph shall be punishable.

A preparatory offense of the crime set forth in the preceding paragraph shall be sentenced to not more than two years in prison.

The articles used for committing the crime set forth in the preceding paragraphs I- III and the receipts thereof shall be confiscated irrespective of whether they belong to the criminal except the portion that shall be returned to the victim(s) or the third person.

Article 13

Those who have joined a terrorist organization shall be sentenced to not less than five years in prison and may be imposed a fine not more than one hundred million New Taiwan Dollars (NT$100 million) in addition thereto.

Those who have financed a terrorist organization shall be sentenced to imprisonment between one year and seven years, and may be imposed a fine not more than ten million New Taiwan Dollars (NT10 million) in addition thereto.

Article 14

A citizen of Chinese Taipei who has committed the crime of the preceding two articles outside the country shall be punished according to this Act whether it is punishable or not in the place where the crime is perpetrated.

Article 15

The offense against the crimes set forth in paragraphs III of Article 12 and paragraphs 2 Article 13 of this Act shall be regarded as a felony prescribed in paragraph I of Article 3 of the Money Laundering Control Act and an offense of the crime set forth in paragraph I of Article 5 of the Communications Protection and Surveillance Act, which may issue an intercepting warrant. Unless otherwise prescribed in this Act, the related provisions of the Money Laundering Control Act and the Communications Protection and Surveillance Act shall apply.

Article 16

If the offender of this Act who has surrendered himself or herself and has provided related materials for investigation and this has led to the exposure of a terrorist organization or terrorists or this has prevented a terrorist act, he or she shall be exempted from the penalty prescribed in this Act. If he or she has made a confession of facts during the trial and this confession has led to the discovery of other terrorist organization(s), terrorists, and therefore a terrorist act is forestalled, the penalty shall be reduced.

Article 17

If a telecom enterprise violates the provisions of Article 7 without legitimate reasons, it shall be fined by the Ministry of Transport and Communications for an amount between half a million New Taiwan Dollars and two and half million New Taiwan Dollars (NT$500,000 to NT$2.5 million). If no improvement is made after being noticed to do so, the fine shall be continued by the day and the license of the enterprise may be cancelled.

Article 18

Anyone who knows terrorists and makes an accusation and the accusation leads to the discovery of a terrorist act, the identity of the accuser shall be kept in secret and he or she shall be awarded with a cash reward for the accusation. The reward regulation shall be drawn up by the Ministry of the Interior for approval by the Executive Yuan.

Article 19

To prevent and control international terrorism, the government and its authorized organizations may, on the basis of reciprocity, sign with the government or organizations of a foreign nation or an international organization an anti-terrorism treaty or other international pact of anti-terrorism cooperation.

Article 20

This Act shall come into effect on the day of promulgation.

3 Regulations Regarding Article 7 of the Money Laundering Control Act

1. The terms "specified amount", "scope of cash transactions", "procedures to verify a customer's identification" and "method and time period of safe-keeping transaction records" as used in Article 7, paragraph 2 of the Money Laundering Control Act ("MLCA")shall be interpreted as follows:
   (1) A cash transaction above a certain amount shall mean a cash receipt, payment or bills exchange transaction above NT$1,000,000 (or the foreign currency equivalent thereof) (other transactions which are booked as cash for accounting purposes shall also be included).
   (2) Regarding the procedures for verifying a customer's identification and the method and time period of safe-keeping transaction records:
      i. The financial institution shall verify a customer's identification based on the identification document or passport provided by such customer and keep records of the name, birth date, address, telephone number, transaction account number, transaction amount, and identification document number. However, if the customer can be verified as the owner of the transaction account, such verification is not required;
      ii. If the transaction is processed by an agent, unless the exception in Item 1 applies, the name, birth date, telephone number and identification document number shall also be recorded based on the identification document or passport provided by the agent; and
      iii. The originals of the verified records and transaction certification shall be kept for five years. Each financial institution shall consider, for its own benefit and in accordance with the principle that the entire institution should adopt a consistent system, adopting a single method of recording customer verification data.

2. "Designated institution" and "scope and procedures for accepting the report" as used in Article 7, Paragraph 2, of the MLCA shall be interpreted as follows:
   (1)Designated institution shall mean the Investigation Bureau of the Ministry of Justice.
   (2)Except in the circumstances falling under Article 3, below, financial institutions shall submit reports in media format (see Attachment 1) for transactions above the specified amount to the Investigation Bureau of the Ministry of Justice within five (5) business days. With the approval of the Investigation Bureau of the Ministry of Justice for good cause shown, a hard copy form (see Attachment 2) may be substituted.

3. There is no need for financial institutions to verify a customer's identification, keep transaction records or report to the designated institution regarding the following cash transactions:
   (1)Where relevant regulations or contractual relationships so provide, receipts and payments to/from government agencies, government owned businesses, agencies acting with governmental power (within that power), public/private schools, public enterprises or foundations established by the government;
   (2)Transfers between financial institutions. However, these regulations shall be complied with when the transfer arises from cashing a check from another financial institution by a customer and the transaction amount equals or exceeds NT$1,000,000;
   (3)Lottery ticket purchases by lottery merchants;
   (4)Business bonds posted by securities or futures companies; and
   (5) Transfers received when acting as collection agent (excluding special subscription accounts) where the collection agent has provided the relevant parties' names,

identification document numbers (including numbers that can trace the identification of the relevant parties), transaction classification and amount in the relevant payment notice. A duplicate of the payment notice shall be kept as the transaction record.

If such a need is confirmed by the relevant financial institution, a list of non-individual accounts of department stores, supermarkets, gas stations, hospitals, transportation businesses and restaurants and hotels which have a need to make cash deposits over One Million NT Dollars (NT$1,000,000) in cash on a regular basis for business reasons may be forwarded to the Investigation Bureau of the Ministry of Justice for approval. If the Investigation Bureau of the Ministry of Justice does not object to such list within ten (10) days, the relevant listed accounts shall be exempted from case-by-case confirmation and reporting.

Financial institutions shall check the parties to the above-exempted transactions at least once a year. If any such party ceases its relationship with the financial institution, the financial institution shall report to the Investigation Bureau of the Ministry of Justice for record.

Financial institutions shall comply with Article 8 of the Money Laundering Control Act if there is a suspicious money-laundering transaction under paragraph 1 or paragraph 2.

4. The financial institutions to which these regulations shall apply are banks, investment and trust companies, cooperatives, the credit departments of farmers' associations, the credit departments of fishermen's associations, bills financing enterprises, credit card companies, postal institutions that handle deposits and remittances, trust companies, securities firms, securities investment trust enterprises, securities financing enterprises, securities investment consulting enterprises, securities central depository companies, futures firm, and insurance companies.

5. These [amended] regulations shall be effective as from the date of promulgation.

4 Regulations Regarding Article 8 of the Money Laundering Control Act

1. Article 8, Paragraph 1, of the Money Laundering Control Act provides that with respect to a suspicious money laundering transaction, the financial institution shall verify the customer's identification, keep the transaction records thereof and report same to the designated institution. The "designated institution" and "scope and procedures for handling the report" are as follows:
   (1) The designated institution shall mean the Investigation Bureau of the Ministry of Justice.
   (2) The scope of handling the report shall be:
      i. Cash deposits or withdrawals in the same account on the same business day of NT$1,000,000 or more (or equivalent in foreign currency), where such amount is not consistent with the customer's status or income or is unrelated to the nature of the customer's business;
      ii. Multiple cash deposits and withdrawals by the same customer at the same counter at the same time in a total amount which equals NT$1,000,000 or more (or equivalent in foreign currency), where such is not consistent with the customer's status or income or is unrelated to the nature of the customer's business;
      iii. Inward remittances from areas listed by FATF (so-called "non-cooperative countries") which are withdrawn or transferred within five business days after receipt where the amount is not consistent with the customer's status or income or is unrelated to the nature of the customer's business;
      iv. Transactions where the ultimate beneficiary or transaction party is a terrorist or terrorist group as listed by the MOF based on information provided by foreign governments;
      v. Multiple remittances, requests for issuing checks (cashier's checks, due-from-bank checks and drafts) or purchase of NCDs, traveler's checks, beneficiary certificates and other securities by the same customer at the same counter at the same time in a total amount which equals or exceeds NT$1,000,000 (or equivalent in foreign currency) without proper reason; and
      vi. Unusual transactions as determined by reference to the sample list set out in the internal Money Laundering Control Guidelines of the relevant financial institution.
   (3) The procedures for handling reports:
      i. Reporting procedure:
         (a) Upon discovery of an unusual transaction, an employee shall report immediately to the supervisor;
         (b) such supervisor shall decide as soon as possible whether such transaction constitutes a reportable matter;
         (c) if such transaction is determined to constitute a reportable matter, the employee shall immediately complete a report;
         (d) such report shall be submitted to the section chief and then transferred to the head office;
         (e) the section of the head office handling such matters shall report to the deputy general manager (or an employee of equivalent rank) in charge of the relevant matters for approval and then report same [to the designated institution]; and
         (f) the above-captioned procedure shall be completed within ten (10) business days after the suspicious money-laundering transaction occurs.
      ii. Where the need for action is obvious, significant and urgent, the above procedures can be done by fax or other means; provided that a written report shall be submitted to the Investigation Bureau of the Ministry of Justice immediately thereafter.

iii. The originals of the verified records and transaction certifications shall be kept for five years.

2. The financial institutions to which these regulations shall apply are banks, investment and trust companies, cooperatives, the credit departments of farmers' associations, the credit departments of fishermen's associations, bills financing enterprises, credit card companies, postal institutions that handle deposits and remittances, trust companies, securities firms, securities investment trust enterprises, securities financing enterprises, securities investment consulting enterprises, securities central depository companies, futures firm, and insurance companies.

5 Banking Act (selected provisions)

Article 29

Unless otherwise provided by law, any organization other than a Bank shall not Accept Deposits, manage Trust Funds or public property under mandate or handle domestic or foreign remittances.

Upon a violation of Paragraph 1 of this Article, remedial action shall be taken by the Competent Authority or the competent authority in charge of the particular enterprise, together with the juridical police authority, and the case shall be referred to the court for action. If the organization concerned is a juristic person, the responsible person shall be jointly and severally liable for repayment of the relevant obligations.

In performing the duties stipulated above, a suspected party's accounting books and documents may be searched and detained in accordance with the law, facilities including signs may be torn down and/or other necessary actions may be taken.

Article 45

The Central Competent Authority may, at any time, appoint a designee, entrust an appropriate institution or direct a local Competent Authority to appoint a designee to examine the business, financial affairs and other relevant affairs of a Bank or related parties, or direct a Bank or related parties to prepare and submit, within a prescribed period of time, balance sheets, property inventories or other relevant documents for examination.

The Central Competent Authority may, when necessary, appoint professionals to verify statements, materials or affairs which are subject to examination pursuant to the preceding Paragraph, and such professionals shall, in turn, present a report to the Central Competent Authority. Any fees arising therefrom shall be borne by the relevant Bank(s).

Article 48

A Bank may not accept requests from third parties to stop payment on Deposits, remittances or others, to detain collateral or articles in such Bank's custody, or other similar requests, unless such are made by judgment of a court or under relevant provisions of law.

A Bank shall keep confidential all information regarding Deposits, loans or remittances etc. of its customers unless otherwise required by law or by order of the Central Competent Authority.

Article 52

A Bank is a juristic person and, unless otherwise provided by law, shall only be in the form of a company limited by shares or have been established with special approval obtained prior to the amendment and enforcement of this Act.

The stock of a Bank shall be publicly issued unless otherwise approved by the Competent Authority.

The requirements for establishment of Banks or other financial institutions to be established in accordance with this Act or other laws shall be as prescribed by the Central Competent Authority.

Article 56

After a business license has been issued to a Bank, the Central Competent Authority may revoke the Bank's Permit if the particulars in the original application are discovered to have been materially untrue.

Article 61-1

If there is a possibility that a Bank has violated laws and regulations, its Articles of Incorporation or disturbed the sound operation [of the financial system], the Competent Authority may, depending on the situation, take any of the following actions in addition to ordering correction or improvement by the Bank within a specified period of time:

1. Revoke resolutions of statutory meetings;
2. Suspend part of the Bank’s business;
3. Order the Bank to discharge managers or staff members;
4. Discharge directors and supervisors or suspend them from performance of their duties for a specified period of time; and/or
5. Other necessary measures.

In the event that a Bank's directors or supervisors are discharged in accordance with Subparagraph 4 of the preceding Paragraph, the Competent Authority shall notify the Ministry of Economic Affairs to cancel the registration of such directors or supervisors.

If business assistance is needed in order to improve a Bank’s operation defects, the Competent Authority may designate institutions to provide such assistance.

Article 125

Those who violate Article 29, Paragraph 1, of this Act shall be punished by imprisonment for not less than three (3) years and not more than ten (10) years, and may be fined a criminal fine of not less than Ten Million New Taiwan Dollars (NT$10,000,000) and not more than Two Hundred Million New Taiwan Dollars (NT$200,000,000). Those who thereby obtain criminal income of One Hundred Million New Taiwan Dollars (NT$100,000,000) or more shall be punished by imprisonment for more than seven (7) years, and may also be fined a criminal fine of not less than Twenty Five Million New Taiwan Dollars (NT$25,000,000) and not more than Five Hundred Million New Taiwan Dollars (NT$500,000,000).

A financial information service business which operates inter-bank funds transfer and account clearing without obtaining the approval of the Competent Authority shall be punished in accordance with the preceding Paragraph.

Should a juristic person commit the offenses prescribed in the preceding two paragraphs, its responsible person shall be punished.

Article 129-1

The responsible person(s) or staff member(s) of a Bank or other concerned persons committing any of the following acts when the Competent Authority dispatches officials or mandates appropriate institutions or orders local Competent Authorities to dispatch officials or designates professional and technical persons to check the business, financial condition and other related matters, or orders the Bank or other concerned persons to submit financial reports, property inventories or other related documents and reports in accordance with Article 45 of this Act shall be punished by an administrative fine of not less than Two Million New Taiwan Dollars (NT$2,000,000) and not more than Ten Million Dollars (NT$10,000,000):

1. Refusing to be investigated or refusing to open the vault or other storage facilities;
2. Concealing or damaging books and documents related to business or financial conditions;
3. Refusing to reply or misrepresenting responses to inquiries of the investigator without justifiable reasons.
4. Failure to timely, honestly or completely provide financial reports, property inventories or other related data or reports, or to pay investigation fees within the specified period(s) of time.

The responsible person(s) or staff member(s) or other concerned person(s) of a money market business or a Foreign Bank committing the acts listed in the preceding Paragraph when the Competent Authority dispatches officials or mandates appropriate institutions or orders local Competent Authorities to dispatch officials or designates professional and technical persons to check the business, financial condition and other related matters, or orders the Bank or other concerned person(s) to provide financial reports, property inventories or other related documents and reports in accordance with Article 47-2 or Article 123 applying Article 45 of this Act shall be punished pursuant to the preceding Paragraph.

6 Regulations Governing Bank Handling of Accounts with Suspicious or Unusual Transactions (selected provision)

Article 13

When processing a Deposit Account opening application, a bank shall require dual identification documents, one of which shall be an identification card or incorporation certificate, and the other of which shall be an identification document capable of identifying the applicant.

A bank shall verify the identity of a customer before processing his/her Deposit Account opening application. A bank shall reject a customer's account opening application, if any of the following exists:

(1) The customer is suspected of using a fake name, a nominee, a shell entity, or a shell corporation to open a Deposit Account;

(2) The customer uses forged or fraudulent identification documents or only provides photocopies of the identification documents;

(3) Documents provided by the customer are suspicious or unclear, or the customer refuses to provide other documents, or the documents provided cannot be authenticated;

(4) The customer procrastinates in providing identification documents in an unusual manner;

(5) Another Deposit Account opened by the same customer has been reported as a Watch-listed Account; or

(6) Other unusual circumstances exist and the customer fails to provide a reasonable explanation.

7 Political Contributions Act (selected provision)

Article 10

Political parties, political organizations, and persons planning to run for public office are not allowed to accept political contributions until they have opened a dedicated account at a financial institution or post office and reported the account to the appropriate reporting agency. Information to be reported includes the name and address of the financial institution or post office, and the account name.

The monetary political contributions shall be deposited into the preceding designated account within 15 days upon receipt.

Such a party may only open one such designated account, and may not change registered account information or cancel the account without the consent of the reporting agency.

8 Trust Enterprise Act (selected provisions)

Article 22

A trust enterprise shall handle its trust activities with the care of a good administrator and in good faith.

A trust enterprise shall periodically publicly announce the assets entrusted by political parties and other political organizations and the acquisition and distribution of gains therefrom.

Regulations governing such announcements shall be as prescribed by the Competent Authority.

9 Business Accounting Act (selected provision)

Article 9

An expenditure of a business entity exceeding a prescribed amount shall take the form of draft, promissory notes or checks, or be made through postal transfers or in any other instrument or means of payment approved by the central authority, with the name of the

payee specified.

The amount referred to in the preceding paragraph shall be prescribed by the central authority.

Article 38

All the accounting documents, except those which should be permanently kept or which are related to unsettled accounting events, shall be kept for at least five years after the completion of annual closing procedures.

All the accounting books and financial statements shall be kept for at least ten years after the completion of annual closing procedures except for the unsettled accounting events.

10 Organic Act Governing the Establishment of the Financial Supervisory Commission, Executive Yuan (selected provision)

Article 5

In carrying out the financial examination, the FSC and its subordinate agencies may, as necessary: (1) require a financial institution, a related party thereof, or a public company to produce relevant account books, documents, electronic files, and other materials; or (2) notify an examinee to appear at a designated office to answer questions.

An examinee who believes that the examination personnel has carried out their examination in an inappropriate manner may request that the matter be dealt with by the FSC or a subordinate agency thereof.

When an examinee submits materials, the examiner shall issue a receipt. Unless the materials are related to a suspected financial crime, the examiner shall return the materials to the examinee within ten working days of the date on which the materials are submitted in full.

In a case involving suspected financial crime, the FSC and any subordinate agency thereof may present the facts of the case to a prosecutor in seeking permission from the latter to file a motion in the court of jurisdiction for issuance of a search warrant. Once the search warrant has been issued, the FSC or its subordinate agency may, accompanied by judicial police authorities, enter and search the suspected hiding place of the relevant account books, documents, electronic files, and other such materials or evidence. No one other than the parties mentioned above may take part in the search. The personnel who conduct a search shall transport all relevant materials and evidence obtained during the search to the FSC or a subordinate agency thereof, where it shall be handled in accordance with the law.

Examiners dispatched by the FSC or a subordinate agency thereof to investigate financial crime shall, when carrying out their official duties, display proof of identity and documentation to prove that they are acting in an official capacity. If an examiner fails to display the required items, the examinee and related parties may refuse to allow the examination.

The scope of the term "related party" as used in paragraph 1 includes the following:

1. Responsible persons and employees of financial institutions; and
2. Affiliated enterprises (as defined in the Company Act under Articles 369-1, 369-2, 369-3, 369-9, and 369-11) of financial institutions.

Where an examinee obstructs, avoids, or refuses to allow an examination of the type set forth under paragraph 1, refuses to furnish relevant account books, documents, electronic files, or other such materials, or refuses without legitimate reason to appear for questioning, the FSC or a subordinate agency is empowered, unless another law provides to the contrary, to impose an administrative fine of not less than fifty thousand and not more than two-hundred fifty thousand New Taiwan Dollars, and may impose consecutive penalties until the examinee cooperates with the examination, appears for questioning, or furnishes the relevant account books, documents, electronic files, or other such materials.

11 Directions for Confirming Customer Identity in Domestic Remittance Operations of Financial Institutions (selected provision)

4. When a financial institution handles over-the-counter domestic remittances, it shall retain the remitter's full name, national identity card number (or uniform invoice number), and phone number (or address). If the remitter is a juristic person, sole proprietorship, organization, or partnership enterprise, it shall take down the name, government unified invoice number, and phone number (or address) thereof. If the remittance is handled by an agent, it shall note the agent's name and national identity card number (or uniform invoice number) on the remittance application form.
5. A financial institution shall require the remitter to present documentary proof of identity, and check that the remitter's identity is consistent with the information on the remittance application form, provided that these requirements shall not apply under the circumstances listed below:

(1) If the remitter is the principal, and is also a customer known to that financial institution, and has an identity data record on file at that financial institution, the remitter may be exempted from presenting documentary proof of identity. The financial institution can check the information filled out on the remittance application form based on the identity record on file.

(2) If a remittance is handled by an agent, it is necessary only to check the identity of the agent. If the agent is a customer known to the financial institution, and has an identity data record on file at that financial institution, the agent may be exempted from presenting documentary proof of identity. The financial institution can check the information filled out on the remittance application form based on the identity record on file.

12 Securities and Exchange Act (selected provision)

Article 178

Any person who commits any of the following offenses shall be punished with an administrative fine of not less than NT$240,000 and not more than NT$2.4 million:

1. Violation of the provisions of paragraph 1 or paragraph 2 of Article 22-2, Article 26-1, Article 141, Article 144, paragraph 2 of Article 145, Article 147, or Article 152.
2. Violation of the provisions of paragraph 3 of Article 14, paragraph 1 or paragraph 3 of Article 14-1, paragraph 1 or paragraph 5 of Article 14-2, Article 14-3, paragraph 1 or paragraph 2 of Article 14-4, paragraph 1 or paragraph 2 of Article 14-5, paragraph 1 or paragraph 2 or paragraph 4 of Article 25, paragraph 1 or paragraph 7 of Article 26-3, paragraph 4 of Article 36, Article 41, paragraph 1 of Article 43-1, paragraphs 5 through 7 of Article 43-6, Article 58, paragraph 1 of Article 69 Article 79, or Article 159.
3. An issuer or public tender offeror or a related person thereof, a securities firm or a principal thereof, a securities dealers association, a stock exchange, or any other enterprise referred to in paragraph 1 of Article 18 fails to submit account books, forms/statements, documents, or other reference or report materials within the time period specified in this Act or in an order issued by the Competent Authority pursuant to this Act, or any of the above parties refuses, impedes, or evades an examination carried out by the Competent Authority.
4. If any issuer, public tender offeror, securities firm, securities dealers association, stock exchange, or any other enterprise referred to in Article 18, paragraph 1 fails to comply with relevant rules in the preparation, submission, public announcement, maintenance, or storage of the account books, forms/statements, vouchers, financial reports or other relevant business documents as required by this Act, or as required by orders issued by the Competent Authority pursuant to this Act.
5. Violation of rules prescribed by the Competent Authority in accordance with Article 25-1 in regard to the qualifications of proxy solicitors, proxy agents, or those handling proxy

solicitation matters, the methods of solicitation or acquisition of proxy forms, or refusal to comply with a request for provision of information by the Competent Authority.

6. Violation of the shareholding percentage requirements of directors and supervisors of publicly issued companies prescribed by the Competent Authority in accordance with paragraph 2 of Article 26, and provisions regarding shareholding percentages, notifications, and auditing in the enforcement rules for auditing the shareholdings thereto.
7. Violation of the provisions of Article 26-3, paragraph 8 by failing to formulate rules for the conduct of directors meetings, or violating the regulations prescribed by the Competent Authority pursuant to the same article and paragraph governing the content of deliberations, procedures, matters to be recorded in the meeting minutes, and public announcement, or violation of the rules issued by the Competent Authority pursuant to Article 36-1 regarding the scope, working procedures, required public announcements, and required filings for financial or operational actions of material significance, such as acquisition or disposal of assets, derivatives trading, extension of monetary loans to others, endorsements or guarantees for others, and disclosure of financial forecast information.
8. Violation of the provisions of paragraph 2 or paragraph 4 through 7 of Article 28-2, or the matters prescribed by the Competent Authority in accordance with paragraph 3 of Article 28-2 regarding procedures, prices, volumes, methods, methods of transfer, and matters that must be filed and publicly announced in relation to repurchase of shares.
9. Violation of the provisions of paragraph 1 of Article 43-2, paragraph 1 of Article 43-3, paragraph 1 of Article 43-5, or regulations prescribed by the Competent Authority in accordance with paragraph 4 of Article 43-1 regarding the scope, conditions, period, affiliates, and particulars for filing and public announcement in connection with purchases of securities.

Where any person who has committed any of the offenses referred to in subparagraphs 2 through 7 of the preceding paragraph, the Competent Authority shall, in addition to imposing an administrative fine, order the person to comply within a prescribed time period; where the person fails to comply within the specified period, the Competent Authority may order a new period for compliance and impose additional administrative fines of not less than NT$480,000 and not more than NT$4.8 million for each successive failure to comply until corrective action has been taken.

A reward shall be offered for the report of a violation of Article 25-1 that leads to successful discovery of a violation; regulations governing such reward shall be prescribed by the Competent Authority.

13 Futures Trading Act (selected provision)

Article 28

No person who falls within any of the following categories shall serve as a promoter, director, supervisor, or manager of a membership futures exchange; those already serving in any of these capacities shall be discharged:

1. any person specified in any Item of Article 30 of the Company Act;
2. any person who served as the director, supervisor, manager, or other equivalent position of a juridical person at the time it was adjudicated bankrupt; and that three years have not elapsed since the finalization of the bankruptcy, or the reconciliation has not been fulfilled;
3. any person whose checking account in a financial institution has been dishonored in the preceding three years; or
4. any person who has been discharged from his position under Paragraph 1 of Article 101 of this Act, or Article 56 or Item 2 of Article 66 of the Securities and Exchange Act within the past five years;

5. any person who has been sentenced under this Act, the Foreign Futures Trading Act, the Company Act, the Securities and Exchange Act, the Banking Act, the Statute for the Regulation of Foreign Exchange, the Insurance Act, or the Credit Union Act to a punishment of not less severe than a criminal fine; and five years have not elapsed since the completion of sentence execution, the expiration of the suspension of sentence, or the pardon of the crime;
6. any person who has been removed from his or her position pursuant to Item 2, Paragraph 1 of Article 100 of this Act within the past five years; or
7. any person who has been proved that, on behalf of others, he/she illegally acted as a promoter, supervisor or manager of a membership futures exchange.

Where the promoter, director, or supervisor of the membership futures exchange is a juridical person, the preceding Paragraph shall apply mutatis mutandis to the representatives of the said juridical person or the individuals designated to execute business for the juridical person.

Article 44

The provisions of Article 28, Article 30, and Article 32 of this Act shall apply mutatis mutandis to a futures exchange organized as a company.

Article 55

The provision provided in Chapter II regarding the futures exchange shall apply mutatis mutandis to futures clearing house unless otherwise provided for by this Chapter or with regards to the latter part of Article 34 of this Act.

14 Securities Investment Trust and Consulting Act (selected provision)

Article 68

A person under any of the following circumstances may not serve as a promoter, responsible person, or associated person of a securities investment trust enterprise or securities investment consulting enterprise; where such a person is already serving as a responsible person or associated person, he or she shall be dismissed, and may not serve as a director, supervisor, or manager, and the Competent Authority shall request the competent authority for corporate registration by letter to void or revoke the registration of such person:

1. has previously been convicted by a final and unappealable judgment of a crime under the Organized Crime Prevention Act, and has not completed serving the sentence, or five years have not elapsed since completion of the sentence, expiration of the suspended sentence, or pardon.
2. has previously been sentenced by a final and unappealable judgment to imprisonment for one year or more for fraud, breach of trust, or misappropriation, and has not completed serving the sentence, or two years have not elapsed since completion of the term of sentence, expiration of the suspended sentence, or pardon.
3. has previously been sentenced by a final and unappealable judgment to a sentence of imprisonment or greater severity for misappropriation related to public function or occupation and has not completed serving the sentence, or two years have not elapsed since completion of the sentence, expiration of the suspended sentence, or pardon.
4. has previously been convicted by a final and unappealable judgment of a crime under the Securities and Exchange Act or this Act, and has not completed serving the sentence, or three years have not elapsed since completion of the sentence, expiration of the suspended sentence, or pardon.
5. has previously been sentenced by a final and unappealable judgment to a sentence of imprisonment or greater severity for engaging in business of accepting deposits, managing trust funds or public properties, or handling domestic or foreign remittances in violation of Article 29, paragraph 1, of the Banking Act and has not completed serving the sentence, or

three years have not elapsed since completion of the term of sentence, expiration of the suspended sentence, or pardon.

6. has previously been sentenced by a final and unappealable judgment to a sentence of imprisonment or greater severity for engaging in trust business in violation of Article 33 of the Trust Enterprise Act and has not completed serving the sentence, or three years have not elapsed since completion of the sentence, expiration of the suspended sentence, or pardon.
7. has been adjudicated bankrupt and his or her rights have not been reinstated, or previously served as a director, supervisor, manager, or in another equivalent position of a juristic person when such juristic person was adjudicated bankrupt, and three years have not elapsed since the bankruptcy was concluded, or the reconciliation has not been fulfilled.
8. has been refused transaction because of dishonor of a negotiable instrument and transactions have not been reinstated.
9. has no legal disposing capacity or limited disposing capacity.
10. has been subject to a disposition under Article 56, or subparagraph 2 of Article 66 of the Securities and Exchange Act, or to a disposition of dismissal from duties under subparagraph 2 of Article 103, or Article 104, of this Act, and three years have not elapsed since such disposition.
11. has previously served as a director or supervisor of a securities firm, securities investment trust enterprise, or securities investment consulting enterprise, and during the term of such position, such enterprise was subject to a disposition under subparagraph 3 of Article 66 of the Securities and Exchange Act, or to a disposition of suspension of business or revocation of its permission for operation under subparagraph 4 or 5 of Article 103 of this Act, and one year has not elapsed since such disposition.
12. has been subject to removal or dismissal from duties under Article 100, paragraph 1, subparagraph 2, or Article 101, paragraph 1 of the Futures Trading Act, and five years have not elapsed since such disposition.
13. it has been discovered that the promoter has allowed the use of his or her own name by others for the purpose of acting as a promoter, director, supervisor, manager or associated person of a securities investment trust enterprise or securities investment consulting enterprise.
14. there is factual evidence that the promoter has engaged in or been involved in other dishonest or improper activities, showing the promoter to be unsuitable for engaging in securities investment trust and securities investment consulting business.

Where a promoter, director, or supervisor is a juristic person, the provisions of the preceding paragraph shall apply mutatis mutandis with respect to the exercise of duties by its representative or designated representative.

15 Certified Public Accountant Act (selected provisions)

Article 1

Any citizen of Chinese Taipei who passes the CPA examination, possesses the qualification of a certified public accountant (CPA) and has acquired a CPA certificate may practice as a CPA.

Any person who has acquired a CPA certificate in accordance with any law prior to the enforcement of this Law may also practice as a CPA.

Article 9

A CPA shall file an application for registration with the authority in a province (municipality) before commencing his practice.

A CPA shall have worked in the accounting field with a public or a private institution or as an assistant with a CPA firm, for at least two years, to qualify for filing his application for registration.

The provisions in the preceding paragraph shall not apply to any person whose CPA certificate was acquired through a simplified examination.
The implementation rules for CPA's registration shall be prescribed by the competent Authority in the Central Government.

Article 15
A CPA may perform the following types of professional services within the area in which he is registered:

1. To perform, upon assignment by government agencies or judicial authorities or engagement by a client, services with regard to planning, management, auditing, verification, arrangement, liquidation, appraisal, financial statement analysis, and evaluation of assets as may be required in connection with accounting.
2. To perform services with regards to examination and certification of financial reports.
3. To serve as an inspector, liquidator, bankruptcy administrator, or executor of a will, or in any other fiduciary capacity.
4. To serve as an agent in cases involving taxation.
5. To serve as an agent in cases in connection with registration of business firms or trademarks, and in other cases relevant to such registration.
6. To perform services regarding other accounting matters.

Article 17
A CPA shall not have any improper conduct, nor violate or neglect his professional duties in the performance of any assigned or requested service.

Article 18
A CPA shall be liable to compensate his appointing party, client or any interested party for losses caused by him in violation of the provisions of the preceding Article.

Article 39
A CPA who is in any one of the following situations shall be subject to disciplinary sanction:

1. If he has been sentenced to punishment for criminal offence committed.
2. If he has evaded tax payments or assisted or incited other person(s) to evade tax payment for which disciplinary actions have been taken and recorded by the tax authority.
3. If he has issued a false certification of the financial statements of a company which publicly issues stocks or corporate bonds.
4. If he has seriously violated other regulations concerned and has received administrative sanction that the reputation of the CPA profession has been impaired.
5. If he has seriously violated the constitution of the CPA association of which he is a member.
6. If he has violated any provision of this law.

Article 41
In case a CPA comes under any one of the situations mentioned in Article 39 of this Law, any interested person, the authority in charge of the cases in connection with the professional services, or the CPA association concerned may report the fact with evidences to the authority in charge of CPAs having jurisdiction over the practice area, and the authority shall refer such fact to the central competent authority for instituting disciplinary action against the CPA named.
The authority in charge of the cases in connection with the professional services and the authority in charge of CPAs as referred to in the preceding paragraph may report such fact directly to the Ministry of Finance for instituting disciplinary action.

16 Standards Governing the Establishment of Futures Commission Merchants (selected provision)

Article 4

A person to whom any of the following applies shall not serve as a promoter, director, supervisor, manager, or associated person of a futures commission merchant. If such a person is already serving in such a capacity, he/she shall be discharged from that position:

1. any person specified in any subparagraph of Article 30 of the Company Act;
2. any person who served as the director, supervisor, manager, or other equivalent position of a juristic person at the time it was adjudicated bankrupt, where three years have not yet elapsed since the finalization of the bankruptcy proceedings, or where reconciliation has not been satisfied;
3. any person whose checking account at a financial institution has been dishonored within the preceding three years;
4. any person who has been discharged from a position under Article 101, paragraph 1 of the Act, or Article 56, or Article 66, subparagraph 2 of the Securities and Exchange Act within the past five years;
5. any person who has been sentenced under the Act, the Foreign Futures Trading Act, the Company Act, the Securities and Exchange Act, the Banking Act, the Central Bank of China Act, the Act for the Regulation of Foreign Exchange, the Insurance Act, the Credit Union Act, the Trust Enterprise Act, or the Financial Holding Company Act to a punishment not less severe than a criminal fine; and five years have not yet elapsed since the sentence was served, the probation expired, or the offense was pardoned;
6. any person who has been removed from a position pursuant to Article 100, paragraph 1, subparagraph 2 of the Act within the past five years;
7. any person who has been proved to have acted as the promoter, director, supervisor, manager, or associated person of a futures commission merchant on behalf of another; or
8. any person who has, as proven by facts, engaged in or been involved in other bad-faith or inappropriate activities, such that he/she is demonstrably unfit to work in the futures industry;

Where the promoter, director, or supervisor is a juristic person, the provisions of the preceding paragraph shall apply mutatis mutandis to the representatives or the designated individuals executing businesses for the juristic person.

Paragraph 1 of this Article shall apply mutatis mutandis to the responsible person of the enterprises or the foreign futures commission merchants referred to in the proviso of Article 2.

17 Standards Governing the Establishment of Managed Futures Enterprises (selected provision)

Article 6

Under any of the following circumstances, a person may not act as a promoter, director, supervisor, manager, or associated person of a managed futures enterprise, or if already acting in such capacity, shall be dismissed:

1. Any of the circumstances in the subparagraphs of Article 30 of the Company Act.
2. The person was the director, supervisor, managerial officer or other equivalent position of a foundation at the time of bankruptcy adjudication, where less than three years have elapsed since the finalization of the bankruptcy proceedings or where reconciliation has not been completed.
3. The person has a record of having a check refused at a financial institution within the past three years.
4. The person has been discharged from his position under Article 101, paragraph 1 of the Act, or Article 56, or Article 66, subparagraph 2 of the Securities and Exchange Act within the past five years.
5. The person has been sentenced under the Act, the Foreign Futures Trading Act, the Company Act, the Securities and Exchange Act, the Banking Act, the Central Bank of China

Act, the Statute for Regulation of Foreign Exchange, the Insurance Act, the Credit Union Act, the Trust Enterprise Act, or the Financial Holding Company Act to a punishment not less severe than a fine, and where less than five years has elapsed since full execution of the sentence, the expiration of probation, or the pardon of such punishment.

6. The person has been removed from his/her position pursuant to Article 100, paragraph 1, subparagraph 2 of the Act within the past five years.
7. The person is proven to have been improperly used by others to fill a post of promoter, director, supervisor, manager, or associated person of a managed futures enterprise.
8. There is factual proof of the person's having been engaged or involved in other bad faith or improper activities, demonstrating his or her unsuitability to work in the futures industry.

Where a promoter, director, or supervisor is a juristic person, the provisions of the preceding paragraph shall apply mutatis mutandis to the juristic person's representatives or the persons designated by the juristic person to carry out business on its behalf.

18 Regulations Governing Futures Advisory Enterprises (selected provision)

Article 19

Where any of the following circumstances apply, a person may not serve as the responsible person or an associated person of a futures advisory enterprise; any such person already serving in such capacity shall ipso facto be dismissed:

1. Any of the circumstances in the subparagraphs of Article 30 of the Company Act.
2. Where such person served as the director, supervisor, managerial officer or other equivalent position of a juristic person at the time it was adjudicated bankrupt, and less than three years have elapsed since the finalization of the bankruptcy proceedings or where reconciliation has not been fulfilled.
3. Where such person has a record of having a negotiable instrument dishonored at a financial institution within the past three years.
4. Where such person has been discharged from his position under Article 101, paragraph 1 of the Act, or Article 56, or Article 66, subparagraph 2, of the Securities and Exchange Act within the past five years.
5. Where such person has been sentenced under the Act, the Foreign Futures Trading Act, the Company Act, the Securities and Exchange Act, the Banking Act, the Central Bank of China Act, the Regulations for Management of Foreign Exchange, the Insurance Act, the Credit Union Act, the Trust Enterprise Act, or the Financial Holding Company Act to a punishment not less severe than a fine, and where less than five years has elapsed since execution of the sentence, the expiration of probation, or the pardon of such punishment.
6. Where such person has been discharged from his/her position under Subparagraph 2 of Paragraph 1 of Article 100 of the Act within the past five years.
7. Where such person is proven to have improperly been used by others to fill a post of responsible person or associated person of a futures commission merchant.
8. Where such person is proven by facts to have engaged in or been involved in other bad faith or improper activities, demonstrating his or her unsuitability to work in the futures industry.

Where the responsible person is a juristic person, the provisions of the preceding paragraph shall apply mutatis mutandis to the juristic person's representative or designated representative in the performance of their duties.

The responsible person of a futures advisory enterprise may not concurrently serve as the responsible person of any other futures advisory enterprise or managed futures enterprise.

19 Regulations Governing the Establishment of Internal Control Systems by Service Enterprises in Securities and Futures Markets (selected

provisions)

Article 6

The internal control system of a service enterprise shall explicitly provide for the establishment of managers, titles, entrustment, discharge of duties and scope of competence.

A service enterprise shall consider the overall operational activities of its head office and subsidiaries to establish effective internal control systems, and review the systems from time to time, to adapt to changes in its internal and external environment and to ensure sustained design and operating effectiveness of the systems.

The subsidiaries referred to in the preceding paragraph are those as determined under the Statement of Financial Accounting Standards Nos. 5 and 7 issued by the Accounting Research and Development Foundation (ARDF) of the Republic of China.

Article 7

A service enterprise's internal control systems shall comprise the following constituent elements:

1. Control environment. The control environment is a composite factor shaping organizational culture and affecting employees' awareness of control. Factors affecting control environment include employees' integrity, values, and ability; the management philosophy and operating style of the board of directors and managers; the hiring, training, and organizing of employees and the assignment of powers and duties; and attention and guidance of the board of directors and the supervisors. The control environment is the basis for the other constituent elements.
2. Risk assessment. Risk assessment refers to the processes by which the service enterprise identifies internal and external factors that keep it from achieving its objectives and evaluates their impact and probability. Assessment results can assist the enterprise in designing, correcting, and operating necessary control activities in a timely manner.
3. Control activities. Control activities refers to establishing a complete and sound control framework and adopting control procedures for all levels to help the board of directors and managers ensure that their instructions have been carried out. Control activities include policies and procedures such as approval, authorization, inspection, regulation, review, periodic stocktaking, record reviews, division of functions and powers, safeguarding of physical security of assets, comparison with plans, budgets, or performance in previous periods, and supervision of subsidiaries.
4. Information and communications. Information is the subject matter identified, measured, processed, and reported by information systems. It includes information, financial and non-financial, pertaining to the objectives of operational or financial reporting and compliance with applicable acts and regulations. Communications is the disclosure of information to relevant personnel, including internal and external communications of the company. Internal control systems must have mechanisms for generating information necessary for planning and monitoring and providing timely information to those who need it.
5. Monitoring. Monitoring is the process of self-inspecting the quality of internal control systems. It includes assessing the soundness of the control environment; whether risk assessment is timely and accurate; whether control activities are appropriate and accurate; and whether information and communication systems are functioning properly. Monitoring may be divided into continuous monitoring and individual assessments. The former refers to routine supervision in the course of business, while the latter is the evaluation conducted by different personnel such as internal auditors, supervisors, or the board of directors.

A service enterprise designing and operating or carrying out self-inspection, or a certified public accountant (CPA) retained to conduct a special audit, of the company's internal control systems, shall fully consider the constituent elements enumerated in the preceding paragraph, and, in

addition to the criteria prescribed by the SFC, shall add additional items as dictated by actual needs.

20 Regulations Governing Offshore Funds (selected provisions)

Article 6

The master agent, the sub-distributor, and the centralized securities depository enterprise shall maintain complete and accurate transaction records and documents regarding the purchase, redemption, or conversion of offshore funds in any transaction of a specific amount or higher, or suspected of money laundering, and shall comply with the provisions of the Money Laundering Control Act.

Article 42

When offering and distributing offshore funds, the master agent and sub-distributor(s) shall gain full knowledge of and evaluate the investment knowledge, investment experience, financial condition, and investment risk tolerance level of their investors.

For an investor making a first-time purchase, the master agent and sub-distributor(s) shall require the investor to product an identification document or a document evidencing profit-seeking enterprise business registration from the investor and to fill out basic information.

The master agent and sub-distributor(s) shall put in place internal control systems including effective procedures for fully knowing investors, sales conduct, and procedural principles to be complied with under laws and regulations, and submit the systems to the SITCA for review through the master agent.

21 Insurance Act (selected provisions)

Article 137

An insurance enterprise shall not commence operations unless it has applied for approval from the competent authority, completed business registration, posted bond, and secured a business license in accordance with the law.

The criteria for establishing an insurance enterprise shall be determined by the competent authority.

A foreign insurance enterprise shall not commence operations unless it has received approval from the competent authority, completed business registration, posted bond, and secured a business license in accordance with the law.

Unless otherwise specified by law or regulation, the provisions of this Act regarding insurance enterprises shall apply to foreign insurance enterprises.

The approval criteria and governing regulations for foreign insurance enterprises shall be prescribed by the competent authority.

Article 148

The competent authority may, at any time, dispatch officers to inspect the business and financial conditions of an insurance enterprise, or order an insurance enterprise to report, within a prescribed limit of time, the condition of its business.

The competent authority may engage an appropriate agency or professional expert to conduct the inspection referred to in the preceding paragraph. Expenses thus incurred shall be borne by the insurance enterprise that is inspected.

In performing the tasks referred to in the preceding two paragraphs, inspectors may take any of the following actions, which the responsible person and relevant persons of the insurance enterprise shall not evade, obstruct, or refuse:

1. Ordering the insurance enterprise to provide the types of documents and forms described in Article 148-1, paragraph 1, and to present evidencing documents, vouchers, books, lists, and related materials.

2. Making inquiries of the persons in charge of (and other personnel involved in) relevant business operations of the insurance enterprise.
3. Assessing the assets and liabilities of the insurance enterprise.

In performing the tasks in paragraphs 1 and 2, inspectors may, after receiving approval from the competent authority, take any of the following actions as necessary in order to investigate the facts and evidence of a case:

1. Requesting that enterprises affiliated with the insurance enterprise being inspected provide financial statements, allow inspection of their related books or documents, or permit questioning of their relevant employees.
2. Inspecting the records of other financial institutions of transactions of the insurance enterprise, its affiliates, and others whose names are suspected to have been used by it for transactions.

The scope of "affiliates" in the preceding paragraph shall be governed by Articles 369-1 to 369-3, Article 369-9, and Article 369-11 of the Company Act.

Article 149

If an insurance enterprise violates laws or regulations or is suspected of improper management, the competent authority may first issue an official reprimand or order it to take corrective action within a specified period of time, and may, depending on the circumstances, take the following disciplinary actions:

1. Restricting the scope of its business or the amount of its new contracts;
2. Ordering the insurance enterprise to increase its capital.

If an insurance enterprise does not comply with the disciplinary actions of the preceding paragraph or does not increase its capital to make up a deficiency in accordance with Article 143 of this Act, the competent authority shall take the following disciplinary actions as circumstances merit:

1. Voiding resolutions adopted in statutory meetings;
2. Ordering removal of its managers or employees from their positions;
3. Dismissing its directors or supervisor(s), or suspending them from their duties for a certain period of time;
4. Other necessary actions.

If the business or financial conditions of an insurance enterprise deteriorate so significantly that the insurance enterprise is unable to pay its debts or perform contractual obligations, or the rights and interests of the insured are adversely affected, the competent authority may, depending on the severity of the circumstances, take the following disciplinary actions:

1. Dispatching a conservator.
2. Dispatching a receiver.
3. Ordering suspension of business and dispatching a rehabilitator.
4. Ordering dissolution of the insurance enterprise.

If, pursuant to the provisions of the preceding paragraph, an insurance enterprise becomes subject to conservatorship, receivership, suspension of business and rehabilitation, or dissolution, the competent authority may commission a related agency or professional expert to serve as a conservator, receiver, rehabilitator, or liquidator. Where there are matters of compensation involving a stabilization fund, the cooperation of the stabilization fund shall be requested.

If directors or supervisors are dismissed pursuant to the provisions of paragraph 2, subparagraph 3, the competent authority shall notify the Ministry of Economic Affairs and/or the Ministry of the Interior to void the registration of the directors and supervisors.

If an insurance enterprise has been ordered by the competent authority to accept a conservator pursuant to the provisions of paragraph 3, subparagraph 1, the insurance enterprise shall not perform any of the following acts unless agreed to by the conservator:

1. Making payments or disposing of property in excess of the limit prescribed by the competent authority;
2. Entering into any contract or undertaking material obligations;
3. Any other matter that would significantly affect its finances.

The relevant provisions of Article 148 shall apply mutatis mutandis to the conservator's performance of his/her duties as conservator.

Article 168-1

Where the competent authority, pursuant to Article 148, dispatches an officer or commissions an appropriate institution or expert to inspect the business and financial conditions of an insurance enterprise, or orders an insurance enterprise to report the status of its business within a specific time limit, a responsible person or an employee of the insurance enterprise who commits any of the following acts shall be assessed an administrative fine of not less than New Taiwan Dollars one million and eight hundred thousand but not more than New Taiwan Dollars nine million:

1. Refusing to allow inspection or to open the safe or other storage areas;
2. Concealing or destroying account books or documents related to the enterprise's business or financial conditions;
3. Refusing to respond to, or making false representation in response to, an investigator's queries without cause;
4. Missing the deadline for submission of financial reports, a list of assets, or other related information and reports, or in submitting such items, making false or incomplete representations, or missing the deadline for payment of inspection fees.

Where the competent authority dispatches an officer to conduct inspection pursuant to Article 148 paragraph 4, an affiliate of the insurance enterprise, or any other financial institution related thereto, that fails to submit the financial statements, account books, documents, or relevant transaction records shall be assessed an administrative fine of not less than New Taiwan Dollars one million eight hundred thousand but not more than New Taiwan Dollars nine million.

22 Regulations Governing Implementation by Insurance Enterprises of Internal Control and Audit Systems (selected provision)

Article 27

An internal auditor or legal compliance officer at an insurance enterprise who suggests corrective action to address a material internal control deficiency or a violation of statute or regulation shall immediately prepare a report if the suggestion is not accepted by the management, and shall inform the supervisor(s) and notify the competent authority.

23 Provisional Organic Regulations of the Financial Examination Bureau of the Financial Supervisory Commission, Executive Yuan (selected provision)

Article 2

The Financial Examination Bureau (hereafter referred to as “the FEB”) of the Financial Supervisory Commission, Executive Yuan (hereafter referred to as “the FSC”) is responsible for the following matters:

1. Research and enactment of financial examination systems in financial holding companies, banking enterprises, securities enterprises, futures enterprises and insurance enterprises.
2. Examinations of financial holding companies, banking enterprises, securities enterprises, futures enterprises and insurance enterprises.

3. Examinations of overseas subsidiaries of domestic banking enterprises, securities enterprises, futures enterprises and insurance enterprises.
4. Review of financial statements and business reports submitted by financial holding companies, banking enterprises, securities enterprises, futures enterprises and insurance enterprises.
5. Review of internal audit reports of financial holding companies, banking enterprises, securities enterprises, future enterprises and insurance enterprises.
6. Proposal of the enactment, amendment, or repeal of financial examination laws or regulations for financial holding companies, banking enterprises, securities enterprises, future enterprises and insurance enterprises.
7. Reviewing and assessing improvements of examination deficiencies of financial holding companies, banking enterprises, securities enterprises, futures enterprises and insurance enterprises.
8. Planning, development and management of operational information systems for financial examinations.
9. Collection and analysis of data for financial examinations.
10. Other relevant matters of financial examinations.

24 Directions for the Examination of Financial Institutions by the Financial Supervisory Commission, Executive Yuan (selected provisions)

4. Examination methods

(4) The FSC conducts examinations in the following ways:

A. On-site examinations: the FSC assigns its personnel or accompanies with other agencies' personnel to conduct examinations.
   (a) Regular examinations: conducting risk-based examinations on finance, business and overall operations.
   (b) Targeted examinations: conducting examinations on designated business.
B. Off-site Monitoring: reviewing relevant statements or reports submitted by financial institutions.
C. Business Interview: inviting the responsible persons or the chief operating personnel of financial institutions to provide reports and express opinions on specific matters.

(5) The general frequency for on-site examinations of financial institutions is as follows:

D. Head offices: conducting examination on head Offices of financial institutions at least once every two (2) years, but adjusting the examination frequency according to their business performances.
E. Branch offices: conducting sampling examinations on branch offices according to the most recent examination reports of their head office and other analytic materials.

The FSC may, as necessary, conduct examinations on securities enterprises, futures enterprises and other financial service enterprises depending on their operational conditions.

The frequency of examinations entrusted by other agencies is provided for in the relevant regulations governing entrusted affairs.

(10)When conducting examinations, examiners may require examinee institutions to produce relevant reports and provide related documents and account books, or give detailed explanations. The institutions should provide the documents based on their real conditions. Examiners may as necessary copy the documents and require in-charge

personnel of institutions sign on the related documents.

If examinee institutions produce or provide significant fake financial or operational information, or refuse, quibble or delay to provide real information, the institutions and managements should take relevant responsibilities. Under such circumstances, examiners may consider the case as an emergency or a material event.

(12) Examiners should keep the examined items, the examination schedule and the operations of examinee institutions confidential. However, the examiner-in-charge may have a meeting with relevant personnel about the examined items.

25 Foreign Exchange Control Act

Amended on August 2, 1995

Article 1
The Act is prescribed for the sake of maintaining the equilibrium of balance of payments, stabilizing the financial market and instituting management of foreign exchange.

Article 2
For the purpose of the Act, the term "foreign exchange" used herein shall refer to foreign currency, bills and notes, and marketable securities.
The types of foreign marketable securities referred to in the preceding paragraph shall be defined by the authority in charge of foreign exchange business.

Article 3
The competent authority in charge of foreign exchange administration shall be the Ministry of Finance. The authority in charge of foreign exchange business shall be the Central Bank of China.

Article 4
The competent authority in charge of the foreign exchange administration shall undertake the following tasks:
1. To oversee and administer over the foreign currency claims and debts of the government and state-run enterprises in compliance with the treaty or agreement concluded with foreign government or international organization, if any;
2. To oversee and audit the treasury's guarantee, management and repayment of foreign debts;
3. To review and approve foreign exchange settlement for imports, outward remittances and borrowings made by government military and administrative agencies and to issue certificates accordingly;
4. To communicate and coordinate with the Central Bank of China or the competent authority in charge of foreign trade regarding foreign exchange related matters;
5. To decide and execute disciplinary actions and fines pursuant to the Acts herein; and
6. Other foreign exchange related administrations.

Article 5
The authority in charge of foreign exchange business shall undertake the following tasks:
1. To draw up plans for foreign exchange reserve management and on foreign exchange receipts and disbursements;
2. To authorize and supervise banks engaging in foreign exchange operations;
3. To regulate the supply and demand of foreign exchange in order to maintain an orderly foreign exchange market;
4. To examine and approve private outward and inward remittances;
5. To supervise private enterprises' foreign borrowings guaranteed by authorized banks, with reference to their management and their repayment on schedule;
6. To purchase and sell foreign currencies, bills and notes and marketable securities;
7. To compute, compile, analyze and report the receipts and disbursements of foreign exchange; and
8. Other operations relating to foreign exchange.

Article 6
Competent authority in charge of foreign trade shall draw up import and export plan according to foreign exchange management plan and the receipts and disbursements as set

forth in Item 1 of the foregoing Article.

Article 6-1
Foreign exchange receipts, disbursements or transactions involving NT$500,000 or more or its equivalent in foreign currency shall be declared as required. The declaration rules shall be stipulated by the Central Bank of China.
In the event there is fact to support the concern that a particular declaration as set forth in the proceeding paragraph might be untruthful, the Central Bank of China may make inquires and the inquired party shall be obliged to give explanations.

Article 7
Inward and outward remittances specified below shall be sold to the Central Bank of China or one of its authorized banks, or deposited into an authorized bank and sold in the foreign exchange market through said bank; the rules for exchange settlement shall be stipulated by the Ministry of Finance jointly with the Central Bank of China:
1. Foreign exchange revenues from export, re-export or other trading activities;
2. Foreign exchange revenues received by a shipping business, insurance business and people of other trades as a result of trade or service provided;
3. Inward remittance;
4. Income of an ROC national with domicile and residence within the territory of the Republic of China from foreign investments that have had the government approval;
5. The principal, interest, net profits or technical remuneration received by a domestic enterprise from foreign investments, financing activities or technical cooperation that have had the government approval;
6. Foreign exchange of other sources that should be deposited or settled.

Overseas Chinese or foreign individual who invest in high-tech business that can help elevate the industrial level and promote economic development and have had the government approval under special case status may use their foreign exchange receipts from sources as set forth in the preceding paragraph to offset the foreign currency payments described in Subparagraphs 1, 2 & Subparagraphs 5 to 8, Article 13 herein. Notwithstanding the foregoing provision, the balance of periodic settlement thereof shall still follow the provisions specified in the preceding paragraph; related measure will be stipulated by the Central Bank of China.

Article 8
Except for the foreign exchange that shall be deposited or sold as provided in Article 7 herein, citizens and foreign individual within the territory of the Republic of China may hold foreign exchange and deposit it in the Central Bank of China or one of its authorized banks; deposits of foreign currency may be withdrawn and held; the related deposit measure shall be stipulated by the Ministry of Finance jointly with the Central Bank of China.

Article 9
The total amount of foreign currency that may be carried by citizens or foreign individual who depart the country shall be set by the Ministry of Finance in an administrative order.

Article 10
(deleted)

Article 11
Passengers or service personnel of a transportation vehicle who carry foreign currency into and out of the country shall report to the customs; related measure will be set forth by the Ministry of Finance jointly with the Central Bank of China.

Article 12
Foreign bills, notes and securities may be carried into and out of the country; related measure shall be stipulated by the Ministry of Finance jointly with the Central Bank of China.

Article 13
Foreign exchange needed to pay for the following expenses or activities may be drawn by the payer from his/her foreign exchange deposit account as set forth in Article 7 or bought in the foreign exchange market through an authorized bank, or bought from the Central Bank of China or one of its authorized banks; related measures shall be stipulated by the Ministry of Finance jointly with the Central Bank of China.

1. Costs and expenses of merchandise approved for import;
2. Expenses and obligations to be paid by the shipping business, insurance business or people of other trades as a result of trade or service received;
3. Expenses for attending school, taking a business tour, traveling, seeking medical treatment, visiting relatives, employment, or doing business abroad;
4. Money sent to support families abroad by citizens or foreign individual who work for a local business within the territory of the Republic of China;
5. Principal, interests and net profits relating to investments of foreign individual and overseas Chinese in the Republic of China;
6. Payment for principal, interests and guarantee expenses of government-approved foreign loans;
7. Remuneration for foreign individual and overseas Chinese for technical cooperation with local enterprises;
8. Government-approved foreign investment or loan extended to foreign borrower; and
9. Other necessary payments and obligations.

Article 14
Foreign exchange other than those specified in Paragraph 1 of Article 7 that should be deposited with or sold to the Central Bank of China or one of its authorized banks is regarded as self-owned foreign exchange and may be used for the purposes described in Subparagraphs 1 to 4, Subparagraph 6 and Subparagraph 7 of the foregoing Article if so applied by its holder.

Article 15
In case of the following imports, application may be made to the Ministry of Finance for approval of exemption from foreign exchange settlement:

1. Relief goods and materials from abroad;
2. Goods bought by the government on foreign loan;
3. Foreign donations received by school, or educational, research or training institution or agency for teaching or research purpose;
4. Foreign donations received by a charity or organization for relief purpose;
5. Carry-on or personal effects of passengers and service personnel of a transportation vehicle.

Article 16
Gifts, samples and not-for-sale goods imported from abroad with value under a certain limit may be imported under the approval of the customs; the aforesaid limit shall be set by the Ministry of Finance jointly with the competent authority in charge of foreign trade in an administrative order.

Article 17

When the reason for the disbursement of foreign exchange has ceased to apply or changed so that the foreign exchange is not needed for making payment, in part or in whole, the balance thereof shall be deposited into or sold to the Central Bank of China or one of its authorized banks within a time period prescribed by the Central Bank of China.

Article 18
The Central Bank of China shall provide the Ministry of Finance with a report detailing foreign exchange purchases and sales, foreign exchange positions and guaranteed foreign liabilities on a regular basis.

Article 19
(deleted)

Article 19-1
In case of any of the following situations, the Executive Yuan may decide and announce with a public notification to close the foreign exchange market, suspend or restrict all or some foreign exchange settlements, order the selling or deposit of all or some types of foreign exchange into an authorized bank, or take other necessary measure for a specific time period:
1. When the domestic or foreign economic disorder might endanger the stability of the domestic economy.
2. When this country suffers a severe balance of payments deficit.

The items and targets of aforesaid action shall be specified in Rules Governing Foreign Exchange Control stipulated by the Executive Yuan.
The aforesaid decision shall be submitted to the Legislative Yuan for acceptance within ten days after it is announced and shall become invalid once the Legislative Yuan rejects it.
The specified time period stipulated in Paragraph 1 shall not be longer than 20 days, provided the Legislative Yuan is not in session.

Article 19-2
Intentional violation of the measures taken by the Executive Yuan pursuant to Article 19-1 herein shall be subject to a fine under NT$3,000,000. Notwithstanding of the foregoing provision, the violator shall be exempt from the penalty provided the Legislative Yuan rejects the measures taken by the Executive Yuan subsequently.

Article 20
Violation of Article 6-1 herein involving intentional omission of declaration or making untruthful declaration shall be subjected to a fine of more than NT$30,000 and less than NT$600,000; the same provision applies to failure to provide explanation within a specified time period or providing false explanation.
Violation of Article 7 herein involving not selling or depositing foreign exchange to or with the Central Bank of China or one of its authorized banks shall be subjected to a fine that amounts to twice the sum not deposited or not sold converted into New Taiwan Dollar at the then prevailing exchange rate, and the Central Bank of China will pursue the return of foreign exchange.

Article 21
Violation of Article 17 herein shall be subjected to a fine that amounts to the sum not deposited or not sold back converted into New Taiwan Dollar at the then prevailing exchange rate, and the Central Bank of China will pursue the return of foreign exchange.

Article 22
People who engage in foreign exchange transactions illegally as a regular profession shall be

subjected to a prison term or detention of less than three years, and/or a fine that amounts to their total business turnover; the foreign exchange and the payment or proceeds thereof shall be confiscated as well.
In case the representative of a juristic person, the agent of a juristic person or a natural person, the employee or business associate of a juristic person in other capacity violates the provision stipulated in the preceding paragraph while conducting business, the juristic person or natural person shall be fined the same amount as imposed on the offender.

Article 23
Where the foreign exchange that shall be returned pursuant to the Act herein is not returned in the form of foreign exchange, a fine less than the amount that should be returned will be imposed.

Article 24
In case of buying or selling foreign exchange that violates Article 8 herein, the foreign exchange and payment or proceeds thereof will be confiscated.
Where the amount of foreign currency carried while departing the country exceeds the limit prescribed in Article 9 herein, the excess portion shall be confiscated.
Foreign currency carried into or out of the country shall be confiscated, provided it is not reported as required under Article 11 herein; in case of false reporting, the excess portion shall be confiscated.

Article 25
In the event that an authorized bank violates any of the provisions herein, the Central Bank of China may suspend its foreign exchange business operations, in whole or in part, for a certain period of time, depending on the severity of the offense.

Article 26
Cases of resisting payment of the fines imposed pursuant to the Act shall be transferred to the court for compulsory execution.

Article 26-1
The Executive Yuan may decide to discontinue the application, in whole or in part, of Articles 7, 13 and 17 herein when the ROC experiences sustained international trade surplus, a build-up of foreign exchange reserves or material changes in the world economy.
Within ten (10) days after the Executive Yuan has decided to resume the application, in whole or in part, of the provisions of the preceding paragraph, it shall be submitted to Legislative Yuan for acceptance. If the decision is not approved by the Legislative Yuan, it shall become invalid.

Article 27
The enforcement rules of the Act shall be drafted by the Ministry of Finance jointly with the Central Bank of China and the competent authority in charge of foreign trade, and sent to the Executive Yuan for approval.

Article 28
This Act shall become effective on the date of promulgation.

26 Inward Passengers Carrying Baggage and Goods Clearance Regulation (excerpt)

August 5, 2004

Article 7

Inbound passengers carrying Baggage and Goods mentioned below should declare to Customs and pass through the “GOODS TO DECLARE” counter (RED LANE)

1. Alcohol beverage and cigarette over the quantity of duty exemption (alcohol 1000 c.c., 200 cigarettes, or 25 cigars or 1 pound of tobacco).
2. Baggage exceeding a total value of NT$20,000.
3. Foreign currency more than US$10,000 equivalence in total.
4. New Taiwan Dollar more than NT$60,000.
5. Gold exceeding a total value of US$20,000.
6. Chinese currency more than RMB$20,000. (Amount exceeding $20,000 should be placed in bond of subsequent return abroad).
7. Any aquatic products or animal, plant or any endangered species of wildlife or products thereof.
8. Unaccompanied baggage.
9. Other dutiable article or things to be declared.

27 Law of Extradition

Promulgated on April 17, 1954.
Amended and promulgated on July 4, 1980.

Article 1
Extradition shall be effected in accordance with treaties. Where there are no treaties or no provisions applicable to a case in existing treaties, the provisions of this Law shall prevail.

Article 2
Extradition may be approved if the offense is committed within the territory of the country making requisition therefor and if it is punishable both under the laws of the Republic of China and those of the country making such requisition; provided, that this shall not apply where under the laws of the Republic of China the maximum basic punishment for such offense is a punishment of imprisonment for not more than one year or higher.
Extradition may be approved if the offense is committed outside the territory of the country making requisition therefor and that of the Republic of China and if it is punishable under the laws of both of the two countries, provided, that this shall not apply where under the laws of the Republic of China the maximum basic punishment for the offense committed is a punishment of imprisonment for not more than one year or higher.

Article 3
Extradition may be refused if the act of offense is of military, political or religious nature; provided, that the following acts may not be considered as political offenses:
1. Murder with intent of a foreign chief of state or a senior member of a foreign government;
2. Act of rebellion of the Communists.

Article 4
Extradition shall be refused if the person whose surrender is requested for is a citizen of the Republic of China; provided, that this shall not apply if the person acquired the citizenship after the requisition for extradition is made.
A citizen of the Republic of China who commits an offense specified in the provisions of Articles 2 and 3 of this Law in the territory of a foreign country shall, after the requisition for extradition made by a foreign government is refused, be referred to a court which has jurisdiction over the case for trial.

Article 5
Extradition shall be refused if the offense for which the requisition for extradition is made has received a ruling of not to prosecute, or a judgment of not guilty, remission of punishment, exempt from prosecution or case not entertained, or a judgment imposing a sentence from, or if the case is being tried by, a court of the Republic of China, or if the offense has been pardoned.
If the person whose surrender is requested for commits another offense and is being accused in a court of the Republic of China, the extradition thereof shall be effected after the legal proceedings have been concluded or the execution of punishment has been completed.

Article 6
If more than one country make requisition for extradition of one and the same accused and approval should be granted in accordance with treaties or with the provisions of this Law, the following provisions shall be observed in their order of precedence in determining to which country the accused should be delivered up:
1. The country making requisition for extradition in accordance with existing treaties;

2. When all the countries making requisition are contracting parties to or are not contracting parties to, extradition treaties with the Republic of China, the accused shall be delivered up to the country within whose jurisdiction the offense took place;
3. When all the countries making requisition are contracting parties to, or are not contracting parties to, extradition treaties with the Republic of China, and none of such countries is locus criminals, the accused shall be delivered up to the country of which he is a subject;
4. When extradition is requested for by several countries who are contracting parties to, or are not contracting parties to, extradition treaties with the Republic of China, but the offenses with which the accused is charged differ, he shall be delivered up to the country presenting the most severe charge of offense; if the degree of severity of the punishments are all the same, the accused shall be delivered up to the country which first made the formal requisition for extradition.

Article 7

Without the consent of the Government of the Republic of China, the country to which an accused is delivered up may not prosecute or punish an offense other than that specified in the written requisition for extradition; provided, that this shall not apply if the person voluntarily choose to remain for ninety (90) days or more in that country after the conclusion of legal proceedings or the completion of the execution of punishment.

After a person has been extradited, if the he commits another offense within the jurisdiction of the country to which he was delivered up, that country may prosecute or punish him accordingly.

Article 8

Without the consent of the Government of the Republic of China, a country to which an accused is delivered up may not surrender him to a third country; provided, that this shall not apply in the circumstance specified in the provision of paragraph 1 of the preceding article.

Article 9

A requisition for extradition shall be made to the Ministry of Foreign Affairs through diplomatic channels.

Article 10

A requisition for extradition from a foreign government shall be in writing, stating the following matters:

1. The name, sex, age, native place, occupation, domicile or residence, or other features of identification of the accused;
2. The facts and evidences of the offense and articles of the law violated;
3. Intent of requisition for extradition and assurance of reciprocity;
4. Assurance to observe the limitations specified in the first part of paragraph 1 of Article 7 and the first part of Article 8.

Article 11

A written requisition for extradition shall be accompanied by the following documents:

1. Evidences referred to in the written requisition for extradition;
2. 2.A warrant for arrest of the accused, an indictment or conviction in writing, issued by the court which has jurisdiction over the case in the country making the requisition for extradition;
3. Existing laws or statutes relating to the punishment of the offense of the country making the requisition for extradition.

The documents specified in the preceding paragraph shall be duly authenticated; if the documents are in a foreign language, they shall be accompanied by duly authenticated Chinese translations.

Article 12
In case of emergency, a foreign government may, before presenting the written requisition for extradition, request by correspondence or cablegram the arrest and detention of the person to be extradited. However, the correspondence or cablegram shall state the matters listed in Article 10 and the fact that a public prosecution has been brought against such person or that a judgment of guilty has been pronounced.
In the circumstance specified in the preceding paragraph, the written requisition for extradition shall be presented within thirty (30) days from the date the accused is detained, failing which the detention shall be cancelled, and no requisition for extradition may be made on the same case.

Article 13
If a request for attachment of the properties and documents is made along with the requisition for extradition, such properties and documents shall be taken into custody with their descriptions and quantities noted, to be delivered up with the accused when the extradition is approved; provided, that this rule shall not apply to those which are owned by a third party or which may not be attached under the law of the Republic of China.

Article 14
A person extradited by one foreign government at the request of another may be allowed to pass through the territory of the Republic of China with the prior consent of the Government of the Republic of China; provided, that such consent may be refused if it is apprehended the passage may jeopardize the interests of the Republic of China.

Article 15
Ministry of Foreign Affairs, upon receiving a requisition for Extradition, must forward the same, together with other relevant documents to Ministry of Justice for relegation to the District Prosecutors' Office having jurisdiction over the accused's residence, where the accused's present location is unknown, the case must be referred to the appropriate District Prosecutors' Office.

Article 16
A duty prosecutor may, according to the provisions specified in the Criminal Procedural Code, give an order to apprehend and hold in custody the accused who is requested to be extradited so far as the cognizant Prosecutors' Office upon receiving the case of requisition for extradition.

Article 17
The prosecutor shall interrogate the accused within twenty-four (24) hours after he is arrested, inform him of the requisition for extradition, and forward the case as soon as possible to the court.
The court, upon receiving the case specified in the preceding paragraph, may issue a warrant to apprehend and hold in custody the accused in accordance with the provisions of the Criminal Procedure Code.

Article 18
The court shall, after receiving a case of requisition for extradition, inform the accused of the facts and evidences of the case, and order him to submit a reply in writing within sixty (60)

days.

Article 19
An accused may employ lawyers as advocates. The provisions of the Criminal Procedure Code in regard to employment of advocates shall apply mutatis mutandis to the procedure of such employment.

Article 20
Upon expiration of the period specified in paragraph 2 of Article 12 and in Article 18, the court shall set a date and notify the prosecutor, the accused and his advocate for oral proceedings.
The court shall prepare a decision within five (5) days after the conclusion of oral proceedings, stating whether extradition should be approved. The court shall conclude a case of requisition for extradition within thirty (30) days after receipt of the reply in writing of the accused.

Article 21
The court in charge, as soon as a written resolution is made, must have the case, with all papers pertinent thereto, report, through Prosecutors' Office, to the Ministry of Justice, to be eventually forwarded to Ministry of Foreign Affairs for transmittal to Executive Yuan, thence submitted to the President for a Presidential Resolution.
If a court cannot decide to which country the accused should be delivered up in accordance with the provision of Article 6,it shall be so stated in the written decision for final decision by the President.

Article 22
If extradition is approved by the President, the cognizant Prosecutors' Office shall, after the receipt of the order from the Ministry of Justice, notify the accused thereof as soon as possible.
If the extradition is refused by the President, the cognizant Prosecutors' Office shall revoke the detention. The country making the requisition may not thereafter make requisition for extradition on the same case.

Article 23
The Ministry of Foreign Affairs shall notify the foreign government making the requisition of the approval for extradition, asking it to assign personnel to receive the accused at a place deemed most appropriate in the territory of the Republic of China within a period of sixty (60) days.
If the country making the requisition fails to assign personnel to receive the accused and escort him out of the territory of the Republic of China within the period specified in the preceding paragraph, the accused shall forthwith be released. The country making the requisition may not thereafter request for extradition of the person on the same case.

Article 24
Extradition shall be executed by personnel assigned by the Executive Yuan.

Article 25
All expenses arising from the requisition for extradition shall be borne by the country making the requisition, regardless of whether the extradition is approved or not.

Article 26
This Law shall become effective from the date of its promulgation.

28 The Law in Supporting Foreign Courts on Consigned Cases

Promulgated by the President on April 25, 1963

Article 1
Unless otherwise provided for in laws or pacts, this Law governs courts when they are consigned by a foreign court to help take charge of civil or criminal cases.

Article 2
A court, when consigned by a foreign court to help take charge of civil or criminal cases, shall not conflict laws of the Republic of China.

Article 3
The consigned cases shall be conveyed in writing through foreign affairs authorities.

Article 4
The country of the consigning foreign court shall declare reciprocal support to the Republic of China courts in a similar case.

Article 5
The documents of civil or criminal cases for which a court is consigned by a foreign court to help take charge shall be duly served according to document service provisions in the Civil Code or Criminal Procedure Code.
The service document shall expressly bear the name, nationality, domicile, address or office of the party to be served.

Article 6
The exhibits or evidence of civil or criminal cases for which a court is consigned by a foreign court to help investigate shall be duly handled according to evidence investigations in the Civil Code or Criminal Procedure Code.
For consigned investigation into evidence, the power of attorney shall expressly bear the names of the involved parties, methods and categories of evidence, the name, nationality, domicile, address or office of the parties to be investigated, and the subjects of investigation, and in case of a criminal case, summary of the case.

Article 7
Chinese translation versions, along with the affidavit of faithful conformity between Chinese and foreign language shall accompany the Power of attorney or other documents in a foreign language.

Article 8
The service and investigation costs shall be duly handled according to the relevant regulations of the Republic of China in civil cases, and shall be counted at actual spending and reimbursed by the country of the consigning foreign court in criminal cases.

Article 9
This Law comes into force upon promulgation.

29 Undercover Investigation Act (draft)

Article 1

This Act is explicitly enacted to regulate specific criminal investigations and protect the rights and interests of undercover investigators.

Matters not provided for herein shall be governed by the provisions of other acts.

Article 2

Undercover investigation mentioned in this Act means an undercover investigator engage in criminal investigation with an assumed name or a covered identity in a fixed period which is permitted in advance.

Undercover investigator mentioned in the preceding paragraph means the judicial police officers or the judicial policemen considered in Article 230, 231 of the Criminal Procedure Code, and the other public officials who are authorized by the judicial police officers prescribed in Article 229 of the Code, but the military police officers, noncommissioned officers and military policemen are not included.

Article 3

If there are facts to prove the suspects or the defendants of committing in one of the following crimes which constitute serious threats to national security and society order, and the evidence can not be collected or investigated using other ways. Then, undercover investigation may be considered:

1. The crimes of which the minimum punishment is 3 years or more imprisonment.
2. The crimes prescribed in paragraph 2 of Article 100, paragraph 2 of Article 101, paragraph 3 of Article 106, paragraph 1, 3, 4 of Article 109, paragraph 1 of Article 121, paragraph 3 of Article 122, paragraph 1 of Article 131, Article 201-1, paragraph 1, 3 of Article 256, paragraph 1, 4 of Article 257, paragraph 2 of Article 298, Article 300, Article 339, Article 339-3, Article 340, Article 345 or Article 346 of the Criminal Code.
3. The crimes prescribed in paragraph 1, 2 of Article 11 of the Corruption Punishment Statute.
4. The crimes prescribed in paragraph 1, 3 of Article 2 or Article 3 of the Statute for Punishment of Smuggling.
5. The crimes prescribed in paragraph 1, 3 of Article 82 or paragraph 1, 4 of Article 83 of the Pharmaceutical Affairs Act
6. The crimes prescribed in Article 171, paragraph 2 of Article 172 or paragraph 1 of Article 173 of the Securities and Exchange Act.
7. The crimes prescribed in Article 112, paragraph 1, 2 of Article 113 or Article 114 of the Futures Trading Act.
8. The crimes prescribed in paragraph 4 of Article 8, paragraph 4 of Article 11, paragraph 1, 2, 4, 5 of Article 12 or paragraph 2, 4, 5 of Article 13 of the Statute for Fire Arms, Ammunition and Harmful Knives Control.
9. The crimes prescribed in paragraphs 1, 4, 5 of Article 23 the Act for the Prevention of Child Prostitution.
10. The crimes prescribed in paragraph 1, 2 of Article 9 of the Money Laundering Control Act.
11. The crimes prescribed in paragraph 1 rear part, 2 rear part of Article 3, Article 6 or paragraph 3 of Article 11 of the Organized Crime Prevention Act.
12. The crimes prescribed in Article 40 and Article 41 of the Wildlife Preservation Act.
13. The crime in Article 94 of the Copyright Act.
14. Other organizational, concealable, mobile or transnational crimes.

Article 4

Undercover investigation shall be proposed with a documented undercover investigation project planning by the judicial police officers prescribed in Article 229 of the Criminal Procedure Code and shall be reported to the head of the competent authority for permission. Then, the planning shall be reported to the responsible prosecutor for agreement before implementation. The prosecutor shall immediately report it to the chief prosecutor afterward.

Before or during the implementation of the undercover investigation after obtaining agreement, the judicial police officers who originally proposed the planning may apply to terminate the planning according with the procedures prescribed in the preceding paragraph when consider it can not be implemented or be continued.

Article 5

Undercover investigation project planning shall record the following items:

1. The personal information of criminal suspects or offenders, but it can be omitted when the criminal suspects or offenders are ambiguous.
2. The offense.
3. The facts of threats to national security and security order.
4. The situation of evidence can not be collected or investigated using other ways.
5. The personal information of undercover investigator.
6. The assumed name or covered identity being used by undercover investigation.
7. The granted living expense during the period of undercover investigation.
8. The location of undercover investigation.
9. The behaviors of undercover investigation.
10. The period of undercover investigation.

The prescribed behaviors of undercover investigation in the preceding 9 paragraphs should not have the situations of harming individual’s life, body or damaging the benefits of society or nation, and the reason of the behavior being taken should be clearly described. The responsible prosecutor shall tightly screen the necessity of the behavior being taken and compare the benefits from the undercover investigation and the damage to individual, society or nation. Before the behavior being taken by the undercover investigator, it should be reported to the responsible prosecutor,

Article 6

Undercover investigation project planning can be implemented after the agreement of the responsible prosecutor. Any change of the items prescribed in subparagraph 5 to 10, paragraph 1 of the preceding Article should be reported to the responsible prosecutor for agreement according to the procedures prescribed in Article 4.

The undercover investigation period prescribed in subparagraph 10, paragraph 1 of the preceding Article will be limited in 6 months, but may appeal the responsible prosecutor to prolong it when necessary and the prolonged period will be limited in 6 months each time.

The agreements of the Article 4 and the preceding 2 paragraphs should be in written document.

Article 7

When undercover investigator needs to use covered identity for practicing investigation, he or she can apply new household register to the competent authority and shall apply to revoke it when the investigation comes to an end.

Article 8

The identity and related documents of undercover investigator shall be kept secrecy.

The evidence obtained by the undercover investigator during the period of undercover investigation. The interested parties may apply to refuse to appear in court as a witness during investigation or trial with a written document enclosed reasons if it may expose the interested parties under the threats of life, body or freedom.
Whenever prosecutors or judges turn down the application and impose the interested parties to appear in court as witness, the interested parties shall be protected according with the regulations of the Witness Protection Law.

Article 9
The admissibility in evidence about the evidence collected by an undercover investigator during undercover investigation period shall follow the regulations of Criminal Procedure Code.

Article 10
The actions taken by an undercover investigator for the mission and permitted by the responsible prosecutor beforehand during undercover investigation are not punishable.

Article 11
Any government official has to process resignation, dismission, suspenion from duty or removal from office for engaging in undercover investigation, the original authority which he or she serves shall preserve the position for him or her, and shall pay the living expenses as his or her service of the position. The granted living expense and standard should be recorded in the undercover investigation project planning.
The undercover investigator prescribed in the preceding paragraph may apply to recover the position after 3 months of undercover investigation to be closed. The original authority which he or she serves shall report it by attaching with the commissioned proof of the undercover investigation to supervisory authority for further reviewing the undercover investigator having no improper behavior to jeopardize the recovery, and then the resignation, dismission, suspenion from duty or removal from office can be revoked and it has to be submitted to the Ministry of Civil Service for abolishing the related records of the event.
After the procedures of recovery of the government official's status being completed according the preceding paragraph, the government official's status and rights and interests of the undercover investigator will be recovered from then on. The given compensation should be returned to the authority if the undercover investigator ever applied dismission. The back pay during the undercover investigation should be deducted the given expenses and only the balance will be granted.
The government official's status and rights and interests shall be recalled from the date of losing the government official's status if the undercover investigator lost life during undercover investigation, and the compensation shall be granted according with regulations of the Government Official's Compensation Act.
When an undercover investigator is unwilling to accept the losses of rights and benefits during undercover investigation, he or she may plead remedy according with regulations of the Government Official's Protection Act after 3 months of the government official's status being recovered, and the pleading will eliminate the time limit of review, petition and repetition in the Act.
After the end of undercover investigation, the government official's status of the undercover investigator is not permitted to recover according to the reviewing result of paragraph 2. Then, he or she may plead remedy according with the petition procedures.

Article 12
Any government's official who reveals, discloses or turns over relating documents, pictures,

information and the appearances, identities or other identifiable information of any undercover investigator which are recorded in the applicable undercover investigation project planning, he or she shall be sentenced to imprisonment of not less than 1 year and not more than 7 years.
A person who negligently commits the preceding paragraph shall be punished with imprisonment of not more than two years, detention, or fined not more than 300,000 NT.
An attempt to commit the offense prescribed in the paragraph 1 is punishable.

Any person without a government official position learns or holds the documents, pictures, information and the appearances, identities or other identifiable information of any undercover investigator and reveals, discloses or turns over to others, he or she shall be sentenced to imprisonment of not more than 3 years, detention, or fined not more than 500,000 NT.

Article 13

The implementation details of this Act shall be stipulated by the Executive Yuan.

Article 14

This Act shall go into effect 1 year after promulgation.

30 MLAA between US and Taiwan

AGREEMENT ON MUTUAL LEGAL ASSISTANCE
IN CRIMINAL MATTERS

BETWEEN

THE AMERICAN INSTITUTE IN TAIWAN

AND

THE TAIPEI ECONOMIC AND CULTURAL REPRESENTATIVE OFFICE
IN THE UNITED STATES

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The American Institute in Taiwan

and

The Taipei Economic and Cultural Representative Office
in the United States,

Desiring to improve the effective cooperation of the law enforcement authorities of the territories represented by either Party through mutual legal assistance in criminal matters on the basis of mutual respect, reciprocity, and mutual benefit,

Have agreed as follows:

Article 1

General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:

   (a) The term "AIT" means the American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia pursuant to the Taiwan Relations Act of April 10, 1979, Public Law 96-8 (22 U.S.C. §§ 3301 et seq.);

   (b) The term "TECRO" means the Taipei Economic and Cultural Representative Office in the United States, an instrumentality established by the Taiwan authorities; and

   (c) The terms "Party" or "Parties" refer to AIT and/or TECRO.

Article 2

Scope of Assistance

1. The Parties shall provide mutual assistance through the relevant authorities of the territories they represent, in accordance with the provisions of this Agreement, in connection with the investigation, prosecution, and prevention of offenses, and in proceedings related to criminal matters.

2. Assistance shall include:

(a) taking the testimony or statements of persons;

(b) providing documents, records, and articles of evidence;

(c) locating or identifying persons;

(d) serving documents;

(e) transferring persons in custody for testimony or other purposes;

(f) executing requests for searches and seizures;

(g) assisting in proceedings related to immobilization and forfeiture of assets, restitution, or collection of fines; and

(h) any other form of assistance not contrary to the laws of the territory represented by the Requested Party.

3. Except as otherwise provided in this Agreement, assistance shall be provided without regard to whether the conduct that is the subject of the investigation, prosecution, or proceeding in the territory represented by the Requesting Party would constitute an offense under the laws of the territory represented by the Requested Party.

4. This Agreement is intended solely for mutual legal assistance between the Parties. The provisions of this Agreement shall not give rise to a right on the part of any private person to obtain, suppress, or exclude any evidence, or to impede the execution of a request.

Article 3

Designated Representatives

1. Each Party shall designate a Designated Representative to make and receive requests pursuant to this Agreement.

2. For AIT, the Designated Representative shall be the Attorney General of the territory represented by AIT or a person designated by the Attorney General. For TECRO, the Designated Representative shall be the Minister of Justice of the territory represented by TECRO or a person designated by the Minister of Justice.

3. The Designated Representatives shall communicate directly with one another for the purposes of this Agreement, except that any transfer of funds under this Agreement from one Party to the other shall be made between AIT and TECRO in accordance with the provisions of paragraphs 4 and 5.

4. Any transfer of funds to AIT under this Agreement shall be made to AIT by TECRO in U.S. dollars. Payments shall be sent to:

Deputy Managing Director
American Institute in Taiwan
1700 N. Moore Street, Suite 1700
Arlington, VA 22207
Telephone Number: (703) 525-8474
Facsimile Number: (703) 841-1385

Any transfer of funds to TECRO under this Agreement shall be made to the Coordination Council for North American Affairs by AIT in New Taiwan dollars or U.S. dollars. Payments shall be sent to:

Secretary General
Coordination Council for North American Affairs
133 Po-Ai Road
Taipei, Taiwan 100
Telephone Number: 02-2311-6970
Facsimile Number: 02-2382-2651

5. Any request for transfer of funds under this Agreement and any transfer of funds under this Agreement must be accompanied by supporting documentation identifying the specific activities and costs involved.

Article 4

Limitations on Assistance

1. The Designated Representative for the Requested Party may deny assistance if:

(a) the request relates to an offense under military law that would not be an offense under ordinary criminal law;

(b) the execution of the request would prejudice the security, public order, or similar essential interests of the territory represented by the Requested Party;

(c) the request is not made in conformity with the Agreement; or

(d) the request is made pursuant to Article 15 and relates to conduct which, if committed in the territory represented by the Requested Party, would not be an offense in that territory.

2. Before denying assistance pursuant to this Article, the Designated Representative for the Requested Party shall consult with the Designated Representative for the Requesting Party to consider whether assistance can be given subject to such conditions as it deems necessary. If the Designated Representative for the Requesting Party accepts assistance subject to these conditions, authorities of the territory represented by it shall comply with the conditions.

3. If the Designated Representative for the Requested Party denies assistance, it shall inform the Designated Representative for the Requesting Party of the reasons for the denial.

Article 5

Form and Contents of Requests

1. A request for assistance shall be in writing except that the Designated Representative for the Requested Party may accept a request in another form in an emergency situation. In any such case, the request shall be confirmed in writing within ten days thereafter unless the Designated Representative for the Requested Party agrees otherwise. The request shall be in the language used in the territory represented by the Requested Party unless otherwise agreed.

2. The request shall include the following:

(a) the name of the authority conducting the investigation, prosecution, or proceeding to which the request relates;

(b) a description of the subject matter and nature of the investigation, prosecution, or proceeding, including the specific criminal offenses that relate to the matter and any punishment that might be imposed for each offense;

(c) a description of the evidence, information, or other assistance sought; and

(d) a statement of the purpose for which the evidence, information, or other assistance is sought.

3. To the extent necessary and possible, a request shall also include:

(a) information on the identity and location of any person from whom evidence is sought;

(b) information on the identity and location of a person to be served, that person's relationship to the proceedings, and the manner in which service is to be made;

(c) information on the identity and whereabouts of a person to be located;

(d) a precise description of the place or person to be searched and of the articles to be seized;

(e) a description of the manner in which any testimony or statement is to be taken and recorded;

(f) a list of questions to be asked of a witness;

(g) a description of any particular procedure to be followed in executing the request;

(h) information as to the allowances and expenses to which a person asked to appear in the territory represented by the Requesting Party will be

entitled; and

(i) any other information that may be brought to the attention of the Designated Representative for the Requested Party to facilitate its execution of the request.

4. If the Designated Representative for the Requested Party considers the contents contained in the request not sufficient to enable the request to be dealt with, it may request additional information.

5. No form of certification or authentication will be required for a request for assistance or its supporting documents.

Article 6

Execution of Requests

1. The Designated Representative for the Requested Party shall promptly execute the request or, when appropriate, shall transmit it to the relevant authority for execution. The competent authorities of the territory represented by the Requested Party shall do everything in their power to execute the request.

2. The Designated Representative for the Requested Party shall make all necessary arrangements for and meet the costs of the representation of the Requesting Party in the territory represented by the Requested Party in any proceedings arising out of a request for assistance.

3. Requests shall be executed in accordance with the procedures provided for by the laws of the territory represented by the Requested Party. The method of execution specified in the request shall be followed except insofar as it is contrary to the laws of the territory represented by the Requested Party.

4. If the Designated Representative for the Requested Party determines that execution of a request would interfere with an ongoing criminal investigation, prosecution, or proceeding in the territory represented by the Requested Party, it may postpone execution, or make execution subject to conditions determined necessary after consultations with the Designated Representative for the Requesting Party. If the Designated Representative for the Requesting Party accepts the assistance subject to the conditions, authorities in the territory represented by it shall comply with the conditions.

5. The relevant authorities of the territory represented by the Designated Representative for the Requested Party shall use their best efforts to keep confidential a request and its contents if such confidentiality is requested by the Designated Representative for the Requesting Party. If the request cannot be executed without breaching such confidentiality, the Designated Representative for the Requested Party shall so inform the Designated Representative for the Requesting Party, which shall then determine whether the request should nevertheless be executed.

6. The Designated Representative for the Requested Party shall respond to reasonable inquiries by the Designated Representative for the Requesting Party on progress toward execution of the request.

7. The Designated Representative for the Requested Party shall promptly inform the Designated Representative for the Requesting Party of the outcome of the execution of the request. If the request is denied, the Designated Representative for the Requested Party shall inform the Designated Representative for the Requesting Party of the reasons for the denial.

Article 7

Costs

1. The authorities of the territory represented by the Requested Party shall pay the costs relating to the execution of the request, but the authorities of the territory represented by the Requesting Party shall bear:

(a) the allowances or expenses for the travel of persons under Articles 11 and 12 of this Agreement in accordance with the regulations of the territory represented by the Requesting Party;

(b) the allowances or expenses for persons to travel to and from and stay in the territory represented by the Requested Party under Article 9(3) of this Agreement;

(c) the expenses and fees of experts; and

(d) the costs of translation, interpretation, and transcription.

2. If it becomes apparent that the execution of the request requires expenses of an extraordinary nature, the Designated Representatives for the Parties shall consult to determine the terms and conditions under which the request can be executed.

Article 8

Limitations on Use

1. The Designated Representative for the Requested Party may request that the authorities of the territory represented by the Requesting Party not use any information or evidence obtained under this Agreement in any investigation, prosecution, or proceeding other than that described in the request without the prior consent of the Designated Representative for the Requested Party. In such cases, the authorities of the territory represented by the Requesting Party shall comply with the conditions.

2. The Designated Representative for the Requested Party may request that information or evidence furnished under this Agreement be kept confidential or be used only subject to terms and conditions it may specify. If the Designated Representative for the Requesting Party accepts the information or evidence subject to such conditions, the relevant authorities of the territory represented by the Requesting Party shall use their best efforts to comply with the conditions.

3. Nothing in this Article shall preclude the use or disclosure of information to the extent that there is an obligation to do so for the territory represented by AIT under that territory's Constitution or for the territory represented by TECRO under that territory's Constitution or law in a criminal prosecution. The Designated Representative for the Requesting Party shall notify the Designated Representative for the Requested Party in advance of any such proposed disclosure.

4. Information or evidence that has been made public in the territory represented by the Requesting Party in accordance with paragraphs 1, 2, or 3 may thereafter be used for any purpose.

Article 9

Testimony or Evidence in the Territory Represented by the Requested Party

1. A person in the territory represented by the Requested Party from whom evidence is requested pursuant to this Agreement shall be compelled, if necessary, to appear and testify or produce items, including documents, records, and articles of evidence. A person who gives false testimony, either orally or in writing, in execution of a request, shall be subject to prosecution and punishment in the territory represented by the Requested Party in accordance with the criminal laws of that territory.

2. Upon request, the Designated Representative for the Requested Party shall furnish information in advance about the date and place of the taking of the testimony or evidence pursuant to this Article.

3. The authorities of the territory represented by the Requested Party shall permit the presence of such persons as specified in the request during the execution of the request, and shall allow such persons to pose questions to the person giving the testimony or evidence and to make a verbatim transcript in a manner agreed to by the authorities of the territory represented by the Requested Party.

4. If the person referred to in paragraph 1 asserts a claim of immunity, incapacity, or privilege under the laws of the territory represented by the Requesting Party, the evidence, including all items requested, shall nonetheless be taken and the claim made known to the Designated Representative for the Requesting Party for resolution by the authorities of that territory.

5. Evidence produced in the territory represented by the Requested Party pursuant to this Article or that is the subject of testimony taken under this Article may be authenticated by a declaration, including, in the case of business records, authentication in the manner indicated in Form A appended to this Agreement. Documents authenticated by Form A shall be admissible in evidence in courts in the territory represented by the Requesting Party.

Article 10

Records of the Territories Represented by the Parties

1. The Designated Representative for the Requested Party shall provide the Designated Representative for the Requesting Party with copies of publicly available records, including documents or information in any form, in the possession of departments and agencies of the authorities of the territory represented by the Requested Party.

2. The Designated Representative for the Requested Party may provide copies of any documents, records, or information which are in the possession of a department or agency of the authorities of the territory represented by that Party, but which are not publicly available, to the same extent and under the same conditions as such copies would be available to the law enforcement or judicial authorities of the territory represented by the Requested Party. The Designated Representative for the Requested Party may in its discretion deny a request pursuant to this paragraph entirely or in part.

3. Records produced pursuant to this Article may be authenticated by the person in charge of maintaining them through the use of Form B appended to this Agreement. No further authentication shall be necessary. Documents authenticated under this paragraph shall be admissible in evidence in courts in the territory represented by the Requesting Party.

Article 11

Transfer of Persons in Custody

1. A person in the custody of the authorities of the territory represented by the Requested Party whose presence in the territory represented by the Requesting Party is sought for purposes of assistance under this Agreement may be transferred from the territory represented by the Requested Party to the territory represented by the Requesting Party for that purpose if the person consents and if the Designated Representatives for both Parties agree.

2. A person in the custody of the authorities of the territory represented by the Requesting Party whose presence in the territory represented by the Requested Party is sought for purposes of assistance under this Agreement may be transferred from the territory represented by the Requesting Party to the territory represented by the Requested Party if the person consents and if the Designated Representatives for both Parties agree.

3. For purposes of this Article:

(a) the authorities of the territory represented by the receiving Party shall have the authority and the obligation to keep the person transferred in custody unless otherwise authorized by the authorities of the territory represented by the sending Party;

(b) the authorities of the territory represented by the receiving Party shall return the person transferred to custody in the territory represented by the sending Party within 30 days of the transfer or as soon as circumstances permit or as otherwise agreed by both Designated Representatives;

(c) the authorities of the territory represented by the receiving Party shall not require the authorities of the territory represented by the sending Party to initiate extradition proceedings for the return of the person transferred; and

(d) the person transferred shall receive credit for service of the sentence imposed in the territory represented by the sending Party for time served in custody in the territory represented by the receiving Party.

Article 12

Testimony in the Territory Represented by the Requesting Party

1. When the Designated Representative for the Requesting Party requests the appearance of a person in the territory represented by the Requesting Party, the Designated Representative for the Requested Party shall invite the person to appear before the appropriate authority in the territory represented by the Requesting Party. The Designated Representative for the Requesting Party shall indicate the extent to which the expenses will be paid. The Designated Representative for the Requested Party shall promptly inform the Designated Representative for the Requesting Party of the response of the person.

2. The Designated Representative for the Requested Party may request the Designated Representative for the Requesting Party to make a commitment that a person who has been asked to be present in the territory represented by the Requesting Party according to this Article not be prosecuted, detained, subject to service of process, or subject to any other restriction of personal liberty, for any acts or omissions or convictions which preceded such person’s entry into the territory represented by the Requesting Party, and that such person shall not be obliged to give evidence or assist in any investigation, prosecution, or proceeding other than that to which the request relates, except with the prior consent of the Designated Representative for the Requested Party and such person. The person whose presence is requested may decline to comply with the request if the Designated Representative for the Requesting Party does not grant such assurances.

3. The safe conduct provided for by this Article shall cease seven days after the Designated Representative for the Requesting Party has notified the Designated Representative for the Requested Party that the person's presence is no longer required, or when the person, having left the territory represented by the Requesting Party, voluntarily returns. The Designated Representative for the Requesting Party may, in its discretion, extend this period up to fifteen days if it determines that there is good cause to do so.

Article 13

Location or Identification of Persons or Items

If the Designated Representative for the Requesting Party seeks the location or identity of persons or items in the territory represented by the Requested Party, the authorities of the territory represented by the Requested Party shall use their best efforts to ascertain the location or identity.

Article 14

Service of Documents

1. The authorities of the territory represented by the Requested Party shall use their best efforts to effect service of any document relating, in whole or in part, to any request for assistance made by the Designated Representative for the Requesting Party under the provisions of this Agreement.

2. The Designated Representative for the Requesting Party shall transmit any request for the service of a document requiring the appearance of a person before an authority in the territory represented by the Requesting Party a reasonable time before the scheduled appearance.

3. The Designated Representative for the Requested Party shall return a proof of service in the manner specified in the request.

Article 15

Search and Seizure

1. The Designated Representative for the Requested Party shall obtain the execution of a request for the search, seizure, and delivery of any item to the Designated Representative for the Requesting Party if the request includes the information justifying such action under the laws of the territory represented by the Requested Party.

2. Upon request, every person who has custody of a seized item shall certify, through the use of Form C appended to this Agreement, the continuity of custody, the identity of the item, and the integrity of its condition. No further certification shall be required. The certificate shall be admissible in evidence in courts in the territory represented by the Requesting Party.

3. The Designated Representative for the Requested Party may require that the Designated Representative for the Requesting Party agree to the terms and conditions deemed necessary to protect third party interests in the item to be transferred.

Article 16

Return of Items

The Designated Representative for the Requested Party may require that the Designated Representative for the Requesting Party return any items, including documents, records, or articles of evidence, furnished to it in execution of a request under this Agreement as soon as possible.

Article 17

Assistance in Forfeiture Proceedings

1. If the Designated Representative for one Party becomes aware of proceeds or instrumentalities of offenses which are located in the territory represented by the other Party and may be forfeitable or otherwise subject to seizure under the laws of the territory represented by that Party, it may so inform the Designated Representative for the other Party. If the relevant authorities of the territory represented by that other Party have the necessary authority over forfeiture or seizure, the Designated Representative for that other Party may present this information to the authorities of the territory represented by that Party for a determination whether any action is appropriate. These authorities shall issue their decision in accordance with the laws of their territory, and shall, through their Designated Representative, report to the Designated Representative for the other Party on the action taken.

2. The Designated Representatives for the Parties shall assist each other to the extent permitted by the respective laws of the territories represented by them in proceedings relating to the forfeiture of the proceeds and instrumentalities of offenses, restitution to the victims of crime, and the collection of fines imposed as sentences in criminal prosecutions. This may include action to immobilize temporarily the proceeds or instrumentalities pending further proceedings.

3. Proceeds or instrumentalities of offenses shall be disposed of in accordance with the laws of the territories represented by the Parties. Either Party may transfer all or part of such assets, or the proceeds of their sale, to the other Party, to the extent permitted by the laws of the territory represented by the transferring Party and upon such terms as it deems appropriate.

Article 18

Compatibility with Other Agreements

Assistance and procedures set forth in this Agreement shall not prevent either of the Parties or their Designated Representatives from granting assistance to the other Party through the provisions of other applicable agreements, or through the provisions of the laws applicable in the territory represented by it. The Parties may also provide assistance pursuant to any arrangement, agreement, or practice which may be applicable.

Article 19

Consultation

The Designated Representatives for the Parties shall consult, at times mutually agreed to by them, to promote the most effective use of this Agreement. The Designated Representatives may also agree on such practical measures as may be necessary to facilitate the implementation of this Agreement.

Article 20

Entry into Force; Termination

1. This Agreement shall enter into force on the date of the final signature hereafter.

2. Either Party may terminate this Agreement by means of written notice to the other Party. Termination shall take effect six months following the date of receipt of such notification.

3. This Agreement applies to any request presented after its entry into force even if the relevant offenses occurred before this Agreement enters into force.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE at _____ in duplicate, in the Chinese and English languages, both texts being equally authentic, this _____ day of the _____ month of the year two thousand and one.

FOR THE AMERICAN INSTITUTE IN TAIWAN:	FOR THE TAIPEI ECONOMIC AND CULTURAL REPRESENTATIVE OFFICE IN THE UNITED STATES:
NAME:_____	NAME:_____
TITLE:_____	TITLE:_____
DATE:_____	DATE:_____

Form A
CERTIFICATE OF AUTHENTICITY OF BUSINESS RECORDS

I, _____*[name]*_____, declare on penalty of criminal punishment for false statement or declaration that I am employed by _____*[name of business from which documents are sought]*_____ and that my title is _____*[title]*. I further state that each of the records attached hereto is the original or a duplicate of the original record in the custody of _____*[name of business from which documents are sought]*.

I further state that:

A) such records were made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

B) such records were kept in the course of a regularly conducted business activity;

C) the business activity made such records as a regular practice; and

D) if any such record is not the original, it is a duplicate of the original.

_____ *[signature]*_____

*[date]*_____

Sworn to or affirmed orally before me, _____*[name]*_____, a judicial officer, this _____ day of _____, 20___.

Form B

CERTIFICATE OF AUTHENTICITY OF FOREIGN PUBLIC DOCUMENTS

I, _____*[name]*_____, declare on penalty of criminal punishment for false statement or declaration that my position with the Authority of _____***[territory]*** is _____*[title]*_____ and that in that position I am authorized by the law of _____*[territory]*_____ to declare that the documents attached and described below are true and accurate copies of original records which are recorded or filed in *[name of office or agency]*_____, which is an office or agency of _____*[territory]*

.

Description of Documents:

_____*[signature]*_____

_____*[title]*_____

_____*[date]*_____

Form C

CERTIFICATE WITH RESPECT TO SEIZED ARTICLES

I, _____*[name]*_____, declare on penalty of criminal punishment for false statement or declaration that my position with the Authority of _____*[territory]* is _____*[title]*_____. I received custody of the articles listed below from _____*[name of person]*_____ on _____*[date]* , at _____*[place]*_____ in the same condition as when I received them (or, if different, as noted below).

Description of Articles:

Changes in condition while in my custody:

_____*[signature]*_____

_____*[title]*_____

Seal

_____*[place]*_____

_____*[date]*_____

31 Regulations on Supervision of Interior Business Incorporated Foundations

Enacted and promulgated by Order (69) Tai-Nei-Fa-Tzu No.63329
of the Ministry of the Interior on December 30, 1980
Amended and promulgated by Order (74) Tai-Nei-Fa-Tzu No.302966
of the Ministry of the Interior on May 6, 1985
The whole text of 21 amended articles promulgated by
Order (81) Tai-Nei-Fa-Tzu No.8191791
of the Ministry of the Interior on Dec.30, 1992
Article 10 amended and promulgated by Order (84) *Tai-Nei-Fa-Tzu* No.8488846
of the Ministry of the Interior on November 29, 1995
Articles 2~4 amended and promulgated by Order (88) *Tai-Nei-Fa-Tzu* No.8885773
of the Ministry of the Interior on November 10, 1999

Article 1
These Regulations are enacted by the Ministry of the Interior in order to supervise the interior business incorporated foundations (hereinafter referred to as "incorporated foundations") according to the provisions of the Civil Code and other laws.

Article 2
The incorporated foundations referred to in these Regulations mean the incorporated foundations that handle the affairs related to civil administration, household administration, service administration, land administration, sexual assault prevention, domestic violence prevention, planning and construction, police administration, fire fighting, and other interior business.

Article 3
The competent authorities of incorporated foundations refers to the Ministry of the Interior at the central level, the related departments and bureaus in municipal governments at the municipal level, and the county (city) governments at the county (city) level.

Article 4
The incorporated foundations that operate their business in two or more municipalities or counties (cities) shall be governed by the Ministry of the Interior, unless otherwise prescribed by laws and decrees.

Article 5
An incorporated foundation shall use the donated properties as well as the incomes and interests of the properties for public welfare.

Article 6
The name of an incorporated foundation shall be preceded by "Incorporated Foundation".

Article 7
To establish an incorporated foundation, directors shall be employed at first according to the endowment constitution of the foundation, and then applications shall be submitted by the directors to the competent authority for permission and to the governing court for registration.
Where an incorporated foundation is to be established based on the donation of a testament, the applications referred to in the above paragraph shall be submitted by the executor of the testament.

Article 8
To establish an incorporated foundation, the total property shall be enough to achieve the purpose of establishing the foundation.
The minimum of the total property referred to in the above paragraph will be prescribed by the competent authority otherwhere.

Article 9
The endowment constitution of an incorporated foundation to shall include the following contents:

1. Purpose, name, organization, main office, and branch office(s);
2. Category, amount, storage, and utilization of the donated properties as well as the procedure for disposing real properties or setting the burden;
3. Business items and management methods;
4. Quota, election, and tenure of the directors, reelection (reemployment) of the directors upon expiration of tenure, and the disposal procedure where reelection (reemployment) will not be implemented upon expiration of tenure;
5. Quota, tenure, and election of supervisors (if any);
6. Responsibilities and authorities of the board of director;
7. Attribution of the residual properties after disincorporation;
8. Term of existence (if it is determined).

The endowment constitution of an incorporated foundation established based on the endowment of a testament shall include the above-mentioned matters in accordance with the testament; in case there is no definite prescriptions in the testament, the contents shall be determined by the executor of the testament according to the provision of the above paragraph.

Article 10

In an incorporated foundation, the number of directors shall be not less than 5 and not more than 19, except that there shall be not more than 31 directors in a religious incorporated foundation; and in any incorporated foundation the number of directors shall be a singular.

Article 11

To apply for establishing an incorporated foundation, the following documents in quadruplicate shall be submitted to the competent authority unless otherwise prescribed by laws and decrees:

1. Letter of application;
2. Endowment constitution or photostat copy of the testament;
3. List of the endowed properties and the certificates;
4. List of the directors and photostat copy of their ID cards;
5. Seals of the legal person and the directors;
6. Meeting proceeding of the board of director;
7. Business plan.

Article 12

Upon receipt of an application for establishing an incorporated foundation, the competent authority shall immediately perform examination. Where the documents need to be supplemented or the application shall be rejected, the competent authority shall immediately notify the applicant; where the application shall be approved, the competent authority shall issue a document of permission, and stamp a seal on the letter of application and annexes and return two copies of them to the applicant.

Article 13

An incorporated foundation shall apply to the governing court for registration within 30 days commencing from receipt of the permission, and shall submit a photostat copy of the registration certificate to the governing competent authority for verification within 30 days commencing from receipt of the notice on completion of registration.

After the registration of an incorporated foundation as a legal person has been finished, the donor, the heritor, and the executor of testament shall hand over all the properties to the foundation for the governing competent authority to examine the properties, business, facility and progress.

Where an incorporated foundation doesn’t handle the procedure as prescribed in the above two paragraphs, the competent authority may cancel the permission.

Article 14

The directors of an incorporated foundation shall observe the provisions of relevant laws, the endowment constitution, and the testament when performing their duties.

Article 15
The accounting system of an incorporated foundation shall employ the accrual basis, and accounting books shall be established to record the related accounting affairs, and shall be examined and sealed by the taxation department prior to use.

Article 16
An incorporated foundation shall submit an annual budget and a business plan within 3 months before the beginning of a year, and an annual report on final settlement and business performance within 3 months after the end of a year, to the competent authority for reference.
In order to know about the status of an incorporated foundation, the competent authority may, at any time, notify the foundation to submit a business and financial report, and may send personnel to perform inspection and auditing.

Article 17
The competent authority shall guide the incorporated foundations to appropriately utilize their properties with reconsideration of the purposes of establishment.

Article 18
After an incorporated foundation is disincorporated, the residual properties shall be disposed in accordance with the provisions of the endowment constitution or testament, but may not be vested in any natural person or profit-making organization. If there is no such provision in the endowment constitution or testament, the residual properties shall be vested in the local autonomous organizations in the areas where the offices are located.

Article 19
In case of any of the following occasions, the competent authority shall correct the misconduct and notify the incorporated foundation to improve within a specified time limit:

1. The incorporated foundation infringes law, endowment constitution, or testament.
2. The operating policy is not in conformity with the purpose of establishment.
3. The board of directors made an obviously improper resolution.
4. Financial income or expenditure has no legal voucher or meeting proceedings are incomplete.
5. The incorporated foundation keeps shady some property or encumbers the competent authority from performing examination and auditing.
6. The incorporated foundation makes a false report on its business or properties.
7. The charge rate is too high.
8. The expenditures are too excessive.
9. The total amount of the properties is insufficient for achieving the target business.
10. Other occasions infringing these Regulations.

Where an incorporated foundation doesn’t make improvement within the specified time limit after having received the notice given by the competent authority, the competent authority may cancel the permission.

Article 20
In case of alteration of the approved matters after an incorporated foundation has been registered as a legal person, a report shall be submitted to the competent authority for approval of alteration within 30 days after the alteration occurs, and register the alteration at the governing court within 30 days after having acquired the approval of alteration, and shall send a photostat copy of the renewed registration certificate to the competent authority for reference within 10 days after receipt of the renewed certificate.

Article 21

These Regulations shall become effective as of the day of promulgation.

32 Charity Donations Destined For Social Welfare Funds Implementation Regulations

Enacted and promulgated on May 17, 2006

Article 1
These regulations have been established for purpose of: effective control of Charity Donations, to use societal resources in appropriate manners, to promote social welfare & to protect the rights of donators.

Article 2
Definitions of specific appellations are defined by these regulations as follows:
1. Social welfare: To the public benefit of the unspecified majority.
2. Non-commercial group: Non-profit-seeking legitimate & registered public groups, handling social welfare matters as described below per Article 8.

Article 3
The control and management of public financial funds & gifts solicitation, for purpose of social welfare [with the exceptions of the activities as described below], shall strictly adhere to these regulations; unless otherwise regulated by different acts/codes:
1. The solicitation of financial funds and gifts, conducted by groups or individuals, for political fund raising.
2. The solicitation of financial funds and gifts, conducted by religious groups, temples, churches or individuals, for religious purpose.

Article 4
The agencies-in-charge as mentioned by these regulations are: MOIA [central government]; relevant jurisdictional city/county governments.

Article 5
Fund raising groups as referred to by these regulations are described as below:
1. Public schools.
2. Incorporated Administration.
3. Corporation who has Social welfare character.
4. Corporate bodies.

Based on considerations for social welfare, all agencies/levels of government shall be permitted to accept financial funds and gifts donations, bestowed by concerned person[s]; however, such donations are not permitted to be initiated by such governmental agencies. Exempted from this ruling, are incidents of major disaster [force majeures] and international rescue missions.

Article 6
The following procedures must be strictly adhered to by relevant governmental agencies, when accepting such donations [as described per Item b - Article 5]:
1. Issue official receipts.
2. Conduct open investigations periodically.
3. Use only according to the designated purpose.

All relevant governmental agencies, within two{2} months time from the end of each fiscal year, should hand-over respective written reports, to their supervisory authorities [if any], for future reference.

For purpose of social welfare, all acceptance and reception of such donations, either from concerned groups or individuals, official written receipts must be issued. Written reports [concerning relevant project progress and respective accounting tabulations] shall be handed-over to the respective supervisory agency/organization within specific given deadlines; for public schools, within two{2} months time from the end of each fiscal year; for other fund raising

groups, within five{5} months time from the end of each fiscal year. All such written reports are to be kept on files for future reference.

Article 7
All activities of charity donations [hereafter referred to as the "donation"], either for financial funds or for gifts, must present proper application forms & relevant documentations; for charity donations solicited within a particular city/county boundary, such applications can be made directly with the respective jurisdictional city/county government.
For charity donations that are cross-regions & cross-districts, such applications can be made with central governmental agencies. In this case, all applications [delayed applications], regulations, procedures, requested documentations, deadlines, operation details, shall be regulated by such central governmental agencies.

Article 8
All financial funds and gifts collected through donations, can and must be used only for the purposes as listed below:
1. For Social Welfare Activities.
2. For educational & cultural affairs.
3. For social charity affairs.
4. For international humanity rescue affairs.
5. Other relevant affairs recognized by central governmental agencies.

Article 9
If within the past three {3} calendar years, public fund raising groups find themselves in any one{1} of the following situations, shall have their official governmental "permission" to charity donations stricken from them:
1. In clear violation of the regulations as stipulated therein Article 13, 14, 19, 21 or 22, of this here-say document.
2. In clear violation of the regulation as stipulated therein Item (a) – Article 10 of this here-say document; however, respective person-in-charge [if judged not-guilty by local courts], is exempted from this ruling.
3. In clear violation of the regulations as stipulated therein Item (b) or Item (c) – Article 10, or Article 11.

Article 10
If public fund raising groups find themselves in any one{1} of the following situations, relevant governmental agencies-in-charge shall immediately "abolish" their previously granted permission to solicit donations:
1. The person-in-charge [or the official representative] of the fund raising group has been prosecuted, brought about by charges of suspicion of criminal activities.
2. The official receipts issued [in accordance with rules as stipulates therein Article 16] are found to be erroneous or fraudulent.
3. Serious major infractions were found against relevant local acts/codes concerning internal affairs, exterior affairs & financial affairs.

Article 11
If relevant documentations provided, for the application of governmental permission for charity donations, contents therein were to be found to be falsified, then previously granted permission is to be annulled immediately.

Article 12
Maximal duration for any specific public activity of solicitation for charity donations is set at one{1} calendar year.

Article 13
Special designated accounts must be opened, either with the general postal services or financial institutions; such accounts must be reported to the relevant governmental agencies-in-charge, within seven{7} days after their establishment. However, for public schools, the bank accounts normally used for the daily operations will suffice.

Article 14
All activities of solicitation for charity donations must not be conducted by "obligatory" fashion, or by any other unwilling & forced manner; such practices are prohibited either in regards to firms/companies or respective personnel thereof, due to normal business relations.

Article 15
When conducting activities of solicitation for charity donations, relevant staff must present official governmental permission certification, as well as respective employee's I.D.; however, those which are publicized by media means, the stating of the official governmental permission certification number will suffice.

Article 16
Official receipts must be issued for all financial funds & gifts solicited; such receipts must record the following details therein: official governmental permission certification number, the donator, the donated amount [or item], the date of donation, etc.

Article 17
All necessary administrative fees/charges occurred during the conducting of charity donations activities, shall following the tabulation limits as described below:
1. Total solicited donation amount under NT$10,000,000.00: 15%.
2. Total solicited donation amount between NT$10,000,000.00 – NT$100,000,000.00: Basic toll of NT$1,500,000.00 + 8% of remaining amount over 10 million NT Dollars.
3. Total solicited donation amount over NT$100,000,000.00: Basic toll of NT$8,700,000.00 + 1% of remaining amount over 1 Billion NT Dollars.

If solicited charity donations are physical items [instead of cash funds], then relevant tabulation should be based on the "then" current market prices of the items concerned.

Article 18
All fund raising groups must hand-over relevant documentations, stating detailed operation data, such as: donators, donated funds/items, total solicited charity donations, expenditures inventory, outcome of public investigations/verifications, etc., to respective governmental agencies-in-charge, for file-keeping and future reference; such actions must be executed within thirty{30} days, starting from the following day of the official termination date of relative charity donations activities.
Concerning all charity donations solicited, each and all expenditures over NT$10,000.00 --- such expenditures must be settled either by check or through account transfers [Post Office or banks]; payment for such expenditures shall never be executed by cash.

Article 19
Final usage for all financial funds and gifts solicited through charity donations, must be destined for the pre-designated usages only, no other usage alternatives shall be permitted.
If balance remaining after official charity donation activities shall have terminated, then pending presentation of official written requests [in accordance with original charity donation purposes], as well as pending final approval from governmental agencies-in-charge, such balances may be appropriated.

Any appropriation actions of charity donation remaining balances, shall be executed within three{3} years time limitation, starting from the official termination date of relevant original activities.

Article 20

All fund raising groups must hand-over relevant documentations, stating detailed operation data, such as: donators, donated funds/items, total solicited charity donations, expenditures inventory, outcome of open investigations, etc., to respective governmental agencies-in-charge, for file-keeping and future reference;

such actions must be executed within thirty{30} days, starting from the following day of the official termination date of relative charity donations activities. Such documentations must be reviewed and finally approved by relevant Board Of Directors meetings.

If due to proper cause, then extension may be requested; maximal extension period is set for thirty{30} additional calendar days.

The respective detailed operation data [as described above] should be posted into concerned official governmental agencies-in-charge's websites; such agencies must conduct periodical annual audits.

Article 21

Relevant governmental agencies-in-charge may wish to conduct random checks/verifications of all charity donations activities, as well as respective accounting records & financial statements; concerned fund raising groups [and personnel thereof] shall not evade, hinder, or refuse such inspections.

Article 22

If any one{1} of the following circumstances is met, then all originally solicited financial funds and gifts, must be returned to the respective donators:

1. Relevant fund raising group does not belong to any one{1} of the designated and accredited group categories, as previously described in Article 5 above.
2. Relevant charity donations activities had not been previously approved by respective governmental agencies-in-charge.
3. Relevant original charity donations permission had already been either annulled or abolished by respective governmental agencies-in-charge, but activities continued onward; however, all financial funds and gifts already "used" [in accordance with original charity donations purpose], prior to the official annulment/abolishment of governmental permission, are exempted from this ruling.
4. All such funds/gifts solicited "after" the official valid duration period had already expired.
5. In violation of regulations as stipulated therein Article 14.

The restitutions of such financial funds and gifts, pending final verification conducted by relevant governmental agencies-in-charge, shall be handled by such agencies; actual executions may be out-sourced [by proxy] to concerned groups/aggregates.

Any remaining balance derived from relevant charity donations activities, if respective fund raising group had dispersed itself, or had not been enforced in accordance with regulations as stipulated therein Article 19 above, shall be handled in the same manners as Items (d) and (e) as described previously.

Article 23

Relevant official governmental agencies-in-charge should post respective detailed operation data [of already approved charity donations activities] into its website pages.

Article 24

If any one{1} of the following circumstances is met , then official fines of between NT$40,000.00 – NT$200,000.00 shall be imposed; respective detailed data, such as: responsible

person's name/surname, official title, violation facts & relative punitive actions imposed shall be announced in public communiqués. Those who repetitively violate official regulations, shall be imposed with repetitious fines.

1. Relevant fund raising group (person) does not belong to any one{1} of the designated and accredited group (person) categories, as previously described in Article 5 above.
2. Relevant charity donations activities had not been previously approved by respective governmental agencies-in-charge.
3. Relevant original charity donations permission had already been either annulled or abolished by respective governmental agencies-in-charge, but activities continued onward.
4. Relevant charity donations activities kept on going, even after the official valid duration period had already expired.

The aforementioned fines imposed on the fund raising groups or other aggregates, shall also have respective detailed personal data [of the person-in-charge or their official representative], such as: name/surname, official title, etc., announced in public communiqués.

Article 25

All those in violation of regulations as stipulated therein Article 14, were properly warned but continued to perform such violations, shall be imposed with fines of between NT$40,000.00 – NT$200,000.00; those who repetitively violate official regulations, shall be imposed with repetitious fines. In cases where serious and major violations shall have been committed, relevant official governmental agencies-in-charge shall annul/abolish the original permissions.

Article 26

All those in violation of regulations as stipulated therein Article 13, 15-20, or 22, shall be properly warned ahead of time; immediate rectifications shall be demanded with given deadlines. Those who do not improve, shall be imposed with fines of between NT$20,000.00 – NT$100,000.00; those who repetitively violate official regulations, shall be imposed with repetitious fines.

Article 27

All those who attempt to evade, hinder, or refuse inspections [conducted by relevant official governmental agencies-in-charge] as described previously per Article 21, shall be imposed with fines of between NT$10,000.00 – NT$50,000.00; thereafter "forced" inspections shall be conducted. In cases where serious and major violations shall have been committed, relevant official governmental agencies-in-charge shall annul/abolish the original permissions.

Article 28

All those who are in violation of regulations as stipulated therein Article 6, shall be properly warned ahead of time [by either their supervisory agency, or by relevant agency which reviewed & granted their establishment permissions]; immediate rectifications shall be demanded with given deadlines. Those who do not improve, shall be imposed with fines of between NT$3,000.00 – NT$15,000.00; those who repetitively violate official regulations, shall be imposed with repetitious fines.

Article 29

All person[s] in violation with regulations as stipulated therein this document; besides being imposed with various fines as previously described, those who are suspected of criminal behaviors, shall be prosecuted in local judiciaries.

Article 30

All imposed fines as previously described, with the exception of that as stated above per Article 28, shall be executed by relevant governmental agencies-in-charge.

Article 31

Relevant details of the enforcement/implementation of these here-say regulations, shall be otherwise established by respective central governmental agency-in-charge.

Article 32

These regulations are regarded as enforced and implemented, starting from the date of the official public announcement.

33 The Act Governing Non-Litigation Procedure (Excerpt)

Promulgated on May 28, 1964
As Amended on April 30, 1986
As Added on February 3, 1999
As Amended on February 5, 2005

Article 59
With respect to the application for the dismissal of the post of director or controller procedure referred to Item 2 Article 33 of Civil Code, the application to declare dismissal procedure referred to Article 36, the juridical person liquidation cases related issues referred to Article 38, Article 39 and Article 42, the authorization for calling a general meeting as referred to Article 51 Item 3, the application for dismissal procedure referred to Article 58, the application for necessary disposition referred to Article 62, the application for the alternation of organization procedure as referred to Article 63, all the cases mentioned above are under the jurisdiction of the count where the main business of a juridical person is domiciled.

Article 60
When the authorities, the prosecutor, or interested persons in accordance with Civil Code Article 36 or Article 58 to apply for the dismissal declaration of a juridical person to the court, the lawful content documents for the dismissal should be enclosed. If the application is made by the interested person, the explanation of interested relationship should be specified.

Article 61
The documents with lawful content should be enclosed when the application is made by the authorities or the public prosecutor according to the following regulations. If the application is made by any other applicants, the qualified proof documents should be enclosed:
1. the application for the appointment of liquidator as referred to Article 38 of Civil Code;
2. the application for necessary disposition to the court as referred to Article 62 of Civil Code;
3. the application for the alteration of organization of a foundation as referred to Article 63 of Civil Code.

The documents with lawful content should be enclosed when the request is made to the court by the authorities according to Item 2 Article 33 of Civil Code to dissolve the post of a director or controller. If the request is made by the members of an association to the court according to Item 3 Article 51 of Civil Code to call for a general meeting, the qualified proof documents with lawful content should be enclosed.

Article 65
The Court, according to Item 2 Article 33 of Civil Code to dissolve the post of a director or controller, to declare the dismissal of a juridical person according to Article 36 or Article 58, to appoint the liquidator according to Article 38, to dissolve the post of the liquidator according to Article 39 and to alter the organization of a foundation and to appoint provisional director according to Article 63, should entrust the registration division to register the record.

Article 82
The registration procedure of a juridical person should be governed by the court where the business office of a juridical person is located. The above mentioned registration procedure should be conducted in the registration division of a local court.

Article 83
The registration book of juridical persons should be placed at the registration division.

Article 84
The registration for the establishment of a juridical person, other than to proceed according to

Item 2 Article 48 and Item 2 Article 61 of Civil Code, should also be enclosed with the following documents:

1. the permission or authorization document from the authorities;
2. the proof document of the director's qualification, and same of the controller, if any;
3. the membership book or the property catalogue, and other proof documents of the property of provision office of which are under the names of all members;
4. the specimens of signature or seal of the director of the juridical person.

The following documents should be attached when proceeding the registration of a branch office by a juridical person:

1. the permission or authorization document from the authorities;
2. the proof document to prove the qualification of the responsible person of the branch office.
3. the specimens of signature or seal of the branch office and that of its responsible person.

Article 85

The application for the registration or the correction and nullification of the registration of a juridical person relating to the new establishment, relocation or abolishment of business office and the change of other registered items, should be made by the director.

The proof document with particulars of the application should be attached in the above-mentioned application; for those which require the approval from the authorities should also be attached with proof document of the approval.

Article 86

After the recording is being made by the registration division, a transcript of the registration book which is appropriately for the recording of property acquired should be issued, as well as the order to request the applicant to submit the proof documents of the properties acquired and listed on the property catalogues of a juridical person within a time limit. The registration for the establishment will be forced to be revoked for those who fail to do so and notification will be sent to the authorities.

After the submission of the above-mentioned property proof documents by the applicant, the registration certificate of the juridical person should then be issued by the registration division and notification will also be sent to the authorities and tax offices.

The application for the re-issue of the registration certificate of a juridical person shall be made in case the certificate is lost or damaged and cannot be used.

Article 87

The juridical person can apply to the registration division by prepaying a fee for the issue of the seal certificate of the seal used in the application for the registration application.

The above-mention seal certificate shall be recorded for the purpose of its use if it is considered as necessary by the registration division.

Article 88

The registration for the dismissal of a juridical person should be applied by the liquidator.

The proof documents of the liquidator's qualification and the particulars of the dismissal should be attached for the application mentioned above.

The above-mentioned regulations apply to those juridical persons which have been established and are revoked after receiving the approval from the authorities.

If the dismissal of a juridical person is caused by the order from the court or other related authorities, the dismissal should be recorded by the registration division according to the request of the related authorities.

Article 89

The revocation or nullification of the registration for the establishment of a juridical person according to this Act, other than required by this Act, will follow the same regulations with

respect to the liquidation of a juridical person in the Civil Code.

Article 90
The registration for the employment & discharge or the change of the liquidator of a juridical person should be applied by the liquidator currently in office.
For the application mentioned above should be attached with the proof documents for the employment & discharge or the change of the liquidator.

Article 91
The registration for the liquidation of a juridical person should be applied by the liquidator.
The above-mentioned application should be enclosed with the proof documents for the acceptance of each individual item of the liquidation.

Article 92
In case that the application for the registration of a juridical person is against the law, disagreement of format or other deficiency which can be mended, the registration division should order the applicant to amend within a fixed period of time. The application shall be turned down if no amendment is made within the period.

Article 93
For the registered items of a juridical person, the registration division should announce within 3 days after the registration in the announcement division for more than 7 days.
Apart from the above-mentioned regulation, the registration division should order to print the transcript or abridged version of the announcement in the communiqué or local newspaper.
If the announcement and the registration disagree, the registration shall be conformed.

Article 94
The applicant can apply for the correction to the registration division, if there is an error or omission of registration.
If it is discovered that the error or omission of registration is caused by the error or omission of the applicant, the registration division should order the applicant to apply for the amendment within a time limit. If no application is made for the amendment behind time, the registration division should note the particulars for the correction in the registration book.
If the error or omission of registration is evidently caused by the staff of the registration division, the correction for the registration should soon be made after receiving the approval from the court principal.
After the amendments have been made for the above 3 items, the notice should be sent to the applicant and interested persons。

Article 95
After the registration is being made by the registration division, if any one of the following conditions is found, , the registration should be withdrawn and the notification should be sent to the applicant and interested persons after receiving the permission from the court principal.
However, if the amendment can be made for such condition, the order to amend within a time limit should be given first:
1. Such case is not under the jurisdiction of the registration division.
2. The items applied for are not appropriate for registration.
3. The proof documents which should be submitted are incomplete.
4. The recordings of the property catalogues submitted disagree with the proof documents.
5. The applications are made without providing other lawful documents.

Article 96
If the handling of the registration affairs by the registration division is deemed as against the law or improper by the concerned party, objection should be made within the next 10 days after

knowing the fact. However, no objection should be summated over more than 2 months after the completion of the affair handling.

Article 97

If the above-mentioned objection is deemed reasonable by the registration division, the appropriate arrangement should be made within the next 3 days. If it is deemed unreasonable, the opinion should be attached within the next 3 days to the possessive court.

If the objection is deemed reasonable by the court, the order to make appropriate arrangement should be given to the registration division. The objection will be rejected if it is deemed unreasonable by the court.

The reasons should be given for the above-mentioned decree and delivered to the registration division, the dissenter and the known interested persons。

Article 98

After the confirmation of correction, revocation or nullification has been made for the registration of a juridical person, the rules in Article 93 shall be applied.

Article 99

As soon as the end of liquidation is being recorded, the registration of a juridical person is then to be revoked.

Article 100

Unless otherwise required by law, the regulations under the Act relating to the registration of a juridical person also apply to the registration of a foreign juridical person.

The application for the establishment of the business office of a foreign juridical person which has been authorized for the establishment should be made by the director or representative person in the R.O.C. of such juridical person.

The above-mentioned application, apart from submitting approval documents, should also be enclosed with the following documents which have been proved or certified by the official authorities of the R.O.C. stationed abroad.

1. The name, type and nationality of a juridical person;
2. The organizational chapter or chapter of a Juridical person;
3. The proof documents of the qualification of the director or representative person in the R.O.C.

34 Civil Code (Selected)

Promulgated on May 23, 1929
Effective from October 10, 1929
As Amended on January 4, 1982

Article 25
A juridical person is established only according to this code or any other acts.

Article 26
Within the limits prescribed by acts and regulations, a juridical person is capable of enjoy rights and assume duties with the exception of those rights and obligations which are exclusively appertaining to natural persons.

Article 27
A juridical person must have at least one director. If there is more than one director, the execution of affairs of the juridical person shall be decided by a majority of all directors unless otherwise provided by its bylaw.
The director represents the juridical person within the management of its affairs. If there is more than one director, each director may represent the juridical person unless otherwise provided by its bylaw.
No restriction imposed upon the representative right of a director may be a valid defense against any bona fide third party.
A juridical person may have one or more controllers to control the execution of its affairs. If there is more than one controller, each controller may exercise his right of control respectively unless otherwise provided by its bylaw.

Article 28
A juridical person is jointly liable with the wrongdoer for the injury caused by its directors or other persons who are entitled to represent the juridical person in the performance of their duties.

Article 29
The domicile of a juridical person is the location of its principal office.

Article 30
A juridical person can not be established unless it has been registered with the authorities concerned.

Article 31
If a juridical person, after its registration, fails to register any entry which should have been registered, or to register any amendment to any of the entries already registered, such entry or amendment therein should not be a valid defense against any third party.

Article 32
The activities of a licensed juridical person are subject to the supervision of the authorities concerned. The authorities concerned may examine the juridical person’s financial situation and ascertain whether it has violated the conditions of the license and other legal requirements.

Article 33
The director or controller of a licensed juridical person who disobeys the supervising order of, or obstructs the inspection by the authorities concerned, may be punished with a fine not exceeding five thousand Yuan.
If the director or controller set forth in the preceding paragraph violates the act, regulation, or bylaw to such an extent that may endanger interests of the public or the juridical person, the authorities concerned may apply to the court for dismissing his position and make other necessary arrangement.

Article 34
If a juridical person violates any conditions under which the license has been granted, the authorities concerned may revoke the license to the juridical person.

Article 35
When a juridical person is in a state of insolvent, the director shall immediately apply to the court for the declaration of bankruptcy.
If the director fails to make the preceding application, so that the creditors of the juridical person incur the injury, he who is negligent shall be liable for the injury. If more than one director is negligent, they shall be liable for the injury jointly.

Article 36
When the purpose or the activity of a juridical person violates the act, public policy or morals, the court may declare to dissolve the juridical person upon the application of the authorities concerned, the public prosecutor, or any interested person.

Article37
The liquidation of a dissolved juridical person shall be dealt with by its director, unless otherwise provided its bylaw or by the resolution of the general meeting of members.

Article 38
If the appointment of the liquidator cannot be made under the preceding article, the court may appoint the liquidator by its authority or upon the application of the authorities concerned, public prosecutor, or interested person.

Article 39
Whenever necessary, the court may discharge the liquidator from his duties.

Article 40
A liquidator shall do the following duties:
1. Wind up the business or affairs of the juridical person.
2. Claim the obligatory rights and discharge the debts.
3. Deliver the remaining assets to the persons entitled thereto.

The dissolved juridical person, before the end of its liquidation, is deemed to continue existence insofar as it is necessary for the liquidation.

Article 41
Unless otherwise provided by this General Provisions, the procedure of liquidation shall be carried out in conformity mutatis mutandis with the provisions governing the liquidation of a company limited by shares.

Article 42
The liquidation of a juridical person shall be subject to the supervision of the court. The court may at any time make inspection and disposition necessary for its supervision.
Whenever to revoke the license to or order the dissolution of a juridical person, the authorities concern shall notify the court simultaneously.
If a juridical person was dissolved in accordance with its bylaw or the resolution of its general meeting of members, the director shall report to the court within fifteen days after the dissolution.

Article 43
A liquidator who violates the supervising order of the court or obstructs the inspection of the court may be punished with a fine not exceeding five thousand Yuan. A director who violates the provision in the third paragraph of the preceding article may be punished with the same fine.

Article 44
After a juridical person has been dissolved and its debts have been discharged, unless otherwise

provided by the act, the remaining assets shall be assigned according to its bylaw, or the resolution of the general meeting of members. Upon the dissolution of a charitable juridical person, its remaining assets shall not be assigned to any natural person or profit-seeking group. Without such provisions in the act, in the bylaw, or of a resolution of the general meeting of members as provided in the preceding paragraph, the remaining assets of a juridical person shall be assigned to the municipal corporation in which the juridical person is domiciled.

Article 45
A business corporation acquires juridical personality according to the particular act.

Article 46
Before the registration, a charitable corporation shall obtain the license of its authorities concerned.

Article 47
Those who want to establish a corporation shall draw up its bylaw which shall contain the following entries:
1. Purpose;
2. Name;
3. The number, term of office, appointment and dismissal of the director; and same of the controller, if any;
4. The conditions and procedures for calling the general meeting of members and the method for authentication of its resolution;
5. The contributions of the members;
6. The acquisition and loss of membership;
7. The date of the bylaw be drawn up;

Article 48
When a corporation is established, the following entries shall be registered:
1. Purpose;
2. Name;
3. The principal and branch offices;
4. The name and domicile of the director; and same of the controller, if any;
5. The total assets;
6. The date of the license, if the corporation should be licensed;
7. The way of contributions, if any;
8. The name of the director who represents the juridical person, if any;
9. The period of duration, if any;

The application for the registration of a corporation shall be submitted by the director to the authorities concerned where its principal and branch offices are located. A copy of its bylaw shall be annexed to the application for registration.

Article 49
Without violating the provisions of articles 50 to 58, the bylaw may provide for the organization of the corporation and the relations between the corporation and its members.

Article 50
The supreme organ of a corporation is the general meeting of its members.
The following entries shall be passed by the resolution of the general meeting of members:
1. The alteration of the bylaw;
2. The appointment and dismissal of the director and the controller;
3. The supervision of the director and the controller in doing of their duties;
4. The removal of members for good causes.

Article51
The general meeting of members shall be called at least once a year by the director; if the director does not call the general meeting, the controller may call it.
When over one-tenth of the members of a corporation request the director to call a general meeting, expressing the purpose of the meeting and the reason for its calling, the director shall call the meeting accordingly.
After the receipt of above request, if the director does not call the meeting within one month, the member, who have made the request, with the authorization of the court, may call the meeting.
The notice of calling, unless otherwise provided by the bylaw, shall be given to the members 30days in advance. The agenda of the general meeting shall be specified in the notice.

Article52
Unless otherwise provided by this Code, the resolution of the general meeting of members shall be passed if it passed by a majority of its members present.

The voting right of each member is equal.
Unless otherwise limited by the bylaw, a member may delegate another with a written document to exercise his voting right, but each person may act as proxy for one member only.
Any member who has conflict of interests in the matter under resolution of the general meeting of members which may damage the corporation shall not vote or exercise as a proxy to vote.

Article53
The resolution concerning the alteration of the bylaw of a corporation shall be passed at a meeting at which the majority of the members of the corporation are present, and by a majority of over three-fourths of the members present, or when over two-thirds of the members of the corporation declare their consent in writing.
The alteration of the bylaw of a licensed corporation shall be approved by the authorities concerned.

Article54
The members may withdraw from the corporation at any time unless the bylaw requires that the members have to remain until the end of the business year, or the expiration of notice period of withdrawal.
The period of notice in the preceding paragraph shall not exceed six months.

Article55
The member who is withdrew or dismissed has no claim for the property of the corporation unless otherwise provided by the bylaw of a non-charitable corporation.
The member in the preceding paragraph continues to be liable for his share of the contributions which has become due before his withdrawal or dismissal.

Article56
If the calling procedure or the method of a resolution of a general meeting of members violates the act, regulations, or the bylaw of the corporation, any member may apply to the court to revoke the resolution within three months after the resolution, except the member who was present and did not make objection against the calling procedure or the method of the resolution at the meeting.
The content of the resolution passed by the general meeting of members which violates the act, regulations, or the bylaw of the corporation shall be void.

Article57
A corporation may be dissolved, at any time, by a resolution of the general meeting of members passed by a majority vote of over two-thirds of the members of the corporation.

Article58

When the affairs of a corporation can not be proceeded any more according to its bylaw, the corporation may be dissolved by the court upon the application of the authorities concerned, public prosecutor, or any interested person.

Article59
Before registration, a foundation shall be licensed by the authorities concerned.

Article60
Those who want to establish a foundation shall draw up an act of endowment, except in the case of endowment by will.
The act of endowment shall provide the purpose of the foundation and the assets endowed.
When a foundation is established with endowment by will, and there is no executor, the court may appoint an executor upon the application of the authorities concerned, public prosecutor, or any interested person.

Article61
When a foundation is established, the following entries shall be registered:
1. Purpose;
2. Name;
3. The principal and branch offices;
4. The total assets;
5. The date of the license;
6. The name and domicile of the director, and same of the controller, if any;
7. The name of the director who represents the juridical person, if any;
8. The period of duration, if any.

The application for the registration of a foundation shall be submitted by the director to the authorities concerned of the place where its principal and branch offices are located. A copy of its act of endowment or the will shall be annexed to the application for registration.

Article62
The organization and method of administration of a foundation shall be stipulated by the founder in the act of endowment or will. If the organization or the important method of administration, as provided in the act of endowment or will, is insufficient, the court may take necessary disposition upon the application of the authorities concerned, public prosecutor or any interested person.

Article63
In order to maintain the purpose of a foundation or preserve its assets, the court may alter the foundation’s organization upon the application of the founder, the director, authorities concerned, public prosecutor, or any interested person.

Article64
The act of the director of a foundation, which violates the act of endowment, may be declared void by the court, upon the application of the authorities concerned, public prosecutor or any interested person.

Article65
If the purpose of a foundation can not be completed because of change of circumstances, the authorities concerned may, after considering the intent of the founder, change the purpose and the necessary organization of the foundation, or dissolve it.

35 Statute for Narcotic Hazards Control

Amended and passed by the Legislative Yuan on June 6, 2003

Article 1

This Statute is enacted for the purpose of preventing narcotic hazards and maintaining the physical and mental health of the nation as a whole.

Article 2

The term “narcotics” used in this Statute shall mean those anesthetics that have addictive, abuse-causing properties and their products hazardous to the public and the substances and their products that are liable to affect mental health.

Narcotics are classified into four grades by their respective addictive, abuse-causing properties and hazard to the public. Items under each of these four grades are listed as follows:

1. Grade 1: heroin, morphine, opium, cocaine and their respective products (as listed in Exhibit I thereof).
2. Grade 2: opium poppy, coca, cannabis, amphetamine, pethidine, pentazocine and their respective products (as listed in Exhibit II thereof).
3. Grade 3: secobarbitual, amobarbital, nalorphine and their respective products (as listed in Exhibit III thereof).
4. Grade 4: Allobital, Alprazolam and their respective products (as listed in Exhibit IV thereof).

The grades and items of narcotics set forth in the preceding paragraph shall be subject to adjustment, addition and/or deletion to be made every three months by the Ministry of Justice in conjunction with the Department of Health of the Executive Yuan, and the results shall be announced by the Executive Yuan.

Anesthetics and substances and their products affecting mental health that are required for medical and scientific purposes shall be subject to the administration and control under the law, which shall be separately enacted.

Article 3

The provisions set out in this Statute regarding the courts, public prosecutors, jails and prisons shall also be applicable to military courts, prosecutors, jails and prisons.

Article 4

A person who manufactures, transports and/or sells Grade 1 narcotics shall be punished with death or life imprisonment; in the case of punishment of life imprisonment, a fine in an amount of not more than ten million New Taiwan Dollars (NTD 10,000,000) may be imposed in addition thereto.

A person who manufactures, transports and/or sells Grade 2 narcotics shall be punished with life imprisonment or imprisonment for a period of not less than

seven years, and may, in addition thereto, be imposed a fine in an amount of not more than seven million New Taiwan Dollars (NTD 7,000,000).

A person who manufactures, transports and/or sells Grade 3 narcotics shall be punished with imprisonment for a period of not less than five years, and may, in addition thereto, be imposed a fine in an amount of not less than five million New Taiwan Dollars (NTD 5,000,000).

A person who manufactures, transports and/or sells Grade 4 narcotics shall be punished with imprisonment for a period of not less than three years and not more than ten years, and may, in addition thereto, be imposed a fine in an amount of not more than three million New Taiwan Dollars (NTD 3,000,000).

A person who manufactures, transports and/or sells implements for exclusive use in manufacturing or using narcotics shall be punished with imprisonment for a period of not less than one year but not more than seven years, and may, in addition thereto, be imposed a fine in an amount of not more than one million New Taiwan Dollars (NTD 1,000,000).

An attempt of any of the offenses set forth in the preceding five paragraphs shall also be punishable.

Article 5

A person who possesses Grade 1 narcotics with the intent to sell shall be punished with life imprisonment or imprisonment for a period of not less than ten years, and may, in addition thereto, be imposed a fine in an amount of not more than seven million New Taiwan Dollars (NTD 7,000,000).

A person who possesses Grade 2 narcotics with the intent to sell them shall be punished with imprisonment for a period of not less than five years, and may, in addition thereto, be imposed a fine in an amount of not more than five million New Taiwan Dollars (NTD 5,000,000).

A person who possesses Grade 3 narcotics with the intent to sell them shall be punished with imprisonment for a period of not less than three years and not more than ten years, and may, in addition thereto, be imposed a fine in an amount of not more than three million New Taiwan Dollars (NTD 3,000,000).

A person who possesses Grade 4 narcotics with the intent to sell them shall be punished with imprisonment for a period of not less than one year and not more than seven years, and may, in addition thereto, be imposed a fine in an amount of not more than one million New Taiwan Dollars (NTD 1,000,000).

A person who possesses the implements for exclusive use in manufacturing or using narcotics with the intent to sell such implements shall be punished with imprisonment for a period of not more than five years, and may, in addition thereto, be imposed a fine in an amount of not more than one million New Taiwan Dollars (NTD 1,000,000).

Article 6

A person who causes another person, by violence, coercion, deceit or any other unlawful means, to use Grade 1 narcotics shall be punished with death, life imprisonment or imprisonment for a period of not less than ten years; and in the case of punishment of life imprisonment or the imprisonment for a period of not less than ten years, a fine in an amount of not more than ten million New Taiwan Dollars (NTD 10,000,000) may be imposed in addition thereto.

A person who causes another person, by any of the means set forth in the preceding paragraph, to use grade 2 narcotics shall be punished with life imprisonment or imprisonment for a period of not less than seven years, and may, in addition thereto, be imposed a fine in an amount of not more than seven million New Taiwan Dollars (NTD 7,000,000).

A person who causes another person, by any of the means set forth in Paragraph One of this Article, to use Grade 3 narcotics shall be punished with imprisonment for a period of not less than five years, and may, in addition thereto, be imposed a fine in an amount of not more than five million New Taiwan Dollars (NTD 5,000,000).

A person who causes another person, by any of the means set forth in Paragraph One of this Article, to use Grade 4 narcotics shall be punished with imprisonment for a period of not less than three years and not more than ten years, and may, in addition thereto, be imposed a fine in an amount of not more than three million New Taiwan Dollars (NTD 3,000,000).

An attempt of any of the offenses set forth in the preceding four Paragraphs shall also be punishable.

Article 7

A person who induces another person to use Grade 1 narcotics shall be punished with imprisonment for a period of not less than three years but not more than ten years, and may, in addition thereto, be imposed a fine in an amount of not more than three million New Taiwan Dollars (NTD 3,000,000).

A person who induces another person to use Grade 2 narcotics shall be punished with imprisonment for a period of not less than one year but not more than seven years, and may, in addition thereto, be imposed a fine in an amount of not more than one million New Taiwan Dollars (NTD 1,000,000).

A person who induces another person to use Grade 3 narcotics shall be punished with imprisonment for a period of not less than six months but not more than five years, and may, in addition thereto, be imposed a fine in an amount of not more than seven hundred thousand New Taiwan Dollars (NTD 700,000).

A person who induces another person to use Grade 4 narcotics shall be punished with imprisonment for a period of not more than three years and may, in addition thereto, be

imposed a fine in an amount of not more than five hundred thousand New Taiwan Dollars (NTD 500,000).
An attempt of any the offenses set forth in the preceding four paragraphs shall also be punishable.

Article 8

A person who assigns to another person Grade 1 narcotics, shall be punished with imprisonment for a period of not less than one year but not more than seven years, and may, in addition thereto, be imposed a fine in an amount of not more than one million New Taiwan Dollars (NTD 1,000,000).
A person who assigns to another person Grade 2 narcotics, shall be punished with imprisonment for a period of not less than six months but not more than five years, and may, in addition thereto, be imposed a fine in an amount of not more than seven hundred thousand New Taiwan Dollars (NTD 700,000).
A person who assigns to another person Grade 3 narcotics shall be punished with imprisonment for a period of not more than three years, and may, in addition thereto, be imposed a fine in an amount of not more than three hundred thousand New Taiwan Dollars (NTD 300,000).
A person who assigns to another person Grade 4 narcotics shall be punished with imprisonment for a period of not more than one year and may, in addition thereto, be imposed a fine in an amount of not more than one hundred thousand New Taiwan Dollars (NTD 100,000).
An attempt of any of the offenses set forth in the preceding four paragraphs shall also be punishable.
The punishment shall be increased by one half when the amount of the assigned narcotics reaches a certain quantity, and the standard shall be prescribed separately by the Executive Yuan.

Article 9

For an adult who commits upon a minor any of the offenses set forth in the preceding three articles, the punishment that may be imposed upon him/her under the applicable article shall be increased by one half.

Article 10

A person who uses Grade 1 narcotics shall be punished with imprisonment for a period of not less than six months but not more than five years.
A person who uses Grade 2 narcotics shall be punished with imprisonment for a period of not more than three years.

Article 11

A person who possesses Grade 1 narcotics shall be punished with imprisonment for a period of not more than three years, detention or a fine in an amount of not more than fifty thousand New Taiwan Dollars (NTD 50,000).
A person who possesses Grade 2 narcotics shall be punished with imprisonment for a period of not more than two years, detention or a fine in an amount of not more than thirty thousand New Taiwan Dollars (NTD 30,000).
A person who possesses the implements for exclusive use in manufacturing or for the using of Grades 1 or 2 narcotics shall be punished with imprisonment for a period of not more than one year, detention or a fine in an amount of not more than ten thousand New Taiwan Dollars (NTD 10,000).
The punishment shall be increased by one half when the amount of the possessed narcotics reaches a certain quantity, and the standard shall be prescribed by the Executive Yuan separately.

Article 11-1
Unless for good cause, a person shall not possess Grades 3 or 4 narcotics and equipment and implement for manufacturing or using narcotics.

Article 12
A person who plants opium poppy or coca with the intent to supply the same for use in manufacturing narcotics shall be punished with life imprisonment or for imprisonment for a period of not less than seven years, and may, in addition thereto, be imposed a fine in an amount of not more than seven million New Taiwan Dollars (NTD 7,000,000).
A person who plants cannabis with the intent to supply the same for use in manufacturing narcotics shall be punished with imprisonment for a period of not less than five years, and may, in addition thereto, be imposed a fine in an amount of not more than five million New Taiwan Dollars (NTD 5,000,000).
An attempt of any of the offenses set forth in the preceding two paragraphs shall also be punishable.

Article 13
A person who transports or sells the seeds of opium poppy or coca with the intent to supply the same for use in planting the same shall be punished with imprisonment for a period of not more than five years, and may, in addition thereto, be imposed a fine in an amount of not more than five hundred thousand New Taiwan Dollars (NTD 500,000).
A person who transports or sells the seeds of cannabis with the intent to supply the same or use in planting the same shall be punished with imprisonment for a period of not more than two years, and may, in addition thereto, be imposed a fine in an amount of not more than two hundred thousand New Taiwan Dollars (NTD 200,000).

Article 14

A person who possesses or assigns the seeds of opium poppy or the seeds of coca with the intent to sell them shall be punished with imprisonment for a period of not more than three years.
A person who possesses or assigns with the intent to sell the seeds of cannabis shall be punished with imprisonment for a period of not more than two years.
A person who possesses the seeds of cannabis shall be punished with imprisonment for a period of not more than one year, detention or a fine in an amount of not more than thirty thousand New Taiwan Dollars (NTD 30,000).
A person who possesses the seeds of cannabis shall be punished with imprisonment for a period of not more than one year, detention or a fine in an amount of not more than ten thousand New Taiwan Dollars (NTD 10,000).

Article 15

A public official who commits, by means of the authority, opportunity or method arising from his official duty, any of the offenses set forth in Paragraph 2 of Article 4 or Paragraph 1 of Article 6 of this Statute shall be punished with death or life imprisonment; and in the case of life imprisonment, a fine in an amount of ten million New Taiwan Dollars (NTD 10,000,000) may be imposed in addition thereto. If he commits, in the same manner, any of the offenses set forth in Paragraph 3 through 5 of Article 4, Article 5, Paragraph 2 through 4 of Article 6, Paragraphs 1 through 3 of Article 7, Paragraphs 1 through 3 of Article 8, or Articles 9 through 14 of this Statute, the punishment imposable upon him/her under the respective Articles shall be increase by one half.
A public official who knowingly provides “cover” to another person who has committed any of the offenses set forth in Article 4 through Article 14 of this Statute shall be punished to prison terms from one year up to seven years.

Article 16 (deleted)

Article 17

For a person who committed any of the offenses set forth in Paragraphs 1 through 4 of Article 4, Paragraphs 1 through the upper part of Paragraph 4 of Article 5, Paragraphs 1 through 4 of Article 6, Paragraphs 1 through 4 of Article 7, Paragraphs 1 through 4 of Article 8, Article 10, or Paragraphs 1 and 2 of Article 11 of this Statute but has disclosed the supply source of such narcotics and thus has led to the exposure of the criminal activities, the punishment originally imposable upon him/her may be reduced accordingly.

Article 18

The seized Grade 1 and Grade 2 narcotics and the implements that are used exclusively for manufacturing or using Grade 1 and Grade 2 narcotics shall all be confiscated and destroyed. The seized Grade 3 and Grade 4 narcotics and the implements that are used

for their application shall be confiscated and destroyed if their possession is without permission and without good reason except those that are suitable for medical, pharmaceutical or research purposes.
Regulations for controlling the use of the narcotics and implements that are deemed suitable for medical, researching or training purposes as mentioned in the preceding paragraph shall be prescribed by the Ministry of Justice in conjunction with the Department of Health of the Executive Yuan.

Article 19
In the case of a person who has committed any of the offenses set forth in Articles 4 through 9, article 12, Article 13 or Paragraph 1 or 2 of Article 14 thereof, the property either used in committing such offenses or acquired from his committing such offenses shall be confiscated. In the event the whole or a part of such property is nonconfiscable, the offender shall be required to pay the equivalent value of such property either by cash or by offsetting the price thereof with his/her property.
In order to secure the payment or offsetting the price of the nonconfiscable portion of the property under the preceding paragraph, the property of the offender may be judicially attached if it is deemed necessary.
The means of water, land and/or air transportation that have been used by the offender in committing the offense specified in Article 4 hereof shall be confiscated.

Article 20
In the case of an offense punishable under Article 10 hereof, the public prosecutor or the juvenile court (the juvenile tribunal in a district court) shall first send the accused or the juvenile offender, as the case may be, to the addiction rehabilitation center, for a period of not longer than two months, for observation and/or narcotics addiction rehabilitation.
After observation and rehabilitation, if the accused or the juvenile offender involved is found, based on the report of the addiction rehabilitation center, as having no likelihood to continue the use of narcotics, the public prosecutor or the juvenile court (the juvenile tribunal in a district court) shall render a ruling of non-prosecution, or the juvenile court shall release the juvenile offender immediately and render a ruling of non-prosecution or exemption from trial; if the prosecutor or the juvenile court believes the person under observation and/or narcotics addiction rehabilitation is likely to continue to use narcotics, the prosecutor or the juvenile court (the juvenile tribunal in a district court) shall render a ruling to subject the accused to compulsory addiction rehabilitation for a period of more than six months until the necessity for compulsory addiction rehabilitation disappears, but the period shall not exceed a year.
After the accused has completed the above-mentioned procedure and been released, the provisions of Paragraph Two of this article applies if the juvenile again commits the crime set forth in Article 10.

Article 20-1

After the order for observation, narcotics rehabilitation, and compulsory narcotics rehabilitation, is made, if it is believed that no observation, narcotics rehabilitation, and compulsory narcotics rehabilitation is needed, the person under observation, narcotics rehabilitation, and compulsory narcotics rehabilitation, his/her legal representative, spouse, or prosecutor may apply, by stating the reasons in writing, to the court where the ruling was rendered for a retrial of the case if there is any of the following conditions:

1. There is an apparent mistake in applying the law sufficing to affect the results of the ruling.
2. The evidence used in rendering the ruling has proved to be false or falsified.
3. The testimony used in rendering the ruling has proved to be false.
4. The judge rendering the ruling or the applying prosecutor has proved to have committed a crime related to his/her official duty.
5. New evidence has been discovered that suffices to prove that the person subjected to observation, narcotics rehabilitation, and compulsory narcotics rehabilitation does not need the observation, narcotics rehabilitation, and compulsory narcotics rehabilitation.
6. The person subjected to observation, narcotics rehabilitation, and compulsory narcotics rehabilitation has proved to have been wrongly accused.

The application for a retrial shall be filed within thirty days after the ruling was made. But if the reasons for the application come to light later, the time restriction shall begin on the day when the reasons come to light.

The application for a retrial has no legal force to stop the observation, narcotics rehabilitation, and compulsory narcotics rehabilitation. But if the court making the final ruling believes that the execution of the ruling is no longer necessary, it may stop the execution on the basis of the power of his position or the application made by the applicant.

If the court believes there is no reason for a retrial or the procedure is illegal, it shall render a ruling to reject the application. If it believes that there are good reasons, it shall change the ruling and order a retrial. If the court has rejected the application on the belief that there is no good reason, no second application shall be filed on the same reason.

An application for retrial may be withdrawn before a ruling is rendered. After withdrawal, the person making the application for withdrawal shall not use the same reason to apply for a retrial.

Article 21

Where a person who committed the offense specified in Article 10 hereof and has voluntarily requested, before his/her unlawful act is discovered, a medical institution duly appointed by the Department of Health of the Executive Yuan to give him/her

medical treatment, the said medical institution is not required to refer him/her to the court or the prosecutor's office.

With regard to an accused or a juvenile offender who is found by the law enforcement authority while he/she is undergoing medical treatment in accordance with the provisions of the preceding paragraph, the public prosecutor shall render a ruling of non-prosecution or the juvenile court (the juvenile tribunal in a district court) shall render a ruling of exempt from trial in favor of him/her but such a ruling may not be rendered more than one time.

Article 22 (deleted)

Article 23

Upon expiration of the term of compulsory rehabilitation or the term of protective custody executed under Paragraph 2, Article 20 hereof, a ruling of non-prosecution shall be rendered by the public prosecutor or a ruling of exempt from trial shall be rendered by the juvenile court (the juvenile tribunal in a district court).

The provisions of the preceding paragraph shall not apply to the original offender who commits again the offense specified in Article 10 thereof within five years after a ruling of non-prosecution or a ruling of exempt from trial has been rendered or given. However, the public prosecutor or the juvenile court (juvenile tribunal in a district court) shall make a prosecution by law or deliver the accused to trial.

Article 23-1

If the defendant's presence is a result of detention or arrest, the prosecutor shall, in accordance with Paragraph 1 of Article 20, apply to the court for a ruling to subject the person for observation or narcotics rehabilitation within twenty-four hours of the detention or arrest. The prosecutor shall also send the person to the competent court for interrogation. This provision shall also apply to a defendant whose presence is due to summon, self-surrender, or his/her own will before he/she is arrested by the prosecutor.

The provisions of Paragraph One of Article 93 of Criminal Procedure Code shall apply mutandis mutantis to the foregoing case.

Article 23-2

Paragraph 2 of Article 45 of the Law for Handling Juvenile Cases does not apply to a juvenile who has been subjected, according to a ruling, for observation, narcotics rehabilitation, and compulsory narcotics rehabilitation.

If the juvenile court (juvenile tribunal in a district court) has rendered the ruling of exempt from trial in accordance with Paragraph 2 of Article 20 or Paragraph 1 of Article 23, or has rendered the ruling of not subjecting the person to protective custody according to Clause 4 of Paragraph One of Article 35, the following punishments may be made in addition thereto:

1. Sending the person to a juvenile welfare or education facility for appropriate guidance
2. Sending the person to his/her legal representative or current protector for strict discipline
3. Giving the person admonitions

These measures shall be executed by the investigator of juvenile cases.

Article 24 (deleted)

Article 24-1

In case the authority to prosecute for drug abuse against someone who is undergoing observation, narcotics rehabilitation, and compulsory narcotics rehabilitation has become inoperative, that authority shall not be exercised.

Article 25

Where a person is put under protective custody for the offense specified in Article 10 hereof, the police authority or the executor of such protective custody shall, during the period of protective custody, serve a notice, on a periodic basis or upon occurrence of the fact of a suspected use of narcotics by the said person, to him/her for appearance at a designated place and time for urine sample analysis. In the event the said person fails to appear or refuses to give sample urine without a good cause shown, the case may be referred to the public prosecutor or the juvenile court (the juvenile tribunal in a district court) concerned for permission to conduct compulsory taking of urine samples.

The ruling of non-prosecution or exempt from trial rendered according to the provisions of the upper section of Paragraph 2 of Article 20, Paragraph 2 of Article 21, and Paragraph 1 of Article 23 and the ruling of acquittal or exempt from protective custody made according to the provisions of Clause 4 of Paragraph 1 of Article 35, or within two years of completing the execution of the punishment or protective custody for the crime set forth in Article 10, the police may apply the previous provisions when taking urine samples for analysis.

The regulations for taking urine samples for analysis with regard to the foregoing two categories of personnel shall be prescribed by the Executive Yuan.

Article 26

Where a person is undergoing observation, narcotics rehabilitation, or compulsory narcotics rehabilitation for the offense specified in Article 10 hereof, the period of limitation of the right of execution of the criminal punishment against him/her for his/her other offense(s), if any, shall be interrupted during the period of such observation, narcotics rehabilitation, or compulsory narcotics rehabilitation.

Article 27

The narcotics rehabilitation facilities may be established in the detention houses of the Ministry of Justice and the military detention houses of the Ministry of National Defense or within the juvenile observation and protection facilities or their affiliated hospitals. The MOJ and MND may entrust the Veteran Affairs Commission of the Executive Yuan, the Department of Health of the Executive Yuan or the various municipal and city/county governments to establish the facilities in designated hospitals.

If the personnel subjected to observation or narcotics rehabilitation have to be detained, held or kept according to law for involvement in other criminal cases, the observation or narcotics rehabilitation shall be executed by the detention houses (including military detention houses) or the affiliated narcotics rehabilitation facilities of the juvenile observation and protection centers.

The medical services of the detention houses or the narcotics rehabilitation institutions of the juvenile observation and protection centers shall be provided by the hospitals designated by Ministry of National Defense, the Veteran Affairs Commission of the Executive Yuan, the Department of Health of the Executive Yuan, or the municipal, or city-county governments.

The Ministry of Justice and the Ministry of National Defense shall take charge of the narcotics rehabilitation at the narcotics rehabilitation institutions set up according to Paragraph 1 and attached to the hospitals under their trust. They shall also compile budget to give them financial support.

The regulations governing the trust under Paragraph 1 shall be prescribed by the Ministry of Justice in conjunction with the Ministry of National Defense, the Veteran Affairs Commission, and the Department of Health of the Executive Yuan.

Article 28

The narcotics rehabilitation and correction institutions as required under the Statute shall be established by the Ministry of Justice and the Ministry of National Defense. Before completion of establishment thereof, temporary narcotics rehabilitation and correction places may be set up within the premises of existing（Military）jails and/or juvenile offender correctional institutions, with the medical institutions appointed by the Ministry of National Defense, the Department of Health of the Executive Yuan, the Veteran Affairs Commission of the Executive Yuan and/or the Divisions/Bureaus of Health under municipal or city/county governments to be responsible for providing medical treatment services as required. Personnel and operating expenses required thereof shall be budgeted by the Ministry of Justice and the Ministry of national Defense.

The rules for the organization of narcotics rehabilitation and correction institutions shall be prescribed by a separate law.

Article 29

The rules for execution of observation, narcotics rehabilitation and compulsory narcotics rehabilitation shall be prescribed by a separate law.

Article 30

The expenses incurred from execution of the narcotics rehabilitation and compulsory narcotics rehabilitation shall be collected by the narcotics rehabilitation institutions and the narcotics rehabilitation and corrective institutions from the accused, and juvenile offenders or their respective maintenance obligators and the receipts shall be transferred to the national treasury provided, however, that the narcotic users have surrendered themselves to the court or are too poor to bear the expenses. In this case, they shall be exempted from making such payments.

In the event an accused person or a juvenile offender or his/her maintenance obligator fails to pay in time the expenses set forth in the preceding paragraph, the narcotics rehabilitation institution or narcotics rehabilitation and correction institution concerned shall refer the case to the court for compulsory execution according to law.

Article 30-1

One who is subjected to observation, narcotics rehabilitation or compulsory narcotics rehabilitation may request for returning the money he/she has paid for the observation, narcotics rehabilitation or compulsory narcotics rehabilitation in case the original ruling on observation, narcotics rehabilitation or compulsory narcotics rehabilitation has been revoked. It the payment is not made, he/she does not need to pay.

If the revocation of the ruling on the punishment of observation, narcotics rehabilitation or compulsory narcotics rehabilitation is final, he/she is subjected to observation, narcotics rehabilitation or compulsory narcotics rehabilitation may claim for compensation for the observation, abstention or compulsory abstention. The Law of Wrong Imprisonment shall apply, mutatis mutandis, in such a claim.

Article 31

In order to prevent the unauthorized use of industrial raw materials as precursor chemicals for producing narcotics, the Ministry of Economic Affairs may order the manufacturers of such precursor chemicals to declare the categories, the procedures for export and import, production, sales, use and storage, and the quantity of the raw materials required by such industry, and may also inspect their respective books and records and facilities, to which the manufacturers shall not evade, impede or refuse to cooperate.

The categories and the regulations governing the declaration and inspection of the industrial raw materials referred to in the preceding paragraph shall be prescribed by the Ministry of Economic Affairs.

Any manufacturer which fails to make the declaration as required in Paragraph One hereinabove shall be imposed with a fine in an amount of not less than thirty thousand New Taiwan Dollars (NTD 30,000) but not more than three hundred thousand New Taiwan Dollars (NTD 300,000) and shall be ordered to make such a declaration within a given time limit; and in the absence of such a declaration beyond the said time limit, the foregoing punishment shall be imposable consecutively for each day of delay in filing the declaration.

A manufacturer which has evaded, impeded or refused the inspection to be conducted under paragraph One hereinabove shall be imposed with a fine in an amount of not less than thirty thousand New Taiwan Dollars (NTD 30,000) but not more than three hundred New Taiwan Dollars (NTD 300,000) and shall be subject to the same punishment and compulsory inspection on a time-to-time basis.

A manufacturer which fails to pay, within the given time limit, the fine imposed in accordance with the provisions of he preceding two paragraphs shall be subjected to compulsory execution.

Article 32

The person(s) having merits in preventing and controlling narcotics and the informant(s) shall be rewarded; and persons with demerits shall be punished. Regulations governing such reward and punishment shall be prescribed by the Executive Yuan.

Article 32-1

To prosecute international narcotics crime, a prosecutor or a judicial police officer installed under Article 229 of the Criminal Procedure Code may make, through the chief prosecutor or the head of the officer's highest-up organization, an investigation plan for submission, together with related materials, to the National Prosecutor-General's Office and request the Prosecutor-General to approve issuing an investigation command edict so he/she can enjoin the entry-exit control authority to allow the exit or entry of the narcotics or personnel.

The regulations governing the entry and exit of the said personnel or narcotics shall be prescribed separately by the Executive Yuan.

Article 32-2

The investigation plan mentioned in the foregoing article shall carry the following items:

1. Age of the suspect(s)
2. Name of the crime
3. Fact about the crime
4. The need for subjecting the case to investigation.◦
5. Quantity of the narcotics and the places to and from
6. The flight number, time, and mode of smuggling used by the suspect(s) and the

narcotics

7. Measures for preventing the distribution of the said narcotics and escape by the said suspect(s)
8. The period required for the investigation and other information
9. The state of international cooperation

Article 33

In order to prevent the rampancy of narcotics, the competent authority may, as it deems necessary, require specific personnel subordinate to it or under its supervision to take a urine sample analysis, to which such personnel shall not refuse to comply with the request; otherwise, their bodies may be restrained for taking their sample urine.

The scope of the specific personnel and the regulations governing the execution of the urine sample analysis set forth in the preceding Paragraph shall be defined and prescribed by the Executive Yuan.

Article 33-1

Urine examinations shall be made by the following organizations:

1. Examination and medical facilities accredited by the Department of Health
2. Health organizations designated by the Department of Health
3. The Investigation Bureau under the Ministry of Justice, the Criminal Police Bureau under the National Police Administration of the Ministry of the Interior, the Military Police Headquarters, and laboratories of other government organizations established according to law.

The accreditation standard, accreditation, termination of accreditation, and management for the examination and medical organizations mentioned in Paragraph One shall be prescribed by the Department of Health.

The urine examination procedure of the various organizations mentioned in Paragraph One shall be prescribed by the Department of Health.

Article 34

The enforcement rules of this Statute shall be prescribed by the Ministry of Justice in conjunction with the Ministry of the Interior and the Department of Health of the Executive Yuan for submission to the Executive Yuan for approval.

Article 35

The criminal cases that are pending in the courts prior to June 6 2003, the date of enforcement for the amendment of this Statute, shall be handled in accordance with the following provisions and in the following ways after the enforcement this amended Statute:

1. To any case involving observation, narcotics rehabilitation, or compulsory rehabilitation, the amended provisions governing observation, abstention

assistance and compulsory abstention shall apply.

2. For the cases under investigation, they shall be handled by the public prosecutor in charge in accordance with the amended provisions of this Statute.
3. For the cases under trial in the court, they shall be handled by the court or the juvenile court (the juvenile tribunal in a district court) in accordance with the amended provisions of this Statute.
4. For the cases that shall not be prosecuted or that have received the ruling of exempt from trial, the court or the juvenile court (the juvenile tribunal in a district court) shall make the ruling of no penalty or no protective custody.

In these cases, if the pre-amendment provisions of this Statute are favorable and applicable to the defendant, the most favorable provisions shall apply.

Article 36

This statute shall come into force six months from the date of its promulgation.

36 Organized Crime Prevention Act

Promulgated on Dec. 11, 1996

Article 1

The Organized Crime Prevention Act (hereinafter referred to as the "Act") is established to prevent organized criminal activities and to maintain social order and protect the interests of the public.

Other laws may be applicable for activities not expressly regulated under this Act.

Article 2

The term "criminal organization" referred to in this Act means an enterprise involved in racketeering and consists of an internal management system of three or more persons sharing a common purpose of committing criminal activities or inciting its member(s) to commit criminal activities, and is, collective, habitual and forcible or violent in nature.

Article 3

An indicted instigator, principal, controller or commander of a racketeering criminal organization shall be punished by a fine of not less than one hundred million New Taiwan dollars and a term of imprisonment not less than three years and not more than ten years. An indicted participant to a racketeering criminal organization shall be punished with a fine of not less than ten million New Taiwan dollars and a term of imprisonment not less than six months and not more than five years.

A repeat offender who has completed the sentence or been granted amnesty for prior contravention(s) of the law stated in the previous provision shall, if the offender is the instigator, principal, controller, or commander of a racketeering criminal organization, be punished by a fine of not less than two hundred million New Taiwan dollars and a term of imprisonment for not less than five years; where the offender is a participant to the said organization, [he/she shall be subject to] punishment of a fine of not less than twenty million New Taiwan dollars and a term of imprisonment for not less than one year and not more than seven years.

An offender under the first paragraph of this Article shall, after completion of the prescribed punishment or grant of amnesty, be required to work in a public service establishment for a period of three years; and five years for an offender under the second paragraph of this Article.

After an offender has duly served the prescribed sentence imposed pursuant to this Article, the punishment mentioned in the preceding paragraph may be removed by the court upon petition from the prosecutor who deems that under the circumstances of the case, it is unnecessary to enforce the said provision.

The enforcement of paragraph three of this Article may also be discharged through a petition submitted to the court by the executing authority which deems such

enforcement unnecessary after the offender has served in the public service establishment for a period of not less than one year and six months.

Article 4

The punishment prescribed in Article 3 of this law shall be increased up to one half for the following offenders:

1. Where the offender is a civil servant of elected official;
2. Where the offender has instigated others through coercion or threat of violence to participate in organized criminal activities or where the offender has impeded any participant from severing relations with the criminal organization; and,
3. Where the offender has encouraged, assisted, or engaged a minor to participate in a criminal organization.

Article 5

Where any participant of a criminal organization is charged with other offenses in addition to the offense prescribed by this Act thus subject to be dealt with by the law carrying the most severe punishment against his/her offenses according to Article 55 of the Criminal Code, the punishment to be imposed on him/her shall be increased up to one half.

Article 6

Any person not a member of a criminal organization but who has provided financial assistance to a participant of a criminal organization shall be punished with imprisonment of not less than six months but not more than five years concurrently with a fine of not less than ten million New Taiwan dollars.

Article 7

The overall property of a criminal organization owned by an offender acting in contravention of Article 3 of this Act shall be traced for collection or confiscated after deducting any portion belonging to the victims. Where the property can not be confiscated in part or in whole, then an amount equivalent to the ascribed monetary value of the said property shall be traced and levied.

If the source of obtaining the property can not be legally established, any property obtained by an offender acting in contravention of Article 3 of this Act after participating in the criminal organization shall be traced for collection or confiscated subsequent to deducting the portion to be returned to the victims. Where the property can not be confiscated in part or in whole, then an amount equivalent to the ascribed monetary value of the aside property shall be traced for levied.

The prosecutor may where necessary sequester the property of the said offender referred to in the preceding two paragraphs to facilitate the process of tracing for collection, confiscation, or tracing for levying.

Article 8

The punishments referred to in Article 3 of this Act may be reduced or removed for any offender who has freely surrendered him/herself to the authorities, dissolved the criminal organization, severed his/her relations with the said organization or where information tendered by the said offender has led to the dissolution of a criminal organization. The punishments in Article 3 may also be reduced where the accused confesses during the investigation.

The punishments under Article 6 of this Act may be reduced or removed for any offender who has freely surrendered him/herself to the authorities and tendered information leading to the dissolution of a criminal organization financially supported by the offender. The said punishments may also be reduced where the accused confesses during the investigation.

Article 9

A civil servant or elected official who has knowledge and evidence of a criminal organization and has provided cover for it shall be punished with imprisonment of not less than five years but not more than twelve years.

Article 10

Any party supplying information of unlawful acts leading to the conviction of an offender under this Act shall be entitled to a reward. The issuing procedures for and amount of the reward shall be prescribed by the Executive Yuan.

Article 11

The identity of an informer referred to in Article 10 shall be kept confidential.

The Public Prosecution and the Police Force shall seal and keep the identification details of an informer in safe custody. The said information shall be kept isolated and not be disclosed as part of any evidence for judicial examination.

Any public official who has disclosed or revealed the identity of an informer or any information or particulars capable of identifying the informer shall be punished with imprisonment of not less than one year but not more than seven years.

Article 12

Any information containing the name, sex, age, place of birth, profession, personal identification number, place of residence or any other information capable of identifying the offender or witness referred to in this Act shall be sealed and kept separate by the prosecutor or the judge and is not subject to review or examination. The inquisition report of a witness may only be included as part of the evidence where it is prepared before a judge or a prosecutor in accordance with the procedure set forth in the Criminal Procedure Code. Where the facts of the case may subject the victim or the witness to violence, coercion, intimidation or other retaliatory actions, the

presiding judge or the prosecution may exercise its discretion according to the law or according to the victim's or the witness' petition objecting to the demand by counsel for the accused to question or cross examine the said witness or the victim and to bar the counsel for the accused from reviewing, copying, or video taping any information or documents capable of identifying the said victim or witness. The presiding judge or the prosecutor shall recite the meaning of the evidentiary report or the documentation to the accused for opinion and confirmation.

Other additional measures or laws for the protection of informers, victims, and the witnesses may be enacted.

Article 13

Any party found to be in violation of and punished under this Act may not register as a candidate for public office.

Article 14

Where candidate(s) nominated by a political party during elections of public office held after this Act comes into force has/have been convicted by a court of committing a criminal offense as set forth in this Act within five years after their/his enrollment as candidate(s), their/his political party shall be fined not less than ten million New Taiwan dollars but not more than fifty million New Taiwan dollars for each nomination.

Any vacancy resulting from the circumstances set out in the preceding paragraph shall not be refilled by the political party acquiring the vacancy through minimum office appointment from the above kind of public election.

The punishment referred to in the preceding two paragraphs shall be prescribed and established by the responsible election authority.

Article 15

To prevent international organized criminal activities, the government or its delegate may sing cooperative treaties or agreements with foreign governments, institutions or international associations which practice the principle of reciprocity.

Article 16

The provisions contained in Articles 10 to 12 of this Act shall be applicable mutatis mudantis by a military court involved in the investigation and conviction of organized criminal activities.

Article 17

This Act shall prevail in the event of conflict with the Regulations for Curtailing Racketeering Activities.

Article 18

A criminal organization participant who has registered with the police to sever his/her relations with such organization and refrains form any criminal activity within two months proceeding the date of promulgation of this Act shall be absolved from any punishment. The instigator, principal, controller, or commander who registers with the police to dissolve a criminal organization and who refrains from any criminal activity within two months before promulgation of this Act shall also be absolved from any punishment.

The measures governing registration herein shall be prescribed by the Ministry of Interior.

Article 19

This Act shall become effective from the date of promulgation.

37 Criminal Code (Selected)

Article 3

This Code shall apply to an offence committed within the territory of the Republic of China. An offence committed on board a vessel or aircraft of the Republic of China outside the territory of the Republic of China shall be considered to be an offense committed within the territory of the Republic of China.

Article 4

If either the commission of an offense or its effect takes place within the territory of the Republic of China, the offence shall be considered to be an offense committed within the territory of the Republic of China.

Article 5

This Code shall apply to each of the following categories of offences committed outside the territory of the Republic of China:

1. Offenses against the internal security of the State;
2. Offenses against the external security of the State;
3. Offenses of interference with public functions as specified in Article 135, 136 and 138.
4. Offenses against public safety as specified in Paragraph 1 of Article 185 and Paragraph 2 of Article 185.
5. Offenses of counterfeiting currency.
6. Offenses of counterfeiting valuable securities as specified in Article 201 and 202.
7. Offenses of forging documents as specified in Article 210, 214,218 and 216 of putting into circulation a document specified in one of the Article 211, 213 and 214.
8. Offenses relating to drugs, but using drugs and holding drugs, seeds, using drugs implements are not included.
9. Offenses against personal liberty as specified in Article 296 and 296-1.
10. Offenses of Piracy as specified in Article 333 and 334.

Article 6

This Code shall apply to each of the following categories of offences committed by a public official of the Republic of China beyond the territory of the Republic of China.

1. Offenses of malfeasance in office as specified in Articles 121 through 123, 125, 126, 129, 131, 132 and 134.
2. Offenses of releasing prisoners as specified in Article 163.
3. Offenses of falsifying documents as specified in Article 213.
4. Offenses of misappropriation as specified in paragraph 1 of Article 336.

Article 7

This Code shall apply to an offense not provided for in the two preceding articles which is committed by a citizen of the Republic of China beyond the territory of the Republic of China and for which the minimum basic punishment is imprisonment for not less than three years; Provided, that if the offence is not punishable by the law of the place where it was committed, this Code not apply.

Article 12

An act is not punishable unless committed intentionally or negligently.

A negligent act is punishable only if specifically so provided.

Article 13

An act is committed intentionally if the actor knowingly and willfully causes the accomplishment of the constitution elements of an offence.

An act is considered to have been committed intentionally if the actor foresaw that the act would accomplish the constitution elements of an offence and such accomplishment was not contrary to his will.

Article 38

The following things shall be confiscated:

1. A prohibited thing;
2. A thing used in the commission of or preparation for the commission of an offence;
3. A thing acquired through the commission of an offence.

A thing specified in item 1 of paragraph I of this Article shall be confiscated whether or not it belongs to the offender.

A thing specified in items 2 or 3 of paragraph I of this Article may be confiscated only if it belonged to the offender; Provided, That if special provision has been made therefore, such provision shall apply.

Article 39

If punishment is remitted, confiscation may, nevertheless, be imposed independently.

Article 40

Confiscation, except special provision has been made therefore, shall be pronounced at the time of the decision.

A prohibited thing may be pronounced confiscated separately.

Article 100

A person who commits an overt act with intent to destroy the organization of the State, seize State territory, by illegal means change the Constitution, or overthrow the Government shall be punished with imprisonment for not less than seven years; a

ringleader shall be punished with imprisonment for life.
A person who prepares to commit an offence specified in the preceding paragraph shall be punished with imprisonment for not less than six months and not more than five years.

Article 101
A person who with violence commits an offence specified in paragraph I of the preceding article shall be punished with imprisonment for life or for not less than seven years; a ringleader shall be punished with death or imprisonment for life.
A person who prepares or conspires to commit an offence specified in the preceding paragraph shall be punished with imprisonment for not less than one and not more than seven years.

Article 106
A person who during a state of war with a foreign state or when war is threatened renders military aid to an enemy or causes injury to the military interests of the Republic of China or an ally of the Republic of China shall be punished with imprisonment for life or for not less than seven years.
An attempt to commit an offence specified in the preceding paragraph is punishable.
A person who prepares or conspires to commit an offence specified in paragraph I shall be punished with imprisonment for more than five years.

Article 109
A person who discloses or delivers a document, plan, information, or other thing of a secret nature concerning the defense of the Republic of China shall be punished with imprisonment for not less than one and not more than seven years.
A person who disclose or delivers to a foreign state or to its agent a document, plan, information, or other thing specified in the preceding paragraph shall be punished with imprisonment for not less than three and not more than then years.
An attempt to commit an offence specified in one of the two preceding paragraphs is punishable.
A person who prepares or conspires to commit an offence specified in paragraphs I or II shall be punished with imprisonment for not more than two years.

Article 121
A public official or an arbitrator who demands, agrees to accept, or accepts a bribe or other improper benefit for an official act shall be punished with imprisonment for not more than seven years; in addition thereto, a fine of not more than 5,000 *yuan* may be imposed.
A benefit received through the commission of an offence specified in the preceding paragraph shall be confiscated; if the whole or a part of such benefit cannot be

confiscated, the value thereof shall be collected from the offender.

Article 122

A public official or an arbitrator who demands, agrees to accept, or accepts a bribe or other improper benefit commits a breach of his official duties shall be punished with imprisonment for not less than three and not more than ten years; in addition thereto, a fine of not more than 7,000 *yuan* may be imposed.

A public official who because of a bribe or other improper benefit commits a breach of his official duties shall be punished with imprisonment for life or imprisonment for not less than five years; in addition thereto, a fine of not more than 10,000 *yuan* may be imposed.

A person who offers, promises, or gives a bribe or other improper benefit to a public official or an arbitrator for a breach of his official duties shall be punished with imprisonment for not more than three years; in addition thereto, a fine of not more than 3,000 *yuan* may be imposed; Provided, That if such person surrenders himself for trial, his punishment may be reduced or remitted, and if such person confesses during investigation or trial, his punishment may be reduced.

A benefit received through the commission of an offence specified in Paragraph I or II shall be confiscated; if the whole or a part of such benefit cannot be confiscated, the value thereof shall be collected from the offender.

Article 131

A public official who directly or indirectly seeks to profit from a function under his control or supervision shall be punished with imprisonment for not less than one and not more than seven years; in addition thereto, a fine of not more than 7,000 *yuan* may be imposed.

A benefit received through the commission of an offence specified in the preceding paragraph shall be confiscated; if the whole or a part of such benefit cannot be confiscated, the value thereof shall be collected from the offender.

Article 132

A public official who discloses or gives away a document, plan, information, or other thing of a secret nature relating to matters other than national defense shall be punished with imprisonment for not more than three years.

A person who negligently commits an offence specified in the preceding paragraph shall be punished with imprisonment for not more than one year, detention, or a fine of not more than 300 *yuan*.

A person other than a public official who discloses or gives away a document, plan, information, or other thing specified in paragraph I which comes to his knowledge or possession because of this occupation or profession shall be punished with

imprisonment for not more than one year, detention, or a fine of not more than 300 *yuan*.

Article 201

A person who counterfeits or alters a government bonds, stock certificate, or other valuable security or who collects it from or delivers it to another with intent that it be put into circulation shall be punished with imprisonment for not less than three years and not more than ten years; in addition thereto, a fine of not more than 3,000 *yuan* may be imposed.

A person who circulates a counterfeit or altered government bond, stock certificate, or other valuable security or who collects it from or delivers it to another with intent that it be put into circulation shall be punished with imprisonment for not less than one year and not more than seven years; in addition thereto, a fine of not more than 3,000 *yuan* may be imposed.

Article 201-1

A person who counterfeits or alters a credit card, debt card, stored value card or other magnetic record that being used as credit, withdrawal, transfer or payable instrument shall be punished with imprisonment for not less than one year and not more than seven years; in addition thereto, a fine of not more than 30,000 *yuan* may be imposed.

A person who circulates a counterfeit or altered credit card, debt card, stored value card or other magnetic record that being used as credit, withdrawal, transfer or payable instrument or who collects it from or delivers it to another with intent that it be put into circulation shall be punished with imprisonment for not more than five years; in addition thereto, a fine of not more than 30,000 *yuan* may be imposed.

Article 132

A public official who discloses or gives away a document, plan, information, or other thing of a secret nature relating to matters other than national defense shall be punished with imprisonment for not more than three years.

A person who negligently commits an offence specified in the preceding paragraph shall be punished with imprisonment for not more than one year, detention, or a fine of not more than 300 *yuan*.

A person other than a public official who discloses or gives away a document, plan, information, or other thing specified in paragraph I which comes to his knowledge or possession because of his occupation or profession shall be punished with imprisonment for not more than one year, detention, or a fine of not more than 300 *yuan*.

Article 240

A person who with the consent of a male or female person who has not completed the

twentieth year of age abducts such male or female person from his family or from another who has the right of supervision over him shall be punished with imprisonment for not more than three years.

A person who with the consent of a married person abducts such married person from his family shall be subject to the same punishment.

A person who for the purpose of gain or for the purpose of causing an abducted person to submit to an indecent act or to carnal relations commits the offence specified in one of the two preceding paragraph shall be punished with imprisonment for not more than five years; in addition thereto, a fine of not more than 1,000 *yuan* may be imposed.

An attempt to commit an offence specified in one of the three preceding paragraph is punishable.

Article 241

A person who forcibly abducts a male or female person who has not completed the twentieth year of his age from his family or from another who has the right of supervision over him shall be punished with imprisonment for not less than one and not more than seven years.

A person who for the purpose of gain or for the purpose of causing an abducted person to submit to an indecent act or to carnal relations commits an offence specified in the preceding paragraphs shall be punished with imprisonment for not less than three and not more than ten years; in addition thereto, a fine of not more than 1,000 *yuan* may be imposed.

Abduction with consent of a male or female person who has not completed the sixteenth year of his age shall be considered to be forcible abduction.

An attempt to commit an offence specified in one of the three preceding paragraphs is punishable.

Article 243

A person who for the purpose of gain or for the purpose of causing an abducted person specified in one of the Articles 240 or 241 to submit to an indecent act or to carnal relations receives or harbors such abducted person or caused him to be concealed shall be punished with imprisonment for not less than six months and not more than five years; in addition thereto, a fine of not more than 500 *yuan* may be imposed.

An attempt to commit an offence specified in the preceding paragraph is punishable.

Article 256

A person who manufactures opium shall be punished with imprisonment for not more than seven years; in addition thereto, a fine of not more than 3,000 *yuan* may be

imposed.
A person who manufactures morphine, cocaine, heroin, or one of their compounds shall be punished with imprisonment for life or not less than five years; in addition thereto, a fine of not more than 5,000 *yuan* may be imposed.
An attempt to commit an offence specified in one of the two preceding paragraphs is punishable.

Article 257
A person who sells or transports opium shall be punished with imprisonment for not more than seven years; in addition thereto, a fine of not more than 3,000 *yuan* may be imposed.
A person who sells or transports morphine, cocaine, heroin, or one of their compounds shall be punished with imprisonment for not less than three and not more than ten years; in addition thereto, a fine of not more than 5,000 *yuan* may be imposed.
A person who imports a thing specified in one of the two preceding paragraph shall be punished with imprisonment for life or for not more than five years; in addition thereto, a fine of not more than 10,000 *yuan* may be imposed.
An attempt to commit an offence specified in one of the three preceding paragraphs is punishable.

Article 268
A person who for the purpose of gain furnishes a place to gamble or assembles persons to gamble shall be punished with imprisonment for not more than three years; in addition thereto, a fine of not more than 3,000 *yuan* may be imposed.

Article 296
A person who enslaves another or places him in a position without freedom similar to slavery shall be punished with imprisonment for not less than one and not more than seven years.
An attempt to commit an offence specified in the preceding paragraph is punishable.

Article 297
A person who for purpose of gain fraudulently causes another to leave the territory of the Republic of China shall be punished with imprisonment for not less than three and not more than ten years; in addition thereto, a fine of not more than 3,000 *yuan* may be imposed.

Article 298
A person who forcibly abducts a female person with intent that she marries him or another shall be punished with imprisonment for not more than five years.

A person who forcibly abducts a female person for the purpose of gain or with intent to cause her to commit an indecent act or submit to carnal relations shall be punished with imprisonment for not less than one and not more than seven years; in addition thereto, a fine of not more than 1,000 *yuan* may be imposed.
An attempt to commit an offence specified in one of the two preceding paragraphs is punishable.

Article 300
A person who conceals or causes to be concealed a forcibly abducted person for the purpose of gain or with the intent that such abducted person commit an indecent act or have carnal relations shall be punished with imprisonment for not less than six months and not more than five years; in addition thereto, a fine of not more than 500 *yuan* may be imposed.
An attempt to commit an offence specified in the preceding paragraph is punishable.

Article 336
A person who commits an offence specified in the preceding article with respect to a thing of which he has custody because of his public functions or for public benefit shall be punished with imprisonment for not less than one and not more than seven years; in addition thereto, a fine of not more than 5,000 *yuan* may be imposed.
A person who commits an offence specified in paragraph I of the preceding article with respect to a thing of which he has custody because of his occupation shall be punished with imprisonment for not less than six months and not more than five years; in addition thereto, a fine of not more than 3,000 *yuan* may be imposed.
An attempt to commit an offence specified in one of the two preceding paragraphs in punishable.

Article 339
A person who by fraud causes another to deliver to him a thing belonging to such other or to a third person with intent illegally to appropriate it for himself or for a fourth person shall be punished with imprisonment for not more than five years or detention; in lieu thereof, or in addition thereto, a fine of not more than 1,000 *yuan* may be imposed.
An attempt to commit an offence specified in one of the two preceding paragraphs in punishable.

Article 346
A person who by intimidation causes another to deliver over a thing belonging to such other or to a third person with intent illegally to appropriate it for himself or for a fourth person shall be punished with imprisonment for not less than six months and not more than five years; in addition thereto, a fine of not more than 1,000 *yuan* may

be imposed.
A person who by the means specified in the preceding paragraph procures an illegal benefit for himself or a third person shall be subject to the same punishment.
An attempt to commit an offence specified in one of the two preceding paragraphs in punishable.

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Article 27

An accused may at any time retain defense attorneys. The same rule shall apply to a suspect being interrogated by judicial police officers or judicial policemen.

A statutory agent, spouse, lineal blood relative, collateral blood relative within the third degree of kinship, family head, or family member may independently retain defense attorneys for the accused or suspect.

In case an accused or a suspect is unable to make a complete statement due to unsound mind, the persons listed in the preceding section shall be notified of the same, provided that the said notification is not required if it can not be made practically.

Article 29

A defense attorney shall be a lawyer, provided that if permission is obtained from the presiding judge at trial, a person who is not a lawyer may be retained as a defense attorney.

Article 30

The retention of a defense attorney shall be in the form of a power of attorney.

The power of attorney for the retention of a defense attorney specified in the preceding section shall be submitted to the public prosecutor or judicial police officer before initiation of prosecution or to the courts of different levels thereafter.

Article 55

An accused, private prosecutor, complainant, party to a supplementary civil action, agent, defense attorney, assistant, or victim of the case, shall, for the purpose of service, give his domicile, residence or office address to the court or public prosecutor; in case the victim died, the same shall be done by his spouse, children, or parents; if he has no domicile, residence or office address within the judicial district of the court, a person having a residence or office within such district shall be delegated to receive service for him.

The addresses specified in the preceding section shall be valid for courts of all levels in the same district.

Service on the person delegated shall be considered to be service on the principal.

Article 71

A summons shall be issued for the appearance of an accused.

A summons shall contain the following matters:

1. Full name, sex, age, native place and domicile or residence of the accused;
2. Offense charged;
3. Date, time, and place for appearance;

4. That a warrant of arrest may be ordered if there is a failure to appear without good reason.

If the name of an accused is unknown or other circumstances make it necessary, special identifying marks or characteristics must be included; if the age, native place, domicile or residence of an accused is unknown, it does not need to be included.

A summons shall be signed by a public prosecutor during the stage of investigation or by a presiding or commissioned judge during the stage of trial.

Article 71-1

A judicial police officer or judicial policeman, for the necessity of investigating a suspect's involvement in a crime and collecting relevant evidence, may call by a notice the suspect to appear for interrogation. If the suspect, without good reason, fails to appear after a notice has been legally served, the public prosecutor may be sought to issue an arrest warrant.

The notice specified in the preceding section shall be signed by the head of the judicial police office. Item 1 through Item 3 of section II of the preceding Article shall apply mutatis mutandis to the matters to be stipulated in the notice.

Article 75

An accused, who without good reason fails to appear after he has been legally summoned, may be arrested with a warrant.

Article 93

An accused or a suspect who is arrested with or without a warrant shall be examined immediately.

At the stage of investigation, the public prosecutor shall, if he deems a detention is necessary after examining the arrestee, apply for a detention order from the court, having jurisdiction over the case, within twenty-four hours from the time of making the arrest with or without a warrant.

Unless a detention order has been applied for under the provision of the preceding section, the public prosecutor shall release the accused immediately. If it is considered that application for detention is not necessary notwithstanding the existence of one of the circumstances listed in section I of Article 101 or section I of Article 101-1, the arrestee may be released on bail, to the custody of another, or with a limitation on his residence; if these requirements cannot be met, and if the circumstances justify such necessity, the public prosecutor may apply for detention order.

The provisions of sections one through three of this article shall apply, mutatis mutandis, to cases where the public prosecutor takes an accused transferred from a court in accordance with the Code of Juvenile Matter Arrangement, or from the court

martial in accordance with Code of Martial Trial.
A court, after receiving application for detention order in accordance with the preceding three sections, shall examine the arrestee immediately.

Article 128
A search warrant is required to conduct a search.
A search warrant shall contain the following matters:
1. Offense charged;
2. The accused or suspect to be searched or the property to be seized; if the accused or suspect is unknown the, same can be waived;
3. The place, person, property or electronic record to be searched;
4. The period that the warrant remains valid shall be specified; no search can be made after the expiration date; search warrant shall be returned after its execution.

A search warrant shall be signed by a judge; the judge may specify proper instructions, to be followed by the person executing the search, on the search warrant.
The procedure in issuing of the search warrant shall not be open to the public.

Article 128-1
During the investigation stage, if the public prosecutor deems that a search is necessary, he shall apply for a search warrant to the court concerned in writing, containing the matters specified in section II of the preceding article, together with the reason thereof, except for the circumstances specified in section II of Article 131.
A judicial police officer, for the purpose of investigating the details of offense committed by the suspect and gathering evidences of the offense, may, if necessary, after obtaining permission from the public prosecutor, apply for a search warrant from the court concerned.
If the application specified in the preceding two sections is denied, the ruling is not appealable.

Article 128-2
A search shall be conducted by a public prosecuting affairs official, judicial police officer, or judicial policeman unless it is personally made by a judge or public prosecutor.
A public prosecuting affairs official in conducting a search, may seek assistance from the judicial police officer or judicial policeman if necessary.

Article 130
An accused or a suspect arrested with or without a warrant or detained by a public prosecutor, public prosecuting affairs official, judicial police officer, or judicial policeman, may be searched without a search warrant. The same shall apply to the

items he is carrying, the transportation vehicle he is using, and the premises within his immediate control.

Article 131

A public prosecutor, public prosecuting affairs official, judicial police officer, or judicial policeman may search a dwelling or other premises without a search warrant, under one of the following circumstances:

1. To arrest an accused or a suspect with or without a warrant or to detain him, provided that there are facts sufficient to justify a conclusion that the accused or criminal suspect is therein;
2. To pursue a person in flagrante delicto or to arrest, without a warrant, a person who has escaped, provided that there are facts sufficient to justify a conclusion that the said person is therein;
3. When there are obvious facts to believe that a person inside the premise is committing a crime and the circumstances are urgent.

During the investigation stage, a public prosecutor may conduct a search without a warrant or instruct the public prosecuting affairs official, judicial police officer, or judicial policeman to do it and report the same to the public prosecutor general, if there really are probable cause to believe that circumstances are exigent and there are sufficient facts to justify an apprehension that the evidence shall be destroyed, forged, altered, or concealed within twenty four hours unless a search is conducted immediately.

If the search specified in the preceding two sections is conducted by a public prosecutor, the same shall be reported to the court concerned within three days. If it is conducted by a public prosecuting affairs official, judicial police officer, or judicial policeman, the same shall be reported to the public prosecutor of the public prosecutor office concerned and the court within three days. If the court decides that the search should not be approved, the court shall cancel it within five days.

If the search conducted under section I or II has not been reported to the court concerned, or has been canceled by the court, the court at trial may declare the things seized inadmissible as evidence.

Article 133

A thing which can be used as evidence or is subject to confiscation may be seized. The owner, possessor, or custodian of the property subject to seizure may be ordered to surrender or deliver it.

Article 136

A seizure shall be executed by a public prosecuting affairs official, judicial police officer, or judicial policeman, unless it is personally executed by a judge or public

prosecutor.
If a public prosecuting affairs official, judicial police officer or judicial policeman, or public prosecutor is ordered to execute a seizure, the matters concerned shall be entered on the search warrant given to him.

Article 138
If an owner, possessor, or custodian of property which should be seized refuses to surrender or deliver it or resists the seizure without justified cause, such seizure may be effected by force.

Article 158-4
The admissibility of the evidence, obtained in violation of the procedure prescribed by the law by an official in execution of criminal procedure, shall be determined by balancing the protection of human rights and the preservation of public interests, unless otherwise provided by law.

Article 161
The public prosecutor shall bear the burden of proof as to the facts of the crime charged against an accused, and shall indicate the method of proof.
Prior to the first trial date, if it appears to the court that the method of proof indicated by the public prosecutor is obviously insufficient to establish the possibility that the accused is guilty, the court shall, by a ruling, notify the public prosecutor to make it up within a specified time period; if additional evidence is not presented within the specified time period, the court may dismiss the prosecution by a ruling.
Once the ruling on dismissing the prosecution becomes final, no prosecution can be initiated for the same case, unless one of the circumstances specified in the Items of Article 260 exists.
Judgment of “Case Not Established” shall be pronounced if prosecution has been re-initiated in violation of the provision of the preceding paragraph.

Article 163-1
Motion filed by parties, agent, defense attorney, or assistance of evidence investigation shall be in writing and contain the following matters in detail:
1. The evidence to be investigated and its relationship with the fact to be proven;
2. The name, gender, domicile or resident of the witness, expert witness, or interpreter to be subpoenaed and the estimated time spent for examination;
3. A list of the evidential document, or other documents to be investigated; if part of the same shall be investigated, only that portion shall be filed.

The copies of the written motion shall be filed, according to the number of persons in the other party; the court shall deliver it promptly after receiving the same.
In case the written motion specified in section I of this Article cannot be filed for good

reasons, or in case of emergency, the motion may be made orally.
In circumstances specified in the preceding section, the oral motion shall state clearly, the matters specified in the Items of section I of this article and it shall be put in the record by the clerk; if the other party is not present, the record shall be delivered to him.

Article 163

The party, defense attorney, agent, or assistant may request an investigation of evidence and may examine a witness, an expert witness, or the accused during such investigation; such examination shall not be prohibited unless the court deems improper.
The court may, for the purpose of discovering the truth, ex officio investigating evidence; in case for the purpose of maintaining justice or discovering facts that are critical to the interest of the accused, the court shall ex officio investigate evidence.
The court shall, prior to conducting investigation of evidence in accordance with the preceding section, provide the parties, agent, defense attorney or assistant the opportunity to state their opinions.

Article 166

After a witness, or an expert witness, subpoenaed because of the motion of a party, an agent, a defense attorney, or an assistant, has been examined by the presiding judge for his identity, the party, agent, or defense attorney shall examine these persons; if an accused, not represented by a defense attorney, does not want to examine these persons, the court shall still provide him with appropriate opportunities to question these persons.
The examination of a witness or an expert witness shall be in the following order:

1. The party, agent, or defense attorney calling the witness or expert witness shall do the direct examination first;
2. Followed by the opposing party's, his agent's or defense attorney's cross examination;
3. Then, the party, agent, or defense attorney calling the witness or expert witness shall do the redirect examination;
4. Finally, the opposing party, his agent or defense attorney shall make the recross examination.

After completing the examination as specified in the preceding section, the party, agent, or defense attorney may, with the court's approval, examine the witness or expert witness again.
After examined by the party, agent, or defense attorney, the witness or expert witness may be examined by the presiding judge.
If the one and the same accused or private prosecutor is represented by two or more

agents or defense attorneys, the said agents or defense attorneys shall choose one of them to examine the one and the same witness or expert witness, unless otherwise permitted by the presiding judge.
If the witness or expert witness is called by both parties, the order of doing the direct examination shall be decided by both parties' agreement; if it can not be decided by such agreement, the presiding judge shall determine it.

Article 228
If a public prosecutor, because of complaint, report, voluntary surrender, or other reason, knows there is a suspicion of an offense having been committed, he shall immediately begin an investigation.
In conducting the investigation referred to in the preceding section a public prosecutor may set up a period of time and order the public prosecuting affairs official, judicial police officer specified in Article 230, or judicial policeman specified in Article 231 to investigate the circumstances of the offense, to collect evidence and to submit report thereof; the case file and evidence may be delivered thereto at the same time if necessary.
In the course of an investigation, an accused shall not be first summoned or interrogated unless necessary.
An accused who appears by complying with a summons, voluntary surrender, or on his free will may be released on bail, or to the custody of another, or with a limitation on his residence, if the public prosecutor, after examining the accused, considers that one of the circumstances specified in the items of section I of Article 101 or the items of section I of Article 101-1 exists but application for detention is unnecessary, provided that if detention is considered necessary, the accused may be arrested without a warrant, and be informed of the fact thereof followed by an application for detention filed with the court. The provisions of sections II, III and V of Article 93 shall apply mutatis mutandis to this section.

Article 229
Each of the following officials shall act as judicial police officer within his respective judicial district and has the duty and power of assisting a public prosecutor in investigating an offense:
1. Director General of National Police Agency, Commissioner of Police Department, General Commander of Peace Preservation Police Corps;
2. A military police superior;
3. A person authorized by law to exercise the duty and power of a judicial police officer, as specified in the preceding two items, in special matters.

The judicial police officer specified in the preceding section shall send the result of the investigation to the public prosecutor; if the said officer has taken the custody of

the suspect arrested with or without a warrant, he shall send the suspect to the competent public prosecutor unless otherwise provided by the law, provided that if ordered by the public prosecutor, the suspect shall be sent immediately.
An accused, or suspect shall not be sent without first being arrested with or without a warrant.

Article 230
Each of the following officials is considered to be a judicial police officer and shall obey the instructions of a public prosecutor in investigating an offense:
1. A commissioned police officer;
2. A military police officer or petty officer;
3. A person authorized by law to exercise the duty and power of a judicial police officer in special matters.

The judicial police officer specified in the preceding section who suspects that an offense has been committed shall initiate an investigation immediately and report the results thereof to the competent public prosecutor and the judicial police officer referred to in the preceding article.
The scene of the crime may be closed to public and inspection taken immediately, if it is necessary for investigation specified in the preceding section.

Article 231
Each of the following officials is considered to be a judicial policeman and shall obey the orders of a public prosecutor or judicial police officer in investigating an offense:
1. A policeman;
2. A military policeman;
3. A person authorized by law to exercise the duty and power of a judicial policeman in special matters.

A judicial policeman who suspects that an offense has been committed shall initiate an investigation immediately and report the results thereof to the competent public prosecutor and judicial police officer.
The scene of the crime may be closed to the public and inspection taken immediately, if it is necessary for investigation specified in the preceding section.

Article 241
A public official who, in the execution of his official duties, learns that there is suspicion that an offense has been committed must report it.

Article 245
An investigation shall not be public.
The defense attorney of an accused or suspect may be present and state his opinion when a public prosecutor, public prosecuting affairs official, judicial police officer,

judicial policeman examines the accused or suspect, provided that if facts exist sufficient to justify an apprehension that such presence may jeopardize national security or destroy, fabricate, alter evidence or form a conspiracy with a co-offender or witness, or may be detrimental to the reputation of others, or that the behavior of the defense attorney is so inappropriate that it would interfere with the order of the investigation, such presence may be limited or prohibited.

The public prosecutor, public prosecuting affairs official, judicial police officer, judicial policeman, defense attorney, agent of the complainant, or any other person performing his duty under law during the investigation shall not disclose whatsoever information acquired through the performance of the duty during the investigation, unless otherwise permitted by law, or it is necessary for the protection of public interest or legitimate interest.

The time, date, and place of the examination of an accused or suspect during the investigation shall be notified to the defense attorney unless urgent circumstances exist.

Article 251

If the evidence obtained by a public prosecutor in the course of investigation is sufficient to show that an accused is suspected of having committed an offense, a public prosecution shall be initiated.

A public prosecution shall be initiated notwithstanding that the location of the accused is unknown.

Article 289

After the investigation of evidence has been completed, arguments on the law and facts shall be made in the following sequence:

1. Public prosecutor;
2. Accused;
3. Defense attorney;

After an argument, additional argument may be made; the presiding judge may also order further argument.

After the conclusion of the argument pursuant to the preceding two sections, the presiding judge shall provide the parties with opportunities to state opinions regarding sentencing.

Article 403

A party who disagrees with a ruling of a court may make an interlocutory appeal to the immediately superior court except as otherwise especially provided.

A witness, expert witness, interpreter, or other person not a party who is affected by a ruling may also make an interlocutory appeal.

Article 416-1

A person who disagrees with one of the following measures taken by a presiding judge, commissioned judge, requisitioned judge or prosecutor may apply to the court to which such officer is attached to have measures set aside or altered.

Article 470-1

A decision imposing a fine, pecuniary penalty, confiscation, forfeiture, recovery of money, compulsory execution and compensation shall be executed in accordance with the order of the prosecutor; Provided that a fine or pecuniary penalty may be executed under the instructions of a judge in open court if, after the judgment is pronounced, the sentenced person agrees with the decision and the prosecutor is not present.

39 Real Estate Broking Management Act

The Announcement of Hua Tsung Yi Yi Tse Number 8800024800 Order of President of the Republic of China on February 3, 1999
The Announcement of Revised Article 6, 7,13,14,15,22,29,30,31,37,38 and 38-1of Hua Tsung Yi Yi Tse Number 9000213980 Order of President of the Republic of China on October 31, 2001

Chapter 1 General Regulations

Article 1

This act is constituted so as to manage the real estate broking, to establish the order of the sale of property, to protect the interests of the clients, and to promote a sound development of the real estate market.

Article 2

The management of broking is carried out in accordance with this act. Any other regulations of related law shall apply to what this act does not specify.

Article 3

The administrative office termed in this act is Ministry of Interior in the central government, Land Administration Office of the municipal government in a special municipality, or a county (municipal) government.

Article 4

The definitions of the terms employed in this act are as follows:

1. Property, which means a fixed object on the land or a house and the right of transferring its ownership. “House” refers to a readily available house or a presale house and the right of transferring its ownership.
2. Readily Available House, which means a licensed building or a building of which the construction had been finished before building management was put into practice.
3. Presale House, which means a licensed building that has not finished being constructed and shall become the trading object as soon as its construction is done.
4. Brokering Agency, which refers to the company or incorporation dealing with real estate broking or sales stipulated by the regulations of Real Estate Broking Management Act.
5. Broking, which means acting as go-between or representative in the sale, exchange, tenancy of property.
6. Sale, which means being commissioned by tenant-builders or the building industry to undertake the plan for the sale of property and assuming the representative position in the sale.
7. Broking Agent, which refers to a broker or an assistant broker. The job of a broker is to deal with broking or the sale of property while that of an assistant broker is to help the broker with the broking or selling businesses.

8. Franchise, which means that, according to the contract signed by two broking agencies, one party, allowed to use the service, the mode of operation, the business trademark or the service logo developed by the other party, shall be managed and supervised by the other party.
9. Price Difference, which refers to the difference between the price at which the property is actually sold and the price requested on commission.
10. Business Office, which refers to a real estate broker's or salesperson's shop, office, or extraordinary fixed location.

Chapter 2 Broking Agency

Article 5

After being issued a permit by the administrative office, a real estate broking agency shall be registered as a company or a profit-going legal person according to law. The broking agency dealing with the broking business and sale of foreign property shall be registered as a company according to law.

The administration office in the central government decides upon the requisite items for the permit and documents necessary for the aforementioned application.

The broking agency should enter the location of its business office in the records of the local government or the municipal government of a special municipality.

Article 6

One of the following situations will not apply for a permit for operation. Permitted though he or she has been, the permit shall be nullified.

1. Being an incompetent person or a person limited in disposing capacity.
2. Going bankrupt and having not rehabilitated oneself.
3. Committing fraud, breach of trust, crime of misappropriation, article 2 of Prevention of Sexual Aggression, and article 3(1) and 3(2), article 6, and article 9 of Prevention of Organized Crime, which results in a conclusive judgment of more than a year of fixed-term imprisonment. Being still imprisoned or having been pardoned or been out of prison for fewer than three years. Nevertheless, being on probation is excluded from limitation.
4. Accepting a conclusive judgment of reformatory education, still receiving reformatory education, or not having been for three years since the close of reformatory education.
5. Having managed a broking agency of which the permit has been nullified by the administration office; not having been for five years since the first day when the permit was nullified. Nevertheless excluded from this regulation are those who have not started their business beyond the specified time set by Article 7(1) or those who suspend their own business by themselves.

6. Suspension of business ordered by Article 29 and not having come to an end yet.
7. Suspension of business ordered by Article 31 and not having come to an end yet, or not having been for five years since the certificate of a broker was nullified.

After the business registration of a broking agency, the boss, the director, the supervisor or the manager of it is found in one of the aforementioned situations, the administration office shall order that improvement over the broking agency be done within a given time limit. Should there still be no improvement beyond the specified time, the permit of the broking agency shall be abolished and the administration office in charge of the business registration of the broking agency will be informed that its business registration shall be abolished.

Article 7

After being issued a permit by the administration office, a real estate broking agency shall be registered as a company or a profit-going legal person, and enter the local business association, and then begin operation. Operation shall begin within six months. If the operation has not started beyond six months, the administration office shall nullify the permit of the company. To extend the permit with a proper reason is to be accepted. The exhibition period is three months.

After being permitted by the administration office, the aforementioned broking may organize a business association of broking or sale or a national business union according to the nature of business.

After business registration, a broking agency should pay guaranty bond of operation according to the regulation of the central administration office. If the guaranty bond that the broking agency should pay exceeds a certain amount of money, a letter of guaranty provided by a financial institution shall guarantee this excess.

The central administration office shall specify the aforementioned guaranty bond and the way of paying it or offering guaranty.

Besides the payment of the aforementioned guaranty bond, the broking agency shall apply to the aforementioned national business union for the extra payment amount or the correspondence of guaranty provided by a financial institution.

After the aforementioned national business union shall make the ethics principle of broking agency submitted to and passed by the member conference, one shall report to records of the central government.

Article 8

The aforementioned guaranty bond shall be deposited in the special account of guaranty bond opened in the financial institution named by the national business union together with the Republic of China Business Associations of Broking or Sale. A committee of management shall be organized to keep in charge of the account. The fruits generated by the bond shall be spent on a sound development of the real estate

broking system.
The members of the aforementioned committee of management are to be chosen out of broking. The number of the brokers acting as committee members shall not exceed two-fifths of the total number of the committee members. The central administration office shall specify the management regulations of the bond and the organization of the committee of management.
Unless this act specifies otherwise, the guaranty bond shall not be spent under no circumstances other than Article 26(4).
If the guaranty bonds a broking agency pays respectively are below the amount specified by Article 7(3), the national business union together with the Republic of China Business Associations of Broking or Sale shall inform that the agency shall make up the payment within a month.

Article 9
The guaranty bond shall be independent of broking agencies and brokers. Unless this act specifies otherwise, the guaranty bond shall not be transferred, held in custody, and set off, or shall not bear a joint liability for the repayment of a debt due to the broker's relationship of credit.
Owing to the mergence of broking agencies or the change of the organization of broking agencies, the right of the guaranty bond should be transferred to the new broking agency. Applying for the dissolution of a broking agency, the original broking agency may begin requesting a return of the guaranty bond exclusive of the fruits generated from the guaranty bond one year after dissolution is permitted. Such a request of refund shall be presented within the following two years.

Article 10
Local business associations should report the situations of the members' entrance into business associations, suspension of rights, and withdrawal from business associations to local administration offices that shall transfer these reports to the records of the central administration office.

Article 11
A broking agency should install at least a broker in a business office. Nevertheless, a broking agency should install at least a professional broker in an extraordinary business office, which makes over six trillion NT dollars.
A broker shall be added to every additional twenty assistant brokers in a business office.

Article 12
Within the first fifteen days of the brokers' report for duty, a broking agency should report the name list of brokers to local administration offices that shall transfer these

reports to the records of the central administration office. When a change in personnel happens, the same thing shall be done.

Chapter 3 Broking Agents

Article 13

The citizen who has passed the qualification examination of real estate brokers and who is issued a certificate of a real estate broker according to Real Estate Broking Management Act may serve as a real estate broker.

Whoever has passed the qualification training of real estate assistant brokers or the qualification examination of brokers sponsored by the institution designated by the central administration office or institution organization acknowledged by the central administration office and may serve as an assistant real estate broker. The rules of the qualification examination of real estate assistant brokers are to be made by the central administration office.

The training of aforementioned real estate assistant brokers shall not be less than thirty hours, whose certificates are valid for four years. Expired, assistant brokers shall submit to the certified document of thirty-hour professional training program to the institution or organization, and register on the institution or organization designated by the central government.

The central administration office shall make the aforementioned fee of registration and certificate.

The rules of acknowledging qualification and process of institution, the rule of abolishing acknowledgment, the training qualification, training program and the fee of the assistant, and other obeyed rules shall be made by the central administration office

Article 14

Those who have passed the qualification examination of real estate brokers should have more than one year of experience in working as assistant brokers before they apply to local governments for certificates of brokers.

The aforementioned experience in working as an assistant broker shall be acknowledged according to one of the following situations.

1. Having acquired the qualification of an assistant broker and having an income tax payment report of a real estate broker or a salesperson.
2. Having worked as a real estate broker or a salesperson and having an income tax payment report before the announcement of Real Estate Broking Management Regulations.

Those who are found in one of the situations specified in Article 6 (1) I~ iv or in Article 6(1) vii shall not serve as brokers. If they have already been brokers, their certificates or licenses shall be nullified or be abolished.

Article 15

The aforementioned certificate of a real estate broker is valid for four years. Expired, a new one shall be applied for to local governments by submitting the certified documents of the broker's thirty-hour professional training program taken in the institution acknowledged by the central administration office within the latest four years.

The rules of acknowledging the institution and organization qualifications, process of acknowledgement, training program and abolition of acknowledgement shall be made by the central administration office.

Article 16

A broker should work exclusively for one broking agency and shall not work for himself or herself or other agencies for broking and sale. Should the agency to which he or she belongs agrees that he or she may work for other broking agencies, this article shall not apply to him or her.

Article 17

The broking agency shall not employ those who are not equipped with the qualification of a real estate broker for broking or sale.

Chapter 4 Work and Duty

Article 18

The permit of a broking agency, the documents related to the broking and sale of property, and the brokers' certificates should be displayed in an obvious place in the business office. A franchised agency should make its franchise noted.

Article 19

A broking agency or a broker shall not receive any price difference or other repayment. The broking agency should receive the standard repayment out of the real fixing price or rental specified by the central administration office. Violating this regulation, the broking agency or the broker should pay back the payer double the price difference or other repayment that has already been received plus interests.

Article 20

A broking agency should display the criteria of repayment and the way of receiving it in an obvious place in the business office.

Article 21

After a broking agency signs a contract with the client, the broking agency may advertise and begin dealing with sale.

The aforementioned advertisement and sale should coincide with reality and the title

of the broking agency should be noted.
Should the advertisement and sale not coincide with reality, the broking agency shall pay for the loss.

Article 22
The sale and purchase, trade, lease or representative in the sale of real estate are dealt with broking or the sale of property by a broking agent. The broker designated by the broking agency should sign the following documents.
1. An entrusted contract of renting or selling property.
2. An offering document of rental and purchase.
3. A receipt of earnest.
4. A draft of the advertisement of property.
5. An instruction of property.
6. A contract of the sale and purchase, or the lease of property.

The aforementioned article 22(1)(i.),(ii) shall not apply to a real estate salesperson.
The central administration office shall decide on what should be described in the instruction as to the aforementioned article 22(1)(v) and what should not.

Article 23
While at work, the broker should explain the instruction of property to the counterpart with whom the trustor deals. Before the explanation of the aforementioned instruction, the trustor should sign it.

Article 24
When the clients of both parties sign the contract of rental or sale and purchase, the broker should submit the instruction to the counterpart with whom the trustor deals and the counterpart shall sign on it.
The aforementioned instruction is regarded as part of the contract of rental or sale and purchase.

Article 25
A broker shall keep classified the secrets of others he or she knows on account of performing business.

Article 26
A broking agency shall be liable to pay compensation for the trustor’s loss resulting from the broking agency failing to realize the contract.
The broking agency and the broker shall bear a joint liability for the compensation for the client’s loss resulting from the broker’s performance of business or the salesperson’s intentional act or misconduct.
The aforementioned victims’ recourse to the Republic of China Real Estate Broking

or Sale Business Associations and the national business union for representative compensation is to be regarded as their application to the committee of guaranty bond management for reconciliation. The committee shall begin reconciliation.
While the victim obtains the nominal execution over the broking agency or the broker, after arbitral settlement or the resolution of payment made by the committee of guaranty bond management, he or she may have recourse to the Republic of China Real Estate Broking or Sale Business Associations and the national business union for representative compensation within the total amount of the guaranty bond and within the total amount guaranteed by the guaranty bond deposited by the broking agency. Following representative compensation, the broking agency shall be informed of making up the guaranty bond within the specified time according to Article 8(4).

Article 27
When the administration office examines the business of a broking agency, the broking agency shall not refuse.

Chapter 5 Award and Penalty

Article 28
If a broking agency or a broker is found in one of the following situations, the administration office shall honor the broking agency or the broker. In a special municipality, the administration office of the special municipality shall do it. The extremely distinguished broking agency or broker shall be reported to the central administration office for honor.

1. Being Outstanding in keeping the safety and fairness of trading property and in promoting a sound development of real estate broking.
2. Being Outstanding in protecting the interests of the purchasers.
3. Offering important contribution or suggestion to the research into the laws related to real estate broking.
4. Having other special events acknowledged by the administration office.

The central administration office shall make the rules of the aforementioned system of award.

Article 29
The broking agency, which violates this act, shall be penalty for the following regulations：

1. Those who violate Article 12, Article 18, Article 20, or Article 27 and who have not rectified themselves within the time limit given by the administration office shall be fined between thirty thousand and one hundred and fifty thousand NT dollars.
2. Those who violate Article7 (6) , Article 11, Article 17, Article 19 (1) , Article

21 (1) and (2) or Article 22 (1) shall be fined between sixty thousand and three hundred thousand NT dollars.

3. Those who violate Article 7 (3) and (4) or Article 8(4) shall be suspended. Suspension of business shall not be lifted until the broking agency makes up the guaranty bond. Nevertheless, if suspension of business lasts for one year, the permit of the broking agency shall be abolished.

Those who are fined according to i or ii on the above and who have not rectified themselves within the time limit shall receive continuous penalty.

Article 30

The local administration office shall nullify the permit of the broking agency that, after operation of business, has suspended its business automatically for over six months in a row. Nevertheless, the broking agency that applies for suspension of business by law is excluded from this regulation.

Article 31

The broker who violates this act shall be punished for the following regulations：

1. The broker who violates Article 16, 22(1), Article 23 or Article 25 shall receive reprimand.
2. The broker who violates Article 19(1) shall be faced with suspension of business lasting for more than six months or fewer than three years.

The broker who has been reprimanded three times shall be faced another suspension of business lasting for more than six months or fewer than three years. The total time of suspension of business amounts to five years, which will result in the abolition of the certificate of a broker.

Article 32

The administration office shall ban those who do not run a broking agency or who are not real estate salesmen from dealing with the business of property. Violating this regulation, the boss of the company or the doer shall be fined between one hundred thousand and three hundred thousand NT dollars.

Having been banned from operation by the administration office according to the aforementioned regulation, the boss of the company or the doer who stills continues operation shall be sentenced to less than one year in prison, faced with criminal detention, or fined between one hundred thousand and three hundred thousand NT dollars.

Article 33

If a broker violates one of the sections specified in Article31(1), the related interest party, the administration offices of all levels, or his or her business association shall list the facts, provide evidence, and refer him or her to the local administration office

for reprimand.
Local administration offices should organize a committee of award and penalty in charge of the brokers' award and penalty.
The central administration office shall make the rules of the organization of the aforementioned committee of award and penalty.

Article 34
When the aforementioned committee of award and penalty accepts a case of penalty, they should inform the impeached or referred broker that he or she may offer a self-defense or make a statement before the committee within twenty days. The committee shall jump into final judgment if the impeached or referred broker does not offer a self-defense or make a statement before the committee within twenty days.

Article 35
After being informed of paying the fine specified in this act, those who still do not pay the fine beyond the dead line shall be referred to the court for enforcement.

Chapter 6 Supplementary Provisions

Article 36
Those who served as real estate brokers or salespeople before the announcement of this act should acquire certificates of broking according to the regulations specified in this act within three years after the realization of this act and then continue operation.
(2)Article 32 shall apply to those who violate what has been specified on the above and who still continue operation.

Article 37
Those who served as real estate brokers before the realization of this act may continue operation for the next three years after the day of the realization of this act. Those who will not have acquired the qualification of brokers in three years shall not continue operation.
After being considered qualified by the central administration office, those who has served as real estate brokers or salespeople for exactly two years before the realization of this act and who have documentary proofs of operation and income tax reports may continue operation for the next three years after the day of the realization of this act and shall take the civil examination of real estate brokers.
The aforementioned civil examination should be held at least five times within five years after the announcement and realization of this act.

Article 38
Foreigners may take the qualification examination of real estate brokers or the training of salespeople according to the law of the Republic of China.

The foreigners, who have the licenses or who have qualification of training, and register according to Article 13 (2) and have certified documents, should acquire the permit issued by the central administration office, obey all the laws of the Republic of China, and then may be employed as real estate brokers.

Foreigners, who have been permitted to work as brokers in the Republic of China, should use the writing system of the Republic of China on the documents and illustrations related to business.

Article 38-1

The fee of issued the licenses of real estate brokers shall be charged according to the article. The central administration office shall make the fee by the rule.

Article 39

The central administration office shall make the detailed regulations on realization for this act.

Article 40

This act shall be effective from the date of its promulgation.

40 Implementation Regulations of Real Estate Broking Management Act

The Announcement of Revised Article of the Republic of China on March 22, 2002

Article 1

“Implementation Regulations of Real Estate Broking Management Act” is made in accordance with Article 39 of Real Estate Broking Management Act.

Article 2

A broking agency shall submit the following documents to the municipal administration office in a special municipality, or a county (city) administration office according to article 5 (1) of the Act.

1. Two copies of the application form.
2. The copies of name list of the boss, the director, the supervisor or the manager.
3. Other documents are designated by the central administration office.

Article 3

After investigation of the aforementioned application, the municipal or a county (city) administration office shall issue the permit to the qualified broking agency and inform the business association to transfer to national business association; inform the unqualified broking agency to rectify within fifteen days. Expired, the municipal administration office in a special municipality or a county (municipal) administration office shall withdraw the application.

Article 4

After permitted by the administration office, a broking agency shall be registered as a company or a profit-going legal person, pay guaranty bond and enter the local business association according to article 7(1) and (3) within six months.

Article 5

Within fifteen days of operation, a broking agency shall submit the following documents to the municipal administration office or a county (city) administration office which the company is located：.

1. Two copies of the application form.
2. The copy of registration document of companies and commerce.
3. The copy of certified document of guaranty bond payment.
4. The copy of certified document of membership in the business association.
5. The copies of name list and certificate of broking agent.
6. Other documents are designated by the central administration office.

After permit, the municipal or a county (city) administration office shall inform the business association to transfer to the national business union.

Article 6

After permit, a broking agency which the following items change exclusive of article VII shall report in written form to the registration of the municipal or a county (city) administration office within thirty days of the change day.

1. The title of a boring agency, the location, the organizational type, the business type, the business items, and whether or not dealing with foreign real estate broking service or foreign real estate selling business.
2. The boss, the director, the supervisor, and the manager.

After permit, the municipal or a county (city) administration office shall inform the business association to transfer to the national business union. While a business office is out of the jurisdiction of administrative division, a broking agency shall inform to the municipal or a county (city) administration office which its business office is located.

Article 7

(1)Within thirty days of the movement, a broking agency should report to the moving into administration office of the municipal or a county (city) in written document to investigate. The broking agency should notice to its original business association and enter the business association of moving in. The business association of moving in should report to the national business union.

(2)After investigation of the movement of broking agency, the aforementioned municipal or the county (city) administration office should inform the municipal or a county (city) administration office a broking agency moving out. While a business office is out of the jurisdiction of administrative division, a broking agency shall inform the administration office which the business office is located.

Article 8

Within thirty days of installation of business offices, a broking agency shall report the following items in written document according to the article 5(3) to the registered of the municipal or a county (city) administration office.

1. The title and location of the broking agency.
2. The title, location, and installing date of the business office.
3. The broker’s name, ID number and certificate number which the business office hired.

The business office is an extraordinary business office according to article 4 (x). The items of the aforementioned section (ii) shall be instead of the purpose of installing business office, and the title, the location, the total amount of sale & the period of installing of selling business.

After permit, the municipal or a county (city) administration office shall inform the business association and the national business union. While a business office is

moving out of the jurisdiction of administrative division, a broking agency shall submit the first and aforementioned documents to inform the municipal or a county (city) administration office which the business office is located.

Article9

Within thirty days of the changed day, a broking agency which changes the registered items of the aforementioned article 8(1) (ii&iii) or article 8 (2) shall report the changed items in written document to the registered of the administration office of the municipal or the county (city).

After permit, the municipal or a county (city) administration office shall inform the business association and the national business union. While the branch of business office is not in the jurisdiction of administrative office, the business office shall inform the municipal or a county (city) administration office which the branch is located. A broking agency, whose changed item is the movement of a business office, shall inform to the municipal or a county (city) administration office which the business office is moving out, and inform the municipal or a county (city) administration office which the business office is moving in with the aforementioned article 8(1) and (2) documents.

Article 10

Within thirty days of the dissolution of a business office, a broking agency shall report in written document to the registration of the municipal or a county (city) administration office.

After permit, the administration office shall inform the business association of the broking agency to transfer to the national business union. While the dissolved business office is out of the jurisdiction, the administration office shall inform the municipal administration office in a special municipality or a county (municipal) administration office which the business office is located.

Article11

Employing a foreigner as a real estate broker, a broking agency shall report to the administration office according to article 5 and article 8 (1) or (2) and submit the copy of the certified document of the foreigner permitting by the central administration office.

Article 12

After permit, a broking agency shall enter the business association in the near municipal administration office in a special municipality or a county (municipal) administration office before the installation of the local business association.

After the installation of local business association, the aforementioned broking agency shall enter it.

Article 13

A broking agency for sale shall enter the business association in the near municipal administration office in a special municipality or a county (municipal) administration office before the installation of the local business association.

After the installation of local business association, the aforementioned broking agency for sale shall enter it according to the aforementioned article.

Article 13-1

A broking agency may request the return of the guaranty bond according to article 9(2), the following situation are：

1. Applying for the dissolution of companies.
2. Applying for the dissolution of commerce.
3. After registering the changed business items, the companies and commerce is without the real estate broking agency and selling agency but the organization still remained.

Article 13-2

A broking agency requesting a return of guaranty bond according to this Act shall submit cessation of business documents permitted by the municipal or a county (city) administration office and other documents designated by the central administration office.

Applying the permit of cessation, a broking agency shall submit the certified documents of dissolution of company, the suspension of commerce or company, change of registered business items issuing by the administration office which companies registered.

After permit of operation, the municipal or a county (city) administration office shall inform the business association to transfer to the national business union.

Article 13 -3

Within thirty days of entrance the business association of a broking agency shall report the situation to the local administration office and inform the central administration office according to article X. When the suspension of rights and withdrawal from the business association happen, the same thing should be done.

Article 14

The municipal or a county (city) administration office shall make and keep the following registered books and lists permanently：

1. Registered book of real estate broking agent.
2. Registered book of real estate broker from other county (city).
3. The name list of real estate brokers.
4. The name list of real estate assistant brokers.

5. Name List of Real Estate Broker.

Article 15

Whoever applying for the certificate of real estate broker shall submit the following documents to the municipal or the county (city) administration office of his or her registered permanent residence：

1. The application form.
2. The copy of ID document.
3. The two copies of applicant's picture which 4×2.8 centimeter in size, front view, not wearing hat within the past one year.
4. The qualification document of investigation of real estate broker and its copy.
5. The certified document of real estate assistant broker with one-year experience and its copy.

After investigation of the application, the municipal or a county (city) administration office shall issue the certificate of real estate broker and return the aforementioned original to the qualified broker; inform the unqualified broker to rectify within fifteen days. Expired, the administration office shall withdraw the application and return the aforementioned documents.

Article 16

Foreigners applying for the certificates of real estate brokers shall submit the certified documents permitting by the central administration office according to article 38 (2) and the documents of the article 15 (1) to the municipal or the county (city) administration office.

Article 17

Applying for new certificate according to article XV section1, a broker shall submit the following documents to original institution within six months of the expired certificate：

1. Application form.
2. The certified documents of thirty-hour professional training course.
3. The original certificate of broker.

After investigation of the application, the municipal or the county (city) administration office shall issue the certificate to the qualified broker; inform the unqualified broker to rectify within fifteen days. Expired, the administration office shall withdraw the application and return the ii and iii documents.

The new certificate is valid for four year from the next day of expired day of original certificate.

The new certificate shall be indicted to prolong valid date of the original certificate.

Article 18

A broker who may not apply a new certificate according to the regulations, or be withdrawn the application, and whose original certificate is expired would be cancelled the certificate by the original issued institution that shall announce in public and inform the broker, the municipal or the county (city) administration office which his or her broking agency is located, the business association and the national business union.

Article 19

(1)After the cancellation of the certificate of real estate broker according to the aforementioned article, a broker shall submit the documents of article 15(1) (i to iv)and the certified documents and the copy of thirty-hours professional training course with past four years to original issued institution for new certificate.

(2)The municipal or the county (city) administration office shall conduct the application according to article 15 (2).

Article 20

A broker whose certificate is damaged or vanished shall narrate the reason and submit the documents of article 15(1) (I to iv) to the original issued institution for new certificate.

The municipal or the county (city) administration office shall conduct the application according to article 15(2).

Article 21

A broking agency shall display the following documents in an obvious place in the business office according to the articles 18 and 20.

1. The permit document of broking agency.
2. The certified document of membership of business association.
3. The certificates of real estate brokers.
4. The broker's fees and the paying process.

The aforementioned (i)(ii)(iii) documents could be displayed the copies.

A broking agency for sale is excluded the aforementioned (vi) document.

Article 22

If the broking agency is franchise system, they shall indicate Franchise store or Franchise system on the advertisements, signboard, and business card.

Article 23

A broking agent shall give the receipt after receiving the related documents from clients or the counterpart with whom the client deals.

Article 24

The sale and purchase, trade, lease or representative in the sale of real estate which

are not dealt with broking or the sale of real estate by a broking agency are not suitable to the article 22(1)

Article 25

At work, a broking agency shall record the situation of operating business. The administration office may investigate or take the related records or documents of the operating business, and ask the local broking agency and the broking agency in other counties (cities) to install the business offices within the time limit. The broking agency shall submit the documents of article 5 (ii to v) or other related documents of operating business and the instruction. The broking agency shall not evade, refuse or obstruct.

Article 25–1

The penalties of article 29 are executed by the municipal or the county (city) administration office which a broking agency is located. The locations of operating business office of broking agency , broking agency, and a operating business place are not the same jurisdiction as broking agency, however have one of the situations of article 29(1) (i, ii) and section 2, the municipal or the county (city) administration office which a broking agency is located executed through the investigation.

Article 26

The penalties for article 14(3) and article 31(2) are executed by the local administration office which the broking agent receives the certificate of real estate broker or real estate assistant broker.

Conducting according to the aforementioned regulation, the administration office shall announce and inform the litigant, his or her broking agency and the business association. Nullifying or abolishing the certificate of real estate broker, the administration office shall inform the original institution or group issuing the certificate.

Article 27

A broker agent violating the one of sections specified in Article 31(1) shall be referred to the municipal or the county (city) administration office for reprimand. The result of penalty shall be informed to litigant, and mail to original local administration office issuing the certificate of real estate broker or the certificate of real estate assistant broker for registration.

Article 28

A broker agent whose certificate of real estate broker or the certified document of real estate assistant broker is nullified or abolished according to article 14(3) shall apply new certificate or certified document.

Article 28-1

The penalty for article 32(1) may be carried out by the following situations：

1. The municipal or the county (city) administration office which companies and commerce are located shall execute the penalty for the companies and commerce, and the boss. While the location of operating the business and the registration of companies and commerce are not in the same jurisdiction of administrative division, after investigation by the local administration office of operating the business, the penalty shall execute by the registered administration office of companies and commerce.
2. The municipal or the county (city) administration office of registered permanent residence of the doer executes the penalty on the doer. While the location of real estate broking or selling and the location of registered permanent residence of the doer are not the same jurisdiction of administrative division, after the municipal or the county (city) administration office of real estate broking or selling shall investigate, the penalty shall execute by registered administration office of the doer.

Article 29

The central administration office shall make the form of books, table, registered book & list of this Implementation Regulations.

Article 30 (cancellation)

Article 31

This Implementation Regulations shall be effective from the date of its promulgation.

41 Land Administration Agent Act

Promulgated by President order Hua-Zong-Yi-Yi No.9000205260, on October 24, 2001

Chapter 1 General Provisions

Article 1

This act is enacted to ensure the safety of real estate transactions and to protect the rights of people's properties.

Article 2

Land Administration Agent shall have expertise of related laws and practices, and shall undertake business with good faith in accordance with laws.

Article 3

The term 'competent authority' referred to in this Act shall mean the Ministry of the Interior in the central government; the Municipal Governments in Municipalities, the County (City) governments in the Counties (Cities) level.

Article 4

A civilian of the Republic of China, who has passed the examination for Land Administration Agent and is issued with the certificate of Land Administration Agent, could act as a Land Administration Agent.

A person who was issued with the certificate of Professional Land Registration Agent before this Act coming into effect could also act as a Land Administration Agent.

Article 5

A person who has passed the examination for Land Administration Agent could apply for the Certificate of Land Administration Agent to the competent central authority with application and supporting documents.

Article 6

A person who is found to be in one of the following conditions can not act as a Land Administration Agent. The competent central authority shall withdraw or cancel the certificate of Land Administration Agent already issued to the above person.

1. Committed crimes such as deceit, breach of trust, embezzlement, forgery of documents and etc. in the practice and was sentenced to prison to serve for a period of more than a year.
2. Deprived of rights to acting as a Land Administration Agent in accordance with this Act.
3. Deprived of qualification in accordance with the Law of Examination for Professional Occupational and Technical Personnel.

The competent central authority shall make a public notice and notify the corresponding competent authorities in a municipality, or a county (city) and the Land

Administration Agent Guild in the matter of withdrawal or cancellation of a personal status stated in this Article.

Chapter 2 Practice

Article 7

A Land Administration Agent shall apply for registration with application and supporting documentations to the competent authority in a Municipality or a County (City). A Land Administration Agent can practice only after being certified with a Land Administration Agent Practicing License (hereinafter short as practicing license).

Article 8

The duration of a practicing license is four years. A Land Administration Agent shall submit documentation of at least 30 hours' professional training within the last four years or documentation equivalent to the above professional training for renewal of practicing license. The above professional training shall be received from the organizations, associations, schools and institutes that are approved by the competent central authority. A Land Administration Agent shall submit an application with documentation of at least 30 hours' professional training within the last four years or documentation equivalent to the above professional training for reissue of practicing license in accordance with the provision of Article 7 if his / her practicing license has expired. Renewal of practicing license can be fulfilled by making a note of extending the expiry date on the original practicing license.

The standards, approval procedures, course contents and related matters for administration to an organization (an association), a school and an institute to conduct professional training shall be instituted by the competent central authority.

Article 9

The competent authority in a Municipality or a County (City) shall set up a Register of Land Administration Agents that specifies the following matters:

1. Name, Gender, Date of Birth, Number of Identification Card and Address.
2. Number of Certificate of Land Administration Agent
3. Education Background and Working Experience
4. Name and Address of Office or Joint Office.
5. Name, Education Background, Working Experience, Date of Birth, Number of Identification Card and Address of assistants.
6. Date of Registration and Practicing License Number.
7. Date of Registration with a Land Administration Guild.
8. Type, Date and Cause of Award and Punishment.

In the event of any change to Items I to V in the pervious provision, a Land

Administration Agent shall report the change for future reference to the competent authority in a Municipality or a County (City) within 30 days.

Article 10

The competent authority in a Municipality or a County (City) shall make a public display and notify related authorities and corresponding Land Administration Agent Guild, and report the details to the competent central authority for future reference after registration of Land Administration Agent as well as its cancellation.

Article 11

A practicing license shall not be issued to, and an issued practicing license shall be withdrawn from or nullified for a person with the circumstances stated as follows.

1. A person who has been withdrawn or nullified of his / her Certificate of Land Administration Agent.
2. A person who has been diagnosed by a public hospital or a teaching hospital as having mental illness.
3. A person who is under interdiction which has not been lifted.
4. A person who has been declared bankruptcy and not been resumed the rights.

In the event of withdrawal or nullification, the competent authority in a Municipality or a County (City) shall make a public display and notify other competent authorities in Municipalities or Counties (Cities) and Land Administration Agent Guilds, and report the details to the competent central authority for future reference.

A person, whose practicing license was withdrawn or nullified in accordance with Clauses II to IV of Item I, could re-apply for a practicing license in accordance with the provisions of this Act after the causes disappear.

Article 12

A Land Administration Agent shall set up an office for his / her practice, or join a joint office run by two or more Land Administration Agents who practice jointly.

The office stated in the pervious Item shall be restricted to one location only. No branch office is allowed.

Article 13

The name of Land Administration Agent Office shall include the term ‘Land Administration Agent’.

Article 14

A Land Administration Agent shall apply for registration in the new jurisdiction when the office has moved out of the jurisdiction of the competent authority in a Municipality or a County (City) where the office was originally registered.

Article 15

A Land Administration Agent or interested parties shall apply for cancellation of registration to the competent authority in a Municipality or a County (City) if the following circumstances occur:

1. Cease practicing by himself / herself.
2. Death.

In the case that the competent authority in a Municipality or a County (City) is acquainted with the matters stated in the pervious Item, cancellation of the Agent's registration shall be undertaken based upon the authority vested in the competent authority. In the case that a Land Administration Guild is acquainted with the matters stated in the pervious Item, the Guild shall report the matters to the competent authority in a Municipality or a County (City).

Chapter 3 Business and Obligation

Article 16

A Land Administration Agent could undertake the following business:

1. Applying for the matters of land registration on behalf of clients.
2. Applying for the matters of land survey on behalf of clients.
3. Applying for the matters of taxation related to land registration on behalf of clients.
4. Applying for the matters of notarization or authentication related to Land Registration on behalf of clients.
5. Applying for the matters of deposit in accordance with land laws and regulations on behalf of clients.
6. Drafting contracts or agreements in respect of real estate on behalf of clients
7. Attesting contracts or agreements in respect of real estate.
8. Dealing with other matters in relation to land administration on behalf of clients.

Article 17

A Land Administration Agent shall deal with the entrusted matters by himself / herself. A Land Administration Agent could request other Land administration Agents to deal with the above matters provided with the consent of clients, other customs prevail or other perforce reasons.

Article 18

A Land Administration Agent shall ensure that the clients are the obligees against the registered property or are interested parties, and check up the clients' identification before taking up the business.

Article 19

Under the following circumstances, a Land Administration Agent could register with

the competent authority in a Municipality or a County (City) to act as an attesting witness for signatories to attest contracts or agreements.

1. Recommended by the national association of Land Administration Agent Guilds.
2. The total verified operating income of any two years within the last five years exceeds a certain amount.

The amount stated in Clause II of the previous Item is to be instituted by the competent central authority.

Article 20

A Land Administration Agent who is found to be in one of the following conditions can not apply for registration of an attesting witness. The competent central authority shall revoke his / her registration should any of the following conditions be found.

1. Recommendation in withdrawn by the national association of Land Administration Agent Guilds.
2. Recorded false or mal attestation in relation to Item II of Article 22 of this Act, which has resulted damage to the clients.
3. Given reprimand or more severe punishment in accordance with the provision of Article 44.

Article 21

A Land Administration Agent can not conduct attestation with regards to the land registration matters specified as follows:

1. Registration of succession which occurred before June 4th, 1985.
2. Registration of deed reissue.
3. Registration concerning the disposal of ownership, or changes of, or setting encumbrance over jointly owned land in accordance with the provision of Item I of Article 34 of Land Law.
4. Registration concerning the disposal of or inposing encumbrance over land used for temples, or worshipping ancestors, or worshipping gods.
5. Registration that requires consent of a third party.
6. Registration of a right whose value exceeds NT$ 10 Million.
7. Other registrations that are announced by the competent central authority.

Article 22

While undertaking attestation of real estate contracts or agreements, a Land Administration Agent shall verify the identities of the signatories. Once real estate contracts or agreements are verified by a Land Administration Agent, land offices need not re-check identifies of the signatories.

Before undertaking attestation of real estate contracts or agreements, a Land Administration Agent is required to pay NT$ 200,000 to the National Association of

Land Administration Guilds as Attestation Guarantee Fund. A Land Administration Agent is liable for compensation for damage to the clients which resulted from false or mal practice during attestation. In the case that the Land Administration Agent can not pay the full compensation, the National Association of Land Administration Guilds shall defray outstanding amount from the Attestation Guarantee Fund and later claim the amount back from the Land Administration Agent. The amount defrayed by National Association of Land Administration Guilds shall not exceed NT$ 4 million for each Land Administration Agent.

The matters concerning duty of attestation and management of Attestation Guarantee Fund shall be instituted by the competent central authority.

Article 23

A Land Administration Agent shall display a list of charge in an appropriate place of the office and shall provide with invoice for the fee charged.

Article 24

A Land Administration Agent shall provide with an inventory of documents entrusted by the clients.

A Land Administration Agent can not terminate contract without justifiable reasons after being entrusted. In the event of termination of a contract, the Land Administration Agent shall notify the clients at least ten days prior to the termination and shall obtain the consent of the clients before termination.

Article 25

A Land Administration Agent shall keep a record which states the process of entrusted cases.

The record stated in the provision of the previous Item shall be kept for at least 15 years.

Article 26

A Land Administration Agent shall not commit misconduct or violate the professional obligation in practice.

A Land Administration Agent shall be liable for paying compensation if he / she violates the provision in the previous Item resulting in damage to the clients or other interested parties.

Article 27

A Land Administration Agent shall not commit the behaviors listed as follows:

1. Violating laws and regulations in practice.
2. Permitting other persons to use his / her name to practice.
3. Using unjust or illicit measures to obtain business.

4. Making promotional advertisements not for opening of the business, or moving office, or for other matters irrelevant to the business.
5. Requesting, or promising, or accepting any rewards or fees not in accordance with the provisions of laws.
6. Knowingly using false land deeds, or certification of seal, or other documentations to apply for registration to land offices.

Article 28

Regarding the registration cases filed by a Land Administration Agent, the competent authority or land office in the jurisdiction, if considered necessary, could request for or examine the related documents from the Land Administration Agent. A Land Administration Agent shall not avoid, or obstruct, or refuse the above request.

Article 29

A Land Administration Agent could send registration assistants employed by him / her to file applications and collect documents undertaking land registration. The land office can require the Land Administration Agent to call in person if that is considered necessary.

The registration assistants stated in the provisions of the previous Item should have one of the qualifications listed as follows:

1. A Certificate of Land Administration Agent
2. A degree from a college or above with a major in land economics, or land administration, or related subjects.
3. Graduation from a high school or a vocational school or above with working experience of more than two years in a Land Administration Agent office.

A Land Administration Agent can employ no more than two registration assistants, and shall notify the competent authority in a Municipality or a County (City) and the local Land Administration Agent Guild for future reference before commencement of the employment contract and after termination of the employment contract.

Chapter 4 Guild

Article 30

The jurisdiction of Land Administration Agent Guild should correspond to the current administration jurisdiction. Land Administration Agent Guilds include Municipality Guilds, County (City) Guilds, and the National Association of Land Administration Guilds.

Only one Land Administration Agent Guild of the same level is allowed to be established in the same jurisdiction.

Article 31

A Land Administration Agent Guild shall be established in a Municipality or a County (City) once the number of registered Land Administration Agents exceeds 15. If the number of registered Land Administration Agents is less than 15, they could join a Guild in the neighboring jurisdiction or jointly organize a Guild with agents in the neighboring jurisdiction.

Article 32

The National Association of Land Administration Agent Guilds can be established only when Land Administration Agent Guilds in over a half of the Municipalities and Counties (Cities) have been established, unless the permission to establish the National Association of Land Administration Agent Guilds is granted from the competent central authority.

Article 33

A Land Administration Agent who has completed registration can not practice without joining the Land administration Agent Guild in a Municipality or a County (City).

A Land Administration Agent Guild can not refuse a Land Administration Agent's application to join the guild.

For a Land Administration Agent whose application to join the local Land Administration Agent Guild is refused, is deemed to have become a member of the Guild once the qualification of membership has been approved by the competent authority for civilian organizations.

The provision of Item I in this Article does not apply to Land Administration Agents between the period from this Act coming into effect until the establishment of Land Administration Agent Guild in a Municipality or a County (City).

Article 34

A Land Administration Agent shall pay a membership fee when joining a Land Administration Agent Guild. The Guild shall appropriate no less than 10 percent of the membership fee to the National Association of Land Administration Agent Guilds as a research and development fund of land administration. The National Association of Land Administration Agent Guilds shall set up a Management Committee responsible for management of the fund. Interest of the fund and other income derived from the fund shall be used for research and development in relation to the matters of land administration.

Regulations for the organization of Management Committee and disposal of the fund shall be instituted by the National Association of Land Administration Agent Guilds and reported to the competent central authority for future reference.

Article 35

All levels of Land Administration Agent Guilds shall apply for registration, with the

charter of a Guild, a List of Agent Members and a List of Staff, to the competent authority for civilian associations and report the registration to the local competent authority for future reference.

The National Association of Land Administration Agent Guilds shall institute an ethical code of practice for Land administration Agents, which shall be sent to the convention of representative members for approval and then submitted to the competent central authority for future reference.

Article 36

A Land Administration Agent Guild should comprise the Board of Directors and the Board of Supervisors. The Directors and Supervisors in Boards shall be elected by members' convention (convention of representative members). The number of Directors and Supervisors is based upon rules as follows:

1. Board of Directors of the Land Administration Agent Guild in a County (City) level shall not consist of more than 15 persons.
2. Board of Directors of the Land Administration Agent Guild in a Municipal level shall not consist of more than 25 persons.
3. Board of Directors of the National Association of Land Administration Agent Guilds shall not consist of more than 35 persons.
4. Number of Board of Supervisors in all levels of Land Administration Agent Guilds shall not exceed one thirds of the number of Board of Directors in that respective Guild.
5. All levels of Land Administration Agent Guilds shall set up a list of alternate Directors and Supervisors. The number of alternate Directors and Supervisors shall not exceed one thirds of the total number of the respective number of Directors and Supervisors in that Guild.

In the case that the number of Directors and Supervisors, as stated in the Clauses I to V of the previous Item, exceeds three, no more than one thirds of Directors and Supervisor could, through election among them, become Managing Directors and Managing Supervisors. One of the Managing Directors can, through election among them, serve as the Chairman of the Board of Directors. In the case that Managing Director is not set up, the Chairman of the Board of Directors could be produced from election among Directors. One of Managing Supervisors shall act as the Convener of Supervisors when the total number of Managing Supervisors exceeds three.

Directors and Supervisors shall serve a term of three years for the posts, and could be re-elected subject to the number of re-elected members does not exceed a half of the total number in the Boards of Directors and Supervisors. The Chairman of the Board of Directors can only serve no more than two consecutive terms.

Article 37

The chart of Land Administration Agent Guild shall specify the following matters:

1. Name and address of the Guild and its servicing area.
2. Objective, organization and task for the Guild.
3. Registration and withdrawal of memberships.
4. Rights and obligations of members.
5. The number, authority, office term, re-election and resignation in respective of Directors, Supervisors, Alternate Directors, and Alternate Supervisors.
6. Regulations concerning members' convention (convention of representative members), Board of Director's meeting, Board of Supervisors' meeting.
7. Covenant of members.
8. Rules of conduct.
9. Expenditure and accounting.
10. Procedures for amendment of articles.
11. Other matters related to operation of a Land Administration Agent Guild.

Article 38

All levels of Land Administration Agent Guilds shall hold members' convention (convention of representative members) once a year, and shall hold a provisional meeting if necessary.

In the case that total number of members in a Guild exceeds 300, representative members can be elected and conventions of representative members held in accordance with the chart of the Guild. In such a case, the Land Administration Agent Guild shall divide its jurisdiction into smaller districts and the number of representative members should be in proportion to the number of members in individual districts.

Article 39

All levels of Land Administration Agent Guilds shall notify the competent authority and the competent authority for civilian associations in the local jurisdiction in regards date, time, venue and agenda for conventions held for members and representative members, and (joint) meetings for the Board of Directors, the Board of Supervisors, and the Board of Directors and Supervisors.

The competent authority and the competent authority for civilian associations in the residence could send officials to sit in on the meeting.

Article 40

All levels of Land Administration Agent Guilds shall submit the following matters to the respective competent authorities and the competent authority for civilian associations:

1. Register of members, and registration and withdrawal of memberships.

2. The details in respect of elections of Directors, Supervisors, Alternate Directors, Alternate Supervisors, and the lists of the elected.
3. The minutes of members' convention (convention of representative members), of meetings for the Board of Directors, of meetings for the Board of Supervisors, and joint meetings for the Boards of Directors and Supervisors.

Article 41

In the case that any Land Administration Agent Guild violates laws or chart, or acts against the public interest, or neglect the operation of the Guild, the competent authority for civilian associations could take the following actions as punishments:

1. Issue a warning.
2. Canceling the resolutions.
3. Cease part or all of business.
4. Replace the Directors, Supervisors or staff.
5. Order to re-organize the Guild within a certain period.
6. Dissolve the Guild.

The provisions of Clauses I to III of the previous Item can also be executed by the competent authority in the local jurisdiction.

A Land administration Agent Guild which is dissolved in accordance with the provisions of Clauses VI of Item I shall be re-established shortly.

Chapter 5 Awards and Punishments

Article 42

The competent authority in a Municipality or a County (City) shall award a Land Administration Agent or report the details to the competent central authority for a special award under any of the following circumstances:

1. The agent continuously practices land administration business for more than two years and with excellent performance.
2. The agent has undertaken research or published articles that make significant contribution in renovating practice of land registrations or other land administration business.
3. The agent reports false land registrations so as to prevent crime and protect individuals' property rights.
4. The agent assists governments with implementation of land administration business and with excellent performance.

Article 43

Punishments for misconducts of a Land Administration Agents are listed as follows:

1. Warning
2. Reprimand

3. Cease the right to practice for a period of between two months to two years.
4. Disqualification

A Land Administration Agent, who is given warning for three times, is regarded as given a reprimand. A Land Administration Agent, who is given reprimand for three times, shall be disciplined to cease the right to practice. A Land Administration Agent, who is disciplined to cease the right to practice for an accumulated period of over three years, shall be disqualified.

Article 44

A Land Administration Agent who violates this Act shall be disciplined in accordance with the following punishments:

1. Those who violate the provisions of Item II of Article 9, Item I of Article 12, Article 13, Article 14, Item I of Article15, Article 17, Article23 to 25 or Item III of Article29, shall be given warning or reprimand and wrongdoings be amended within in a certain time period. For those who did not have wrongdoings amended within the period specified, the competent authority can continue its request for amendment and give consecutive warnings or reprimands until the violation has been rectified.
2. Those who violate the provisions of Item II of Article 12, Article 18, Items III and IV of Article 27, Article 28, the Ethical Codes of Practice for Land Administration Agents, or Articles of Land Administration Agent Guild, shall be given reprimand or asked to cease the right to practice.
3. Those who violate the provisions of Item III of Article 22, Item I of Article 26, Items I, II, V and VI of Article 27 or Item II of Article 29, shall be asked to cease the right to practice or disqualified.

Article 45

The competent authority in a Municipality or a County (City) shall set up a Disciplinary Committee for Land Administration Agents (hereinafter called the Disciplinary Committee) to deal with disciplinary matters in relation to Land Administration Agents. The organization of the Disciplinary Committee shall be instituted by the competent authority in a Municipality or a County (City).

The Disciplinary Committee should consist of nine committee members. The Director of Department of Land Administration in a Municipality or a County (City) should act as the Chairman of the Committee. The other Committee members should be appointed by the competent authority in a Municipality or a County (City) and consist of:

1. Two representatives of the Guild.
2. One official from the competent authority of civilian associations.
3. Three officials from the competent authority of land administration.

4. Two respectable people in the jurisdiction.

Article 46

In the case that a Land Administration Agent breaches the provisions of Article 44 in this Act, the clients, interested parties, the responsible competent authority, the local land office or the local Land Administration Agent Guild should submit the facts and supporting evidence to the Disciplinary Committee of the competent authority in a Municipality or a County (City) where the Land administration Agent registered to practice.

Article 47

The Disciplinary Committee should notify the accused Land Administration Agent of the disciplinary matters and request the Agent to provide with a written statement of defense or defend himself in person within twenty days of receiving the notification.
The Disciplinary Committee can adjudicate on the disciplinary matters in the case that the Land Administration Agent fails to provide with a written statement of defense or defend himself in person within twenty days of receiving the notification.
The Disciplinary Committee should refer a case to the judicial authority for further investigation in the case that the Land Administration Agent is considered to be involved in a criminal offence.

Article 48

Once a Land Administration Agent is disciplined, the competent authority in a Municipality or a County (City) should make a public notice concerning the disciplinary matters and notify the local Land Office and the Land Administration Agent Guild in the local jurisdiction.
In the case that a Land Administration Agent is disciplined to cease the right to practice or is disqualified, the competent authority in a Municipality or a County (City) should report this disciplinary case to the competent central authority for future reference and notify the competent authorities in other Municipalities or Counties (Cities), and publish this disciplinary case in a bulletin.

Article 49

A person, who practices as a Land Administration Agent but without the certificate of Land Administration Agent in accordance with the laws or whose Certificate of Land Administration Agent has been withdrawn or nullified, will be fined of between NT$50,000 to NT$250,000.

Article 50

A person, who practices as a Land Administration Agent under any of the following circumstances, will be fined by the competent authority in a Municipality or a County

(City) NT$30,000 to NT$150,000 and ordered to rectify or terminate his / her wrongdoings within a certain time period. For those who do not rectify or terminate the wrongdoings within the time period specified, the competent authority can continue to request for rectification or termination of the above wrongdoings within a certain time period and impose consecutive fines until the wrongdoings have been rectified or terminated.

1. Without a Practicing License in accordance with the laws.
2. With a Practicing License but without the membership of a Land Administration Agent Guild.
3. With a Practicing License but failing to renew the license in accordance with this Act when the practicing license expires.
4. Practicing License has been withdrawn or nullified.
5. Having been disciplined to cease the right to practice.

Article 51

In the case that a Land Administration Agent Guild breaches Item II of Article 33, the competent authority in a Municipality or a County (City) shall impose a NT$30,000 to NT$150,000 fine on the Guild for the violation.

Article 52

The fines imposed in accordance with the provisions of Articles 49, 50 and 51, shall be paid within a certain time period. The person who fails to pay the fines will be sent to the court.

Chapter 6 Additional Provisions

Article 53

For those who were issued with a Certificate of Professional Land Registration Agent in accordance with the laws before this Act came into effect, a practicing license can be applied for in accordance with the provision of Article 7 after this Act comes into effect. A practicing Professional Land Registration Agent can continue practicing for another four years from the date when this Act comes into effect. After the 4 years, a Professional Land Registration Agent can continue practicing provided that the agent applies for renewal of practicing license in accordance with the provision of Article 8.

A person who was issued with a certificate of passing the examination of Professional Land Registration Agent or a certificate of an equivalent qualification to Professional Land Registration Agent before the Act comes into effect, can apply for a Certificate of Land Administration Agent in accordance with the provisions of this Act.

A person who fails to apply for renewal of practicing license in accordance with Item I of this Article and continues practicing should be disciplined according to Item III of Article 50.

Article 54

A person, who was issued by a Municipality or a County (City) with a certificate of Land Agent or with a card for professional agent for land registration but has not applied for a Certificate of Professional Land Registration Agent, should apply for a Certificate of Land Administration Agent within a year after this Act comes into effect. The application will be denied after one year.

Article 55

A Guild for Professional Land Registration Agents established before this Act comes into effect and its organization complies with the provision of Article 30, shall be deemed as a Land Administration Agent Guild by law.

A guild, that was already in existence before this Act comes into effect but its organization does not comply with the provisions of this Act, shall after this Act comes into effect be disassembled within three months. Those guilds that are not disassembled three months after this Act comes into effect shall be withdrawn their permission by the competent authority.

Article 56

A competent authority shall in accordance with this Act charge fees for issues of certificate and practicing licenses. The standard of tariff shall be instituted by the competent central authority.

Article 57

The format of documents and application forms shall be specified by the competent central authority.

Article 58

The Rules for the Enforcement of this Act shall be instituted by the competent central authority.

Article 59

The Act shall come into effect from six months after the date of its promulgation.

42 Enforcement Rules of the Land Administration Agent Act

Promulgated and enforced on August 1,2002

Article 1

This Rule for the Enforcement of the Land Administration Agent Act is instituted in accordance with Article 58 of Land Administration Agent Act (hereinafter called this Act).

Article 2

The term ‘passing the examination for Land Administration Agent’ as referred to in the provision of Item I of Article 4 in this Act includes the examinations planned in accordance with the laws before the promulgation of this Act by Examination Yuan, and took place in 2002, after the promulgation of this Act, the Professional Land Registration Agent Examination of the Examinations for Professional Occupational and Technical Personnel, and application for Qualification of Professional Land Registration Agent before December 31st, 2005.

Article 3

According to the provisions of Article 5, Item II of Article 53, or Article 54 in this Act, the following documentations shall be submitted to the competent central authority for application for Certificate of Land Administration Agent.

1. Application form.
2. Any of the following documentations in respect of qualification:
   1) In the case of submitting application in accordance with the provision of Article 5 of this Act, the certificate and copies of passing the examination of Land Administration Agent are required.
   2) In the case of submitting application in accordance with the provision of Item II of Article 53 of this Act, the certificate and copies of passing the examination of Professional Land Registration Agent, or the certificate and copies for Qualification of Professional Land Registration Agent are required.
   3) In the case of submitting application in accordance with the provision of Article 54 in this Act, document and copies of qualification for Land Registration Agent issued by the competent authority in a Municipality or a County (City), or card and copies for professional agent for land registration are required.
3. Copies of Identification Documentation.

For applications in compliance with the provisions stated in the previous Item, a Certificate of Land Administration Agent shall be issued and the original documentations shall be returned to applicants. For applications not in compliance with the provisions stated in the previous Item, the applications shall be rejected. As

regards applications for which further proofs or supplemental documents are required, a re-submission with required further documentation within 15 days shall be notified of the applicants. Applications for which re-submission are required within 15 days but the applicants fail to comply with shall be rejected.

For applications rejected in accordance with the provision in Item II, the documentations submitted as stated in Clauses 2 and 3 of Item I shall be returned to applicants.

Persons who were issued with a Certificate of Professional Land Registration Agent in accordance with the laws before this Act comes into effect can use the Certificate as the document of qualification as required in Clause 2 of Item I and apply for Certificate of Land Administration Agent in accordance with the provision of Item I. In this case, the Certificate of Professional Land Registration Agent shall not be returned to applicants after a Certificate of Land Administration Agent is issued.

Article 4

According to the provisions of Article 7 in this Act, the following documentations shall be submitted to the competent authority in a Municipality or a County (City) for applying for a practicing license.

1. Application form.
2. Certificate and copies of Land Administration Agent or Professional Land Registration Agent.
3. Copies of Identification Documentation.
4. Two photographs, two and half inches in size, of the applicant taken within the past one year.

The provision of Item II of Article 3 applies to Item I of this Article. In the case that an application is rejected, the documentations submitted as stated in Clauses 2 to 4 of Item I shall be returned to the applicant.

Article 5

In the case that Certificate of Land Administration Agent or Professional Land Registration Agent is missing, destroyed, or stained, the following documentations shall be submitted to the competent central authority to apply for reissue or renewal of the certificate.

1. Application form.
2. The stained original certificate when applying for a renewal.
3. Copies of Identification Documentation.

Article 6

In the case that Practicing License of Land Administration Agent is missing, destroyed, or stained, the following documentations shall be submitted to the original

competent authority in a Municipality or a County (City) to apply for reissue or renewal of the practicing license.

1. Application form.
2. The stained original practicing certificate when applying for a renewal.
3. Copies of Identification Documentation.
4. Two photographs, two and half inches in size, of the applicant taken within the past one year.

The valid date of a re-issued or renewed practicing license is the same as that of the original practicing license.

Article 7

For an application for re-issuing a practicing license in accordance with the provisions of Article 8 in this Act, the following documentations shall be submitted to the competent authority in a Municipality or a County (City) at least six months prior to the expiry of the original practicing license.

1. Application form.
2. The original practicing certificate and its copies, except for the case that original practicing license is missing or destroyed.
3. Copies of Identification Documentation.
4. Documentation of completing at least 30 hours' professional training or supporting evidence of receiving equivalent professional training within the past four years.
5. Two photographs, two and half inches in size, of the applicant taken within the past one year, except for making a note of extending the expiry date on the original practicing license.

The valid date of a practicing license renewed in accordance with the provision of the previous Item is extended for four years starting from the next date of the expiry date on the original practicing license.

For an application in compliance with the provision of Item I, the competent authority in a Municipality or a County (City) shall renew a practicing license or make a note of extending the expiry date on the original practicing license. For an application not in compliance with the provision of Item I, the application shall be rejected. As regards an application for which further proofs or supplemental documents are required, a re-submission of required documentation within 15 days shall be notified of the applicant. An application that fails to re-submit required further documentation within 15 days shall be rejected.

For an application that is rejected in accordance with the provision of Item I, the documentations submitted as stated in numbers 2 to 5 of Item I shall be returned to the applicant.

Article 8

The term ‘within four years’ as referred to in the provision of Item I of Article 8 in this Act means four years between the date when professional training is completed and the date when re-application for a practicing license is submitted.

Article 9

In the event of reporting alternations for future reference in accordance with the provisions of Item II of Article 9, Land Administration Agent shall submit application form and documentation in respect of the alternations to the competent authority in the local Municipality or County (City) where the office is located. In the case that alternations are those specified in the provisions of Item I or IV of Article 9 in this Act, Land Administration Agent can apply for a renewal of Certificate of Land Administration Agent or Practicing License in accordance with the provisions of Articles 5 and 6 in this Act.

Article 10

For an application of Practicing License in accordance with the provisions of Item III of Article 11 in this Act, the applicant shall submit supporting documentations and the documents as stated in Item I of Article 4 in this Act to the competent authority in the local Municipality or County (City) where the office is located.

Article 11

A Land Administration Agent shall submit the original Practicing License and documents as stated in Item I of Article 4 to the competent authority in the Municipality or County (City) where the office is moving into for re-registration in accordance with the provision of Article 14.

The competent authority dealing with re-registration application shall examine the case and issue a new Practicing License where appropriate and return the original Practicing License to the original competent authority for cancellation of the previous registration.

The expiry date of a Practicing License issued in accordance with the provision of previous Item is the same as that on the original Practicing License.

Article 12

Applicants applying for Certificate of Land Administration agent or Practicing License in accordance with the provisions of from Article 3 to Item II of Article 11 shall pay a fee according to the provision of Article 56 in this Act. For an application that is examined and rejected by the competent authority, the fee paid for issuing certificate or practicing license shall be returned to the applicant.

Article 13

The area where a Land Administration Agent practices is not subject to the jurisdiction where he / she registered with.

Article 14

In the event that a Land Administration Agent applies for registration as an attesting witness for signatories, the following documents shall be submitted to the competent authority in a Municipality or a County (City) where the office is located.

1. Application form.
2. Copies of Identification Documentation.
3. Documentation and its copies of qualification as stated in the provision of Item I of Article 19 in this Act.
4. Documentation and its copies of paying fees to the Attestation Guarantee Fund as stated in the provision of Item II of Article 22 in this Act.
5. 5 Copies of seal and signature of an attesting witness.

Article 15

The competent authority in a Municipality or a County (City) dealing with registration of Attesting Witness is responsible for examining the applications, creating files for the cases in compliance with the provisions in this Act and setting up a Register of Attesting Witnesses. The Register of Attesting Witnesses shall be sent to the Land Office in the local jurisdiction, the Land Administration Agent Guild that the applicant joined, and the National Association of Land Administration Agent Guilds (hereinafter called the National Association), and the competent authorities in other Municipalities or Counties (Cities) and the local Land Offices in their jurisdictions. In the case of nullification of status of an Attesting Witness, the same procedures apply.

A register of Attesting Witnesses shall specify the following matters:

1. Name, Gender, Date of Birth, Number of Identification Card and Address of an Attesting Witness.
2. Name, Address and telephone number of the office.
3. Registration number of a Practicing License.
4. The copy of seal and signature of an Attesting Witness.

Article 16

When handling with the cases in relation to attestation, a Land Administration Agent shall set up files for personal details of signatories, which shall specify the following items:

1. Name.
2. Date of Birth.
3. Number of Identification Card.
4. Address of Residence.

5. Corresponding Address and telephone number.
6. The copy of seal and signature.

Article 17

The record set up by a Land Administration Agent in accordance with the provisions of Item I of Article 25 in this Act shall specify the following matters.

1. The category and contents of the entrusted cases.
2. The name or title and address of clients.
3. The date of commission.
4. The date of application.
5. The process of the entrusted cases.

A Land Administration Agent shall include the matters stated in the previous Item in the record while handling attestation cases.

Article 18

The mandatory duration of keeping the record as referred to in the provisions of Item II of Article 25 in this Act starts from the date when Land Administration Agent submits an application to the competent authority.

Article 19

The name of a Land Administration Agent Guild shall include the name of the local Municipality or County (City).

A Professional Land Registration Agent Guild established before the Act comes into effect and in compliance with the provision of Article 30 in this Act can apply for a change of name to the competent authority of civilian associations. A Guild, after having its name changed, shall submit its Chart, the List of its Members and the List of its Staff to the competent authority of civilian associations for future reference in accordance with the deadline instituted by the competent central authority, also with copies submitted to the competent authority in the local Municipality or County (City).

Article 20

Land Administration Agents issued with a practicing license shall join the Land administration Agent Guild in the local Municipality or County (City), except for the case that a Land Administration Agent who applies to join the Land Administration Agent Guild in an adjacent Municipality or County (City) in accordance with the provision of Article 31 in this Act.

A Land Administration Agent who previously joined the Land Administration Guild in an adjacent Municipality or County (City) in accordance with the provision of Article 31 in this Act shall join the Land Administration Agent Guild in the local Municipality or County (City) where he / she practices once it is established, and has

his / her membership withdrawn from the original Land Administration Guild he / she registered with in an adjacent Municipality or county (City).

Article 21

The representatives of National Association shall be elected and appointed by Land Administration Agent Guilds in Municipalities or Counties (Cities). The number of representatives shall be instituted in the Chart of National Association.

The representatives elected and appointed by Land Administration Agent Guilds in Municipalities or Counties (Cities) as stated in the previous Item shall not be limited to the Boards of Directors and Supervisors from those local guilds.

Article 22

The candidates for Boards of Directors and Supervisors in the National Association shall not be limited to the representatives elected and appointed by Land Administration Agent Guilds in Municipalities or Counties (Cities).

Article 23

The term of three years for Boards of Directors and Supervisors of a Land Administration Agent Guild in accordance with Item III of the Article 36 in this Act shall be applied since the first re-election after this Act comes into effect. The number of the re-elected members in the Board of Directors and the Board of Supervisors can not exceed a half of the respective total number of the Board of Directors and that of Supervisors.

Article 24

The awards as referred to in the provision of Article 42 in this Act shall be given by overtly presenting a certificate, or a plaque, or a medal.

Article 25

The punishment as referred to in Item II of Article 43 in this Act shall add up the punishments disciplined in all Municipalities or Counties (Cities).

Article 26

The competent authority in a Municipality or a County (City) should take account of the punishment disciplined in all Municipalities or Counties (Cities) while dealing with the matters concerning disciplining a Land Administration Agent. A Land Administration Agent who has been given reprimands more than three times or disciplined of ceasing the right to practice for a total of more than three years shall be sent to the Land Administration Agent Disciplinary Committee for consideration of giving the punishment of ceasing the right to practice or disqualification.

Article 27

The Rules for the Enforcement shall come into effect from the date of its promulgation.

Appendix 2 (Money Laundering Prevention Guidelines and Procedures for various financial industries)

1 Money Laundering Prevention Guidelines and Procedures for Banking Industry

Approved by the Ministry of Finance with Letter Tai-Tsai-Jung-(I)-Tze 0930000505 dated March 23, 2004 (Duly amended pursuant to Orders of Ministry of Finance Tai-Tsai-Jung-(I)-Tze 0928011641 dated November 18, 2003; Tai-Tsai-Jung-(I)-Tze 0921000621 dated August 19, 2003 and Tai-Tsai-Jung-(I)-Tze 0920035253 dated August 4, 2003)

Approved by the Financial Supervisory Commission, Executive Yuan with Letter Chin-Kuan-Yin-(I)-Tze 0931000793 dated January 13, 2005 (Duly amended pursuant to Orders of Ministry of Finance Tai-Tsai-Jung-(I)-Tze 0930000505 dated March 23, 2004; Tai-Tsai-Jung-(I)-Tze 0938010499 dated April 6, 2004; order of Financial Supervisory Commission, Executive Yuan Chin-Kuan-Yin-(I)-Tze 0931000598 dated November 12, 2004)

Approved by the Financial Supervisory Commission, Executive Yuan with Letter Chin-Kuan-Yin-(I)-Tze 09400349780 dated December 5, 2005 (Duly amended pursuant to Orders of Financial Supervisory Commission, Executive Yuan Chin-Kuan-Yin-(I)-Tze 0941000645 dated November 4, 2005 and Chin-Kuan-Yin-(I)-Tze 0940022159 dated November 4, 2005)

Approved by the Financial Supervisory Commission Executive Yuan with Letter Chin-Kuan-Yin-(I)-Tze 09500479670 dated November 9, 2006

I. These Points for Attention are duly enacted in accordance with Article 6 of the "Money Laundering Prevention Act" in an effort to help control and prevent potential money laundering.

II. Points for attention in "Money Laundering Prevention":

(I) When a client opens an account:

1. The teller shall, when processing a client's application to open an account (including individual accounts and non-individual accounts, verify at least two kinds of the client's identity documents and keep the verified identity documents. Where an individual applies to open an account, the teller shall, other than his/her ID card, obtain other document(s) which could verify his/her identity, e.g., National Health Insurance Card, passport, driver's license, student identity card, household registry book or household registry certificate. Where a non-individual applies to open an account, the teller shall obtain certificates verifying incorporation registration, official documents or other supporting certificates and shall, in addition, obtain the minutes of its Board of Directors meeting, Articles of Incorporation or financial statements before approving the application to open an account. The teller shall not accept tax payment certificates as the only source to verify identity. The secondary certificates other than the ID card and the registration certificate shall be able to show who the client is. The name list of an entity or school may be taken as the secondary certificate if it may ascertain the client's identity. In the event that a client refuses to provide the required documents, the teller shall decline courteously the application for account opening or shall not process the application until after checking and satisfactorily verifying the client's identity.

2. Where a client opens an account through a consignee or an agent, the teller shall check and verify the facts of consignment and authority as well as identity related data. The teller shall decline the application in a courteous manner if there is difficulty checking and verifying such facts.

3. The teller shall decline the application in a courteous manner if an applicant is found to have allegedly used a false name, dummy name, a nominal firm or a nominal institution.

4. The teller shall decline the application in a courteous manner if an applicant is found to have provided falsified, tampered identity certificates, or have provided all identity certificates in Xeroxed copies.

5. The teller shall decline the application in a courteous manner if the provided documents are suspicious or illegible or if the applicant is unwilling to provide other supporting certificates or if the provided documents are not verifiable.

6. The teller shall decline the application in a courteous manner if an applicant is found reluctant to provide additional documents as required with unusual delay.

7. The teller shall decline the application in a courteous manner if other unusual conditions are found and the applicants cannot explain them in a reasonable manner.

8. For other important guidelines when a client opens an account, tellers shall faithfully comply with the Bank's regulations for internal operations.

(II) Important notes to reconfirm after a client completes account opening:

1. When a client opens an account through a consignee or agent or where a client is not found to be suspicious until after his/her account has been opened, the teller shall reconfirm by phone, by letter or by on-the-spot interview.

2. When a client opens an account by mail, the teller shall reply with official letter in registered mail after the account opening procedures are completed so as to verify the case.

(III) Important notes on transactions after accounts are opened:

1. On a transaction above the specified threshold amount, tellers should check and verify client's identity and keep transaction records in archives.

2. The term "over the specified threshold amount" as set forth in the preceding paragraph denotes NT$1 million (including foreign currencies of the equivalent value) in a single payment or collection case in cash (including all accounting handling entered in input/output cash vouchers) or a single case in exchange in bank note or in currencies.

3. For a transaction over the specified threshold amount, the tellers shall, except in situation described in Paragraph 5, declare through

media declaration within 5 business days (Cf. Appendix I for file format), to the Investigation Bureau, Ministry of Justice. Subject to consent by the Investigation Bureau, Ministry of Justice and if good reason exists, the tellers may declare in document form (Cf. Appendix II for file format).

4. Tellers should exercise extraordinary diligence if transaction of a client meets any of the situations listed below. If the transaction is suspected of being money-laundering, the teller shall check and verify the client's identity and keep transaction records and vouchers in archives and shall, in addition, take into account these Guidelines and shall declare the case to the Investigation Bureau, Ministry of Justice.

   (1) Where the total deposits and withdrawals within the same account on the same business day accumulate over NT$1 million (including the equivalent values in foreign currencies) and the transactions do not appear to be commensurate with the client's identity and revenue background and irrelevant to the attributes of his/her profession

   (2) Where a client makes multiple deposits and withdrawals through the same counter and accumulates over NT$1 million (including the equivalent value in foreign currencies) and transactions do not appear to be commensurate with the client's identity and revenue background and irrelevant to the attributes of his/her profession.

   (3) Where a client at the same counter at the same time makes multiple outward remittances in cash or requests issuance of instruments (e.g., bank check, a check with another bank for deposit, bank draft), applies for negotiable time deposit certificates, traveler' s checks, beneficiary certificates and other valuable securities exceeding NT$1 million (including the equivalent value in foreign currencies) where the client can not reasonably explain the purpose.

   (4) When a client suddenly receives a deposit(s) in extraordinarily large amount (e.g., by depositing many promissory notes, checks into the same account) which is apparently not commensurate with the client's identity and revenue background and irrelevant to the attributes of his/her profession.

   (5) When a still client or an account long inactive suddenly has a large amount of cash input or output (e.g., depositing large-amount check(s) to apply for financing) and also quickly transferred out.

   (6) When an account, shortly after opening, is seen having deposit, inward remittance in a huge amount apparently incommensurate with the client's identity and income, or irrelevant to the client's business and the deposit has been

quickly transferred out.

(7) When a deposit client deposits multiple small amounts rapidly and immediately withdraws a huge amount or in a scattered manner and leaves only a nominal balance, with the amount found apparently incommensurate with the client's identity or income and irrelevant to the attributes of his/her profession.

(8) When a client is found having frequently transferred huge amounts of funds within the relevant accounts or requests to proceed with his/her transaction in cash.

(9) When each deposit case and withdrawal case are similar in amounts and are close together in occurrence.

(10) When the transaction is an inward remittance from certain specified regions (Non-Cooperative Countries and Territories), e.g., The Cook Islands, Indonesia, Myanmar, Nauru, Nigeria, the Philippines and the like, and is withdrawn or transferred within five business days and where the transaction is found apparently incommensurate with the client's identity, or revenue and irrelevant to the attributes of his/her profession. The names of the countries or economic entities mentioned in this paragraph shall be updated in line with the uncooperative countries listed on the Financial Action Task Force (known as FATF in brief). Tellers are, in addition, required to take the initiative to update the Non-Cooperative Countries and Territories through the FATF website (www.fatf-gafi.org) on a quarterly basis.

(11) When in a case of foreign exchange, traveler's checks, draft in foreign currencies or other bearer's financial tool in a huge amount where the client fails to clarify the purposes or origin, or where the transaction proves nonconforming with the client's identity or profession.

(12) Where a client is found to have frequently converted small denomination bank notes into large denomination ones or vice versa.

(13) Where a client is found to have frequently deposited/withdrawn large amounts into/out of a specific account for others or through different third parties.

(14) Where a client is found to have scattered transactions through the same account, and frequently deposited into or withdrawn out of an account in amounts marginally below the threshold for declaration.

(15) Where a client is found to have abruptly repaid huge amounts of doubtful loans but could not reasonably explain the origin of the funds.

(16) Any other obviously unusual transactions, e.g., sales of financial bonds in huge volume, or frequent use of traveler's checks or foreign currency checks in a huge volume without justifiable reasons; or opening L/Cs in huge amount for transaction where the client is unable to provide reasonable information, or opening an account in huge amounts (tens of millions of New Taiwan Dollars) with another financial institution's check which is suspected to be money-laundering.

(17) Where the end beneficiary or transaction counterpart is found to be a terrorist individual or entity as advised by foreign governments via the Financial Supervisory Commission, Executive Yuan; or where the transaction is suspected or bears reasonable reason to suspect to have been linked with a terrorist activity, terrorist organization or subsidy to terrorism.

(18) The deposits, withdrawals or remittances by a client who is believed to have been implicated in a major, extraordinary case as reported by press, magazine, TV, Internet and such media.

(19) Where several people team up with one another to conduct deposits, withdrawals or remittances with a financial institution.

In a case where these Guidelines are updated only because the lists of the uncooperative countries or terrorist entities are updated, declaration to the Financial Supervisory Commission, Executive Yuan for information may be dispensed with.

5. In the case of a transaction above the specified threshold, the procedures to check and verify the client's identity, keep the transaction records and to declare with the specified institution may be dispensed with if it is under any of the following attributes:

(1) Transaction, with receivable, payable, is conducted by a government entity, a government corporation, an entity that exercises government power (within the consigned scope), public or private school, public utility and the funds prove to comply with the laws and regulations concerned of the government.

(2) The inter-bank transaction and fund arrangement: In the event a client as a fellow bank yields payable amount through an inter-bank deposit account, e.g., honoring a check issued by a fellow bank, the case shall still be handled as required if the transaction of a same client amounts to over NT$1 million.

(3) The amounts paid by a national lottery dealer.

(4) The earmarked guarantee bond account opened by a

securities or futures dealer.

(5) Transaction as payment collected for a third party (excluding the transaction in deposit of stock money for an earmarked account) where the payment note already expressly bears the name, ID Card number (including the code which enables the search of the identity of the transaction counterpart), category and amount of the transaction. In such a case, nevertheless, the duplicate copy of the payment note shall be archived to verify the transaction.

In cases of those non-individual accounts such as a department store, megastore, supermarket chain, gas station, hospital, clinic, transportation entity, hotel, restaurant which must deposit cash amounting to over NT$1 million regularly or routinely in line with business needs, the financial institution in charge, while verifying the *de facto* needs, shall submit the name list to the Investigation Bureau, Ministry of Justice for information. Declaration on a case-by-case basis may be dispensed with for such account unless the Investigation Bureau, Ministry of Justice responds on the contrary within ten days from receipt of the name list.

The counterparts exempted from the declaration on a case-by-case basis as mentioned above shall be rechecked and verified at least once per annum and shall be submitted to the Investigation Bureau, Ministry of Justice for information if a transaction counterpart is found in the recheck no longer living up to the aforementioned transaction terms.

Whenever a transaction falling under Paragraphs I, II is found to be suspiciously like money-laundering, the case shall still be handled in accordance with Article 8 of the Money Laundering Prevention Act.

III. The internal control procedures for money laundering prevention:

(I) Procedures in verifying the client identities, and methods and duration in archiving the transaction records and vouchers:

1. Financial institutions shall check and verify the identities of clients on transaction in amount beyond the specified threshold based on the ID card or passport provided by a client. Record the client's name, birth date, address, phone number, transaction account code, amount of transaction, ID Card number into records. The procedures to verify the identity may be dispensed with if the account proves to belong to the client himself/herself.

2. In the event that the transaction is conducted by an agent, in addition to the preceding paragraph, the teller shall record the agent's name, birth date, phone number, ID Card number based on the ID card or passport provided by the agent.

3. The verified records and transaction vouchers shall be archived for five years minimum in the original manner. On the method to record procedures to verify customers, the Bank will take into

account the principle of unanimity for the entire bank and select one method to record.

(II) Rules must be complied with while checking and verifying the clients' identities:

1. Where a financial institution sets business relationship with a client or where a provisional client exceeds the specified threshold in the financial transaction, or where a client is suspected to have provided data not adequate to verify the identity, the teller shall check and verify the client's identity according to the government issued documents or other identifiable documents and shall record such facts.
2. For these clients who handle transaction through an agent or a professional intermediary and those clients who are found to present a high risk toward the bank's goodwill, tellers shall pay more attention to check and verify the clients' identity.
3. Tellers shall exercise extraordinary diligence toward non-resident clients to understand why they open accounts in a foreign country.
4. Tellers shall pay more attention to review those clients who are engaged in personal financial services management.
5. Tellers shall pay more attention to review those clients who have been rejected by other bank.
6. For clients who are not in "face-to-face" transaction, tellers shall conduct the procedures of the same effect to verify clients and shall, meanwhile, take extraordinary and adequate measures so as to minimize risks.
7. In the event that a transaction itself is not against to any law but the bank comes to the awareness or must presume that a client obtains the funds through corruption or embezzlement of public assets, the bank shall reject such client or break off their business relationship.

(III) Continual control over accounts and transaction:

1. Banks shall, step-by-step, make use of information systems to find questionable transactions.
2. Banks shall strengthen control over high risk accounts.
3. Banks shall exercise extraordinary diligence over complicated transactions, transactions of huge amounts or unusual transactions which are done without economic or legal purpose. Banks shall, as far as possible, look into the backgrounds and motivation behind the aforementioned transactions and shall set up documented data on all findings. The documented data shall be archived for at least five years.

(IV) Important notes for Bank staff in dealing with clients:

1. Tellers shall decline to serve the client in a courteous manner and report to the department head if:

(1) A client insists on not filling out the required databases after being advised that he/she must provide relevant databases to verify his/her identity.

(2) Any individual or entity forcibly demands or attempts to forcibly demand that a bank teller should not have the transaction records or declaration papers archived.

(3) A client attempts to persuade the teller into waiving the data in the transaction.

(4) A client inquires into the possibility to evade declaration procedures.

(5) A client is anxiously and eagerly trying to explain that his/her money is clean and does not come from money-laundering.

(6) A client insists that the transaction should be completed instantly and fails to give reasonable explanation.

(7) Client's explanation is found nonconforming with the facts.

(8) A client intends to offer benefit to the teller in an attempt to obtain services from the bank.

2. A teller shall be subject to audit check from the bank on the business in his/her charge in any of the following situations. The Audit Office shall render support as necessary when requested:

(1) Where a teller leads a sumptuous lifestyle apparently incommensurate with his/her salary level.

(2) Where a teller is reluctant to take his/her vacation day(s) without a justifiable reason when he/she is assigned to take a vacation day.

(3) Where a teller fails to clarify huge input, output in his/her account with reasonable explanations.

(V) Requirements on the internal declaration procedures and procedures to declare with the designated entity:

1. The Bank shall appoint the Vice President (or a person of or higher than the equivalent rank) to serve as the designated officer to coordinate with and oversee the enforcement of the Guidelines on Money Laundering Prevention. The Bank shall further designate a Degree I unit to serve as the unit in charge. The Vice President so appointed shall be the one who has satisfactorily completed the educational & training programs on Money Laundering Prevention Act. All newcomers shall complete the same educational & training programs within six months from date of hiring.

2. All branch sales offices shall assign senior department heads as the designated personnel to oversee such tasks.

3. Procedures in declaration: (Aimed at procedures to declare an

alleged offense in money-laundering):

(1) The tellers in charge in all units shall immediately report to the responsible supervisor whenever abnormalities are noticed in transaction.

(2) The responsible supervisor shall promptly resolve whether or not the case should be declared.

(3) If a case is ruled that it should be declared, the case shall be immediately handed over to the initial teller in charge to fill out declaration in the provided form.

(4) The documented declaration shall be verified by the department head before being submitted to the Head Bank (Head Office.)

(5) After the responsible department of the Bank submits the case to the Vice President or person of the equivalent position for verification, the declaration shall be made to the Investigation Bureau, Ministry of Justice forthwith.

(6) The aforementioned declaration to the Investigation Bureau, Ministry of Justice shall be completed within ten banking days starting from the date on which the alleged money-laundering is noticed.

4. In the event that the aforementioned declaration is considered an urgent case, the declaration shall be made by the units concerned to the Investigation Bureau, Ministry of Justice promptly by FAX or other feasible means while the documented declaration shall be followed up to the Investigation Bureau, Ministry of Justice as per the uniform declaration form as specified under Letter Tai-Tsai-Jung 0920035253 dated August 4, 2003.

5. The declaration record and transaction vouchers shall be archived for five years minimum in the initial manner. The databases, e.g., the clients' identity certificates in Xerox copies, account data and communications facts, of those accounts which have been closed shall be archived for at least five years.

(VI) Non-disclosure clauses to prevent the declaration and information from being leaked:

1. For all declaration cases made in accordance with the preceding paragraph, personnel of all levels shall be subject to non-disclosure obligations and shall not leak without authority.

2. All declaration documents shall be classified confidential. Disclosure without authority shall be subject to penalty according to laws and regulations concerned

(VII) Provisions regarding regular examination on the internal control measures to assure whether or not they live up to requirements for Money Laundering Prevention:

1. The Bank shall conduct reassessment on the Money Laundering Prevention on a periodic basis.

2. Where the Bank has many branches located in widespread locations, the Money Laundering Prevention Reassessment Workshops may be called and held so as to attain a pooled effect.

(VIII) The powers and duties of the Audit Office on the tasks of money-laundering prevention:

1. The Audit Office shall conduct audit on a periodic basis in accordance with the Guidelines for Internal Control Measures and other provisions concerned.

2. The Audit Office shall, whenever noticing a defect or fault by any units in the enforcement of the management measures, report the cases to the Vice President or personnel of the equivalent level and shall provide the cases for reference in the on-the-job educational & training programs of tellers.

3. In the event that an auditor is found having wilfully concealed a gross offense from report, the case shall be reported to the responsible unit of the Head Office so that due action may be taken as the actual situations may justify.

4. The Audit Office shall provide designated personnel to conduct sample check on huge amount transactions of all units concerned to look into and make sure that transactions are justifiable.

(IX) In the event that the Bank operates business concurrently, such department in concurrent business operation shall be subject to the Guidelines for Money Laundering Prevention which are equally applicable to the business concerned. In the event that the Bank operates bills business concurrently, the Bills Division shall be equally subject to these Important Notes on the Money Laundering Prevention on Bills Dealers.

(X) In relation to cross-border correspondent banking and other similar relationships financial institutions should adopt certain policy and procedure, at least including the following measures:

1. Gather sufficient publicly available information about a respondent institution to understand fully the nature of the respondent's business and to determine the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action.

2. Assess whether the respondent institution's AML/CFT control policy is adequate and effective.

3. Obtain approval from senior management officers prior to establishing new correspondent relationships.

4. Document the respective AML/CFT responsibilities of each institution.

5. Where a correspondent relationship involves the payable-through

accounts, financial institutions should ensure that the respondent institution has duly performed CDD measures and is able to provide information related to customer identification when necessary.

(XI) Financial institutions should ensure that their foreign branches and subsidiaries observe AML/CFT measures consistent with home country requirements to the extent that local laws and regulations of host country permit. Where the minimum AML/CFT requirements of the home and host countries differ, branches and subsidiaries in host countries should be required to apply the higher standard; provided, however, where there is any question about the level of standards, the opinion of the home country supervisor should be dispositive. Financial institutions should be required to inform the FSC when a foreign branch or subsidiary is unable to observe measures consistent with home country requirements due to prohibition of local laws and regulations in host countries.

IV. The on-the-job educational & training programs on Money Laundering Prevention which must be held on a periodic basis or must be attended:

(I) Pre-service educational & training programs: All newcomers shall attend and complete the educational & training programs related to Money Laundering Prevention and laws and regulations concerned and related to banking tellers' legal responsibilities for a certain number of hours as specified. Through such efforts, newcomers will be able to orient themselves to the laws and regulations as well as responsibilities concerned.

(II) On-the-job educational & training programs:

1. Initial publicity of laws: After the Money Laundering Prevention Act was put into enforcement, the publicity of laws shall be completed within the shortest possible period of time so that the bank staff members will orient themselves to the Money Laundering Prevention Act and the laws and regulations concerned. In the event, the coordinating measures to be launched by the Bank shall be made known to all trainees. After the department in charge of the Money Laundering Prevention affairs completes the training plan, such department shall submit the planning results to the unit in charge of training and the educational & training programs may be carried out accordingly.

2. Routine on-the-job training:

(1) The department in charge of tellers' educational & training programs shall sponsor the educational & training programs concerned and make them available to all tellers. Through such efforts, bank tellers may beef up their powers of judgment on money-laundering prevention and may prevent possible violation of law.

(2) The educational & training programs mentioned in the preceding paragraph may be consolidated into other educational & training programs as appropriate.

(3) For the Money Laundering Prevention related educational & training programs, the Bank shall foster and develop the trainers and instructors. In addition, the Bank may retain experts, scholars from the Ministry of Justice, Ministry of Finance, Financial Supervisory Commission, Executive Yuan, universities and colleges or other institutes to lecture the tellers.

(4) In the Money Laundering Prevention related educational & training programs, the Bank shall provide courses about laws and regulations concerned as well as the hands-on examples. Through such efforts, the tellers may become fully aware of all possible practices of money-laundering so that they will discover the "alleged money-laundering" during the routines.

(5) The departments responsible for teller training shall faithfully look into how tellers participate in the Money Laundering Prevention related educational & training programs. Meanwhile, they shall urge all tellers who have not completed the training courses to complete the educational & training programs as the actual requirements may justify.

(6) In addition to the in-house educational & training programs, the Bank may, as well, assign tellers to receive outsourced educational & training programs outside.

3. Project lectures: To make tellers better aware of the Money Laundering Prevention Act, the Bank may sponsor project lectures and workshops where scholars, experts will be invited to lecture tellers.

V. Incentives to tellers who are outstanding in performance in Money Laundering Prevention:

A teller who proves to have made contribution to money-laundering prevention with concrete facts shall receive award as appropriate:

(I) Where a teller notices an alleged offense in money-laundering and duly declares in accordance with the Money Laundering Prevention related laws and regulations and thus makes remarkable contribution to the police, prosecutor authorities in cracking down upon crimes.

(II) Where a teller participates in the Money Laundering Prevention related educational & training programs at home or abroad and makes prominent achievements, or searches and obtains valuable data regarding the laws and regulations concerned prevalent in foreign countries which prove valuable and conducive to financial institutions in the money laundering prevention activities.

VI. These Points for Attention shall come into enforcement after being resolved by the board of directors (or the unit of authority in the delegation of responsibility) and shall be reported to the Financial Supervisory Commission, Executive Yuan for information. These Points for Attention shall receive reassessment every

year thereafter. The same efforts shall be made upon amendment.

2 Money Laundering Prevention Guidelines and Procedures for Securities Firms

Approved for Recordation by the Ministry of Finance per 24 December 2003

Letter No. Taiwan-Finance-Securities No. 0920158751

I These Guidelines are adopted pursuant to Article 6 of the Money Laundering Control Act.

II To control money laundering, the company[1] shall comply with the following provisions:

1. Customers shall comply with the prescribed procedures when opening accounts. They also shall fill in the detailed identity information of the customer and agent on the customer information card, and leave a copy of the ID card or certificate of incorporation on file as an attachment.
2. The company shall reconfirm the customer materials. When necessary, customers shall be visited in person to verify the accuracy of the materials.
3. The company shall continuously monitor and regularly inspect customer transaction reports. It shall establish a transaction model of each customer for reference in auditing unusual or suspected money laundering transactions.
4. When the following signs of suspicious activity suggesting money laundering are seen, the company shall verify the identity of the customer and, when necessary, visit the customer in person and make a record of the visit:
   (1) The ID card or certificate of incorporation provided by the customer shows any trace of forgery or alteration, or intent to use a false name to open an account or engage in a transaction.
   (2) The address or workplace of the customer is located at a remote distance from the securities firm, without any reasonable explanation, and the customer's transaction activity appears irregular.
   (3) There has been a sudden substantial rise in the customer's credit limit, followed closely by unusually high-volume (over 400 trading units and over NT$40 million in any individual trade; or a total of over 1,000 trading units and over NT$100 million across multiples trades) trading in securities or high-volume deposit or withdrawal of securities, where such activity is obviously incommensurate with the customers' identity and income or is unrelated to the nature of the customer's business.
   (4) In an account that has not had any transactions for two years or more,

[1] Translator's note: The terms "the company" and "the securities firm" are used synonymously and interchangeably in these Guidelines (both in the original Chinese-language version and in this translation).

there is sudden high-volume (over 400 trading units and over NT$40 million in any individual trade; or a total of over 1,000 trading units and over NT$100 million across multiples trades) trading in securities or high-volume deposit or withdrawal of securities, with rapid account transfers.

(5) Immediately after an account is opened there is high-volume (over 400 trading units and over NT$40 million in any individual trade; or a total of over 1,000 trading units and over NT$100 million across multiples trades) purchase of securities or high-volume deposit of securities that is obviously incommensurate with the identity, income, or credit information of the customer, with rapid account transfers.

(6) The same person or group either solely buys or sells or respectively buys and sells specific securities through nine or more trading accounts or five or more margin accounts.

(7) There is large-volume frequent trading in stocks through accounts opened collectively using the names of company employees or members of specific groups.

(8) Three or more third-party accounts are used to disperse large-volume transactions, and there are rapid transfers or obvious irregularities.

(9) There is continuous large-volume trading through a given account, consisting of high-priced buys only and no (or few) sales, or low-priced sales only and no (or few) buys.

(10) A customer fails to perform a settlement obligation on time, and the total net settlement amount in default is NT$10 million or more.

(11) A party opening a securities trading account, or a trading or settling party, or an agent, or an ultimate beneficiary, is a terrorist or a terrorist organization whose identity has been provided by a foreign government and forwarded by official letter of the Ministry of Finance.

(12) Any other obviously irregular transaction activity or circumstance deemed suspicious by personnel involved in related business.

5. The company shall pay attention to the following matters if it engages in bond trading business (bond trading includes outright trades and repo-style trades, and covers government bonds, corporate bonds, financial bonds, foreign bonds and all other bonds, and physical and book-entry trades and transfers):

(1) Points for attention in carrying out underwriting or trading on behalf of customers:

i. In a customer's initial transaction with the securities firm, the customer shall conduct the transaction in person. The securities firm shall preserve the evidentiary documents provided by customers

according to their identity as domestic natural persons, domestic juristic-person institutions, or overseas Chinese and foreign nationals within or outside of Taiwan, in compliance with applicable laws and regulations.

ii. In the event a transaction is not done by the customer in person or with authorization from a juristic-person institution, or there is doubt about an identity certificate provided by a customer and the customer refuses to cooperate by providing other supporting documents, the securities firm shall refuse to process the transaction or shall perform it only after reliably verifying the accuracy of the customer's identity.

iii. In the event that a customer mandates or authorizes a third person other than the customer's representative or agent in Taiwan to conduct transactions, the securities firm shall confirm such mandate or authorization with the customer or the customer's representative or agent in Taiwan by telephone, fax, in writing, or by other appropriate means.

(2) Points for attention in transactions and settlement with customers:

i. For customer transactions settled by cash payment of NT$1 million or more, the company shall check and verify the identity of the investor as specified above, and preserve the trading records and vouchers.

ii. If a customer carries out settlement by delivery of physical bond certificates with a face value reaching NT$1 million or more, the company shall require the customer to provide certification of the source of the physical bonds or to sign a written undertaking in evidence, and shall preserve the trading records and relevant vouchers. If the customer is unable to provide such certification or refuses to cooperate in related operations, the securities firm may courteously decline to handle such kind of transaction.

iii. In the event that a customer's initial transaction with the company involves an unusually large-volume purchase/sale, and the company determines in its judgment that the transaction is obviously inconsistent or incommensurate with the identity materials on record for or provided by the customer, the company shall pay special care in verifying the customer's identity, and preserve the trading records and vouchers.

iv. The securities firm shall pay special attention to the following circumstances in transactions, and in addition to reconfirming the customer's identity, ascertaining the motives for trading, and

preserving the trading records and vouchers, it shall report to the designated institution immediately if there is any suspicion of a likelihood of money laundering:

(a) The customer pays the price in cash or delivers physical bearer bonds, but evades providing a transaction record of the transfer from the previous holder(s), the source the bonds, or relevant vouchers.

(b) The customer suddenly makes a large-volume purchase (or sale) that exceeds its usual average trade volume by 10 times or more, and then rapidly makes an opposite trade, and the activity differs widely from the customer's past transaction amount levels or trading model, and is incommensurate with the customer's identity or there is no reasonable reason for it.

(c) The customer has asked the securities firm to cooperate in meeting its preference for delivery/payment in physical bonds or cash, without any reasonable reason.

(d) A customer engages in intensive dispersed buying, followed by selling the same securities in one bulk sale or in intensive dispersed sales, and the activity differs widely from the customer's usual trading model.

(e) Trades are conducted by third party/parties other than the customer itself, or trades are conducted by the same customer on behalf of, or under the names or through the accounts of, multiple other customers.

(f) Settlement proceeds exceeding NT$1 million are wired to the securities firm from an account other than the customer's original account of record, or from multiple accounts other than the customer's account; or the customer asks the securities firm to wire proceeds exceeding NT$1 million receivable by the customer to one or more accounts not belonging to the customer; or multiple customers ask the securities firm to wire settlement proceeds receivable by them into a same account.

(g) The sources of the proceeds are from a region such as a country listed as uncooperative by the Financial Action Task Force or an onshore foreign bank, and the customer, within five business days after purchasing the securities and selling the same, requests the securities firm to wire the proceeds to an aforesaid foreign area, onshore foreign bank, or offshore banking unit of the bank, and the transaction is obviously incommensurate with the customer's identity or income, or is unrelated to the nature of its operations.

(h) Other trading activity with obvious irregularities.

6. If the company, when handling related business (e.g. bond trading or, on its own or as an agent, handling margin trading, short selling, or other transactions), discovers a currency transaction of a certain amount or more, it shall verify the identity of the customer and shall preserve the transaction records and vouchers, and file a report with the Ministry of Justice Investigation Bureau, as provided below:
   (1) A “currency transaction of a certain amount or more” means a single cash receipt or payment (in terms of accounting treatment, this includes any book entry of any cash receipt or payment voucher) or currency exchange transaction of NT$1 million or more (including the equivalent in foreign currency).
   (2) Procedures for verifying customer identity and methods and time limits for preserving transaction records and vouchers:
      i. A securities firm shall verify the identity of the customer on the basis of the documentary proof of identity or passport provided thereby, and shall record the customer's name, date of birth (year/month/day), residence address, telephone, trading account number, transaction amount, and identity document number; provided, if it can be confirmed that the customer is the account owner him/herself, further identity verification is not required.
      ii. If a transaction is done by an agent, in addition to following the procedures in (i), the securities firm shall record the agent's name, date of birth (year/month/day), and identity document number on the basis of the documentary proof of identity or passport provided by the agent.
      iii. Verification records and transaction vouchers shall be preserved in the original for five years. A securities firm shall select a method of recording its customer verification procedures taking into consideration its own requirements and based on the principal of consistent company-wide practice.
   (3) Reporting procedures: Except under the circumstances in (4), a securities firm shall file a written report form (in the format shown in Table 1) with the Ministry of Justice Investigation Bureau within five business days.
   (4) The requirements of verifying customer identity, preserving transaction records and vouchers, and reporting to the Ministry of Justice Investigation Bureau are exempted for funds receivable or payable in transactions with government agencies, public enterprises or institutions, institutions exercising public powers (within the scope of authority),

public or private schools, public utility enterprises, and funds duly established by the government in accordance with law, where the transaction arises out of the requirements of an act or regulation or a contractual relationship, or for transactions of segregated margin accounts opened for futures operations by securities firms or futures commission merchants. Nonetheless, if a securities firm discovers that any above transaction is suspiciously similar to a money laundering transaction, it shall follow the provisions of Article 8 of the Money Laundering Control Act and of these Guidelines.

III The company shall adopt internal control procedures for money laundering control in compliance with the following provisions:

1. The company shall be attentive to any evasion by customers of the provisions of the Money Laundering Control Act.
2. For suspected money laundering transactions, the internal reporting process and the designated institution reporting procedures are as follows:
   (1) If responsible personnel in any unit discover an irregular transaction, they shall immediately report to the supervisor in charge.
   (2) The supervisor in charge shall promptly decide whether the matter should be reported.
   (3) If it is decided that the matter should be reported, the responsible personnel shall immediately complete a written report form (in the format shown in Table 2).
   (4) The report form shall be forwarded to the head office after it has been approved by the unit supervisor.
   (5) The head office's unit in charge, after obtaining signed approval from an assistant general manager or person of equivalent rank, shall immediately file the report with the Ministry of Justice Investigation Bureau.
   (6) The above matters involved in reporting to the Ministry of Justice Investigation Bureau shall be completed within 10 business days from the day the transaction suspected of involving money laundering is discovered.
3. If the above report represents an obviously serious or urgent case, the securities firm shall promptly report to the Ministry of Justice Investigation Bureau by fax or other feasible method, and then immediately submit the written materials.
4. Preserve complete and accurate transaction records and vouchers.
   (1) Report records and transaction vouchers shall be preserved in the

original for five years.

(2) For any transaction suspected of involving money laundering, the company shall preserve the transaction records and vouchers in a special-purpose book for reference.

(3) In a case duly under investigation pursuant to law, relevant transaction records and vouchers may not be destroyed before the case is closed, even where the time period for their preservation lapses.

5. The company shall exercise care in preserving confidentiality, and guard against the disclosure of reporting materials and information.
6. The company shall regularly review its internal control measures for adequacy in preventing money laundering.
7. The company shall adopt the Money Laundering Control Guidelines into its internal control system.

IV The company shall hold, or arrange participation in, relevant training courses or seminars for its employees on a regular annual basis, to enhance its employees' ability to recognize money laundering and thoroughly familiarize them with the characteristics of money laundering and types of suspicious transactions.

V The company shall appoint an assistant general manager (or person of equivalent position) who has previously attended money laundering training courses to have exclusive responsibility for coordinating and supervising the execution of the Money Laundering Control Guidelines.

VI These Guidelines and any subsequent amendments hereto shall be implemented after being approved by the board of directors and reported to the Ministry of Finance for recordation. These Guidelines shall be reviewed on a regular annual basis to determine whether there is any need for amendment.

3 Money Laundering Prevention Guidelines and Procedures for life Insurance Industry

（Approved by the letter No. Bao-Chu 3- 09402063200 dated July 6, 2005 of the Insurance Bureau, Financial Supervisory Commission of Executive Yuan）

1. This Money Laundering Prevention Guidelines and Procedures are duly enacted and established in accordance with the Article 6 of the Anti-Money Laundering Act which promulgated by the Government.
2. The operation and the internal control procedures for money laundering prevention:
   1) The Insurer should ascertain the identity of Customer（Applicant or Applicant for insurance or Proposer）as the insurance is covered.
      i. While the policy is applied by the individual, the sales agents shall request the Applicant and the Assured to provide the necessary documents of the identity as evidence（such as ID Card, Passport, Driver's License or other identification document, etc.）. While the policy is applied by the legal entity, the sales agents shall request the Applicant to provide the registration and qualification certificate of the legal documents of the representatives (such as Corporate License, Business License and License of Business Registration, etc).The insurer shall check the above mentioned documents with the content of the policy application, then fill in the solicitation report.
      ii. In the course of underwriting, the underwriter shall review whether the policy application is written by the applicant his/herself and confirm whether the identity stated in the solicitation report is true; in addition, if necessary, the survival investigation shall be requested to proceed with the relevant documents for the further check.
      iii. In order to assure the identity of the applicant, it is necessary to ask the applicant to offer the secondary identity evidence. The documents or certificates regard as the secondary identity evidence except ID Card, and License of Business Registration, should have an verification to discern their identity. They are also regarded as the documents of the secondary identity evidence if the name list of an entity and school may be ascertained as the entity parties. In the event that the parties refused to provide the required documents, the Insurer should decline to accept their proposal or not accept the proposal until a satisfactory verification of their identities are ascertained and confirmed.
      iv. The Insurer should decline the proposal if the Applicant was suspected to

be use fictitious and nominal name or a dummy company or false legal entity.

v. The Insurer should decline the proposal if the Applicant holds with counterfeit or forged identity evidence or show with the Xerox copy of identity evidence to propose the insurance.

vi. The Insurer should decline the proposal if the documents provided by the parties were suspicious, ambiguous, and they are reluctant to provide the satisfactory supporting evidence or documents and the documents are unable to trace and check them true.

vii. The Insurer should decline the proposal if the parties postponed providing the supplementary identity evidence with unusual delay.

viii. When the proposal was submitted by the Insurer, the Insurer should decline the proposal if there are other extraordinary conditions and the Applicant is unable to give an explanation in a reasonable manner.

2) The procedures to reconfirm or ascertain the certificates provided by the Applicant after the insurance was covered:

i. When the policyholder of the jumbo case (the amounts of the “premium” in such case is defined by each insurance company） request to revoke such policy and return the all paid premium, the Insurer shall handle by each case. In such case, The Insurer shall confirm the identities and the motives of the policyholder to prevent the money laundering act occurred by means of policy application.

ii. As for the materials and information of the policyholder, if necessary, the insurer shall use phone, letter or other ways to check and understand the occupation and domicile or residence of the individual policyholder , the business place and nature of business of the policyholder which is a legal entity, and the relevant materials shall be kept for records.

iii. If there is any unusual situation occurred when the policyholder applies for policy loan, or change of the contents of policy, such as change of the payment method of premium, change of beneficiary and etc. , the insurer shall pay more attention on such case and proceed the review and check such .

3) The regulations that should be paid attention when the claim settlement was paid:

i. While the claim settlement was paid, the Insurer should request the beneficiary, withdrawer to provide the identity evidence and keep the relevant evidence for records. To demand to cancel cheque with forbid endorsing transferors, the Insurer should realize and understand their motives and makes the proper notes for records.

ii. The Insurer should check whether or not the course of changing of beneficiary is legal, normal and reasonable.

iii. The Insurer should check whether the settlement parties, the claim amounts and their occupation or identity are normal and reasonable.

4) Anyone single receivable or payable amounts in cash（including all accounts processing entered into receivable and payable cash vouchers） over NT$1,000,000（including foreign currency of the equivalent value）, or anyone single case in exchange in bank note or in currency ; or every cash receipt or payment of the same customer（including total of the same several sums of proceeds of transaction accounts within the same business day）over the amount of NT$1,000,000 (including foreign currency of the equivalent value) and the transaction indicates not be incongruous with Applicant's identity and his revenue background and have nothing to do with the nature of business, the Insurer should declare to the Investigation Bureau of Ministry of Justice through electronic media form（such as enclosure 1） within 5 business day. If there are some rational grounds and after having approval by Ministry of Justice, the above declaration can be used through written form（such as enclosure 2）. This provision, however, is exempted of declaration of section 4 above is not applicable.

3. The Insurer should declare to the Investigation Bureau of Ministry of Justice within 10 business days when the facts of the following transaction are found, should transmit the duplicate copy to the competent authorities:

1) Any insurance contract's Applicant, Assured or Beneficiary, who are the terrorists or their gangs listed by the transferring letter from the competent authorities, and other transactions with personal or their gangs or their final beneficiary.

2) The transaction amounts are remitted into from the certain specified regions (Non-Cooperative Countries) such as Cook Islands, Indonesia, Myanmar, Nauru, Nigeria, Philippines and the like, and is withdrawn or transferred accounts within 5 business days, and the transaction indicates not be incongruous with Applicant's identity and his revenue background and have nothing to do with the nature of business. The names of the countries or economic entities mentioned in this paragraph shall be updated in line with the Non-Cooperative Countries, which listed by "Financial Action Task Force on Money Laundering" (known as FATF in brief), and update and download the renewal list enumerated automatically through the website of FATF（www.fatf-gafi.org）on a quarter basis.

3) The other transactions are suspicious of being as money laundering, and these are the extraordinary transactions which are recognized through the

regulations of inside procedures of the company.

In the case where these Guidelines and Procedures are updated only the lists of Non-Cooperative Countries or terrorist entities, the declaration should not be necessary to notice the competent authorities for review.

The declaration procedures of item 1, which are suspected to be money laundering as follows:

1) Declaration procedures
   i. The persons-in-charge in all departments shall immediately declare to the responsible supervised chief officer whenever they found that the transaction is abnormal.
   ii. The supervised chief officer should make a resolution whether or not the materials should be declared as quickly as possible.
   iii. If the materials of declaration are decided, the declaration shall be immediately handed over the initial person-in-charge to fill in declaration form as the attached enclosure.
   iv. The completed form of declaration was submitted and verified to the department chief officer and then transmit to the head office for their final approval.
   v. The completed form of declaration submitted by the chief officer of the head office should be ratified and signed by the vice president or the responsible person of the equivalent position of head office and then the declaration shall be made to the Investigation Bureau of Ministry of Justice immediately.
2) In the event that the aforementioned declaration is considered as an urgent case, the declaration shall be made to the Investigation Bureau of Ministry of Justice as quickly as possible by Fax or other feasible means while the supplementary written form of this declaration shall be followed up immediately.
3) The declaration records and transaction vouchers shall be archived for 5 years in the initial manner.

4. In the case of a transaction over the following specified amount, the company shall be dispensed from the checking and verification of the Applicant’s identity and keep the transaction records and vouchers and to declare with the specified authorities.
   1) The transaction with receivable and payable proceeds which is incurred from the statutory regulations or the contract relationship in respect of the governmental organization, public-owned institution, an entity that exercises state power (within the consigned scope), public and private school, public utility and the funds set up in accordance with the statutory of

the government.

2) The transaction and fund dispatcher between the link-financial institution and insurance company, but the proceeds payable incurred from the link-banker's deposit accounts of the same institution through the fellow bank, e.g. honoring a check issued by a fellow bank, the case shall still be handled in accordance with regulations if the cash transaction of the same Applicant is over amount of NT$1,000,000.

3) The transaction as payment collected for a third party （excluding the transaction in deposit of stock money for an earmarked account） where the payment note already bears the name, ID Card Number（including the code which enables the tracing of the identity of the transaction from the code number）, the transaction categories and amounts, but the duplicate of payment note should be kept to be regard as the transaction vouchers for records.

In case of those non-individual accounts such as department store, mega store, supermarket chain, gas station, hospital and clinic, transportation entity, hotel and restaurant which must be deposit cash amounting to over NT$1,000,000 regularly or routinely in line with business needs, the company should ascertain through confirming needs of the fact of materials（de facto needs） and submit the name lists to the Investigation Bureau of Ministry of Justice for review. While the Investigation Bureau of Ministry of Justice has no opposite comments in respect of the declaration within 10 days, thereafter this account must be exempted to declare on a case by case basis. Based on the above exempt declaration, the company should at least examine transaction party once per annum. If the transaction is no longer maintained relationship with the transaction party, the Insurer should declare the fact of materials to the Investigation Bureau of Ministry of Justice for review.

Whenever a transaction falling under paragraph 1 and 2 of the above is found to be suspiciously like money laundering, the case shall still be handled in accordance with Article 8 of the Anti-Money Laundering Act.

5. The internal control procedures for money laundering prevention

1) The company should keep carefully the relevant documents and vouchers in respect of the transaction of premium paid and receipt of claim settlement, which documents（including insurance policy） shall not be destroyed by burning or melting after 5 years of the effectiveness of insurance was terminated.

2) While the Applicant or the sales agent is found to be suspicious like money laundering which are stipulated by the requirements on the Anti-Money Laundering Act（such as the same Applicant or Assured requested to

propose the large sum insured separately）, the Insurer shall pay an attention to and realize or understand their realistic motives behind.

3) The company should make an examination on internal control system and review once a year（the period shall be self-determined by the company） whether or not they can meet with the requirements of anti-money laundering guidelines and procedures. If some imperfections are found by the respective departments of the company, the Insurer should make an improvement immediately.

4) The Auditors of the company should itemize the key checking items according to the conducting of requirements of anti-money laundering guidelines and procedures by all departments of the company. They should also submit the auditing report on a periodic basis and urge all departments to improve.

5) While an investigation is made to the staffs who are suspicious to involve anti-money laundering, all the persons-in-charge should keep the promise of secrecy.

6. The on-the-job educational and training programs on Anti-Money laundering which must be held on a periodic basis.

1) In order to make available to all staffs to realized the relevant statutory regulations and practices of the anti-money laundering, the company may be consolidated into educational and training programs or courses in respect of anti-money laundering while the on-the-job educational training for the staffs are held. For the realistic requirements of practice in respect of anti-money laundering educational and training courses and programs, the company is suggested to invite the experts and scholars from the Ministry of Justice, Financial Supervisory Commission of Executive Yuan, the academic and other institutes to lecture the courses.

2) When the staffs pursue further education or observe and study abroad, the staffs should do their best to realize and understand the concrete facts on the fields of life insurance. If they made prominent achievements or searches and obtained valuable data regarding the regulations concerned prevalent in foreign countries which prove to have made contribution to anti-money laundering activities, they are worthwhile to receive award in hoc as appropriate.

7. In order to achieve the objects in respect of Anti-Money laundering, the company should appoint vice president（or persons with equivalent position） who have already participated in the training courses of Anti-Money laundering to supervise the efficient performance of Anti-Money laundering Guidelines and Procedures.

8. The items without stipulations on this Anti-Money laundering Guidelines and

Procedures shall be subject to the relevant regulations concerned Anti-Money laundering Act and other acts promulgated by the competent authorities.

9. This Anti-Money laundering Guidelines and Procedures shall be enforced after a submission to the competent authorities for approval. The same conditions shall be made upon amendment.

4 Money Laundering Prevention Guidelines and Procedures for Non-life Insurance Industry

（Approved by the letter No. Bao-Chu 3- 09402079370 dated 2nd January , 2006 of the Insurance Bureau, Financial Supervisory Commission of Executive Yuan）

1. This Anti-Money Laundering Guidelines and Procedures are duly enacted and established in accordance with the Article 6 of Anti-Money Laundering Act promulgated by the Government.
2. The operation and the internal control procedures for Anti-Money Laundering:
   1) The Insurer should ascertain the identity of Customer（Applicant or Applicant for insurance or Propose）as the insurance is covered.
      i. While the proposal is applied by the individual, the Insurer should require the Applicant or the Assured to provide with the necessary documents of the identity as evidence (such as ID card, Passport, Driver's License or other efficient evidence, etc.). While the proposal is applied by a legal entity（corporate capacity）, the Insurer should require the Applicant or the Assured to provide with the necessary documents of the eligible certificate or license of the legal entity and their representatives (such as Corporate License, Business License and License of Business Registration, etc.).
      ii. The documents or certificates regarding the secondary identity evidence except ID card, and License of Business Registration, should have a verification to discern their identity. They are also regarded as the documents of the secondary identity evidence if the name list of an entity and school may be ascertained as the entity parties. In the event that the parties refused to provide the required documents, the Insurer should decline courteously their proposal or not accept the proposal until a satisfactory verification of their identities are ascertained and confirmed.
   2) The procedures to reconfirm or ascertain the certificates provided by the Applicant after the insurance was covered:
      i. When the effective insurance is requested to cancel for some reasons and a large sum of premium will be returned（which amounts are specified by respective Insurer）, the Insurer should ascertain the identities and their motives of the Applicant to prevent the act of money laundering occurred by means of effecting insurance.
      ii. The underwriting department of the company should check the proposal to realize and understand the occupation and dwelling of the personal

Applicant and the place and material of business of Applicant of legal entity by phone regularly. As any insurance over the fixed insured amount（which amount was specified by respective Insurer）, the Insurer should appoint someone to take an investigation on the spot and keep the relevant materials for records.

iii. The Insurer should decline the proposal if the Applicant was suspected to be use fictitious and nominal name or a dummy company or false legal entity.

iv. The Insurer should decline the proposal if the Applicant holds with counterfeit or forged identity evidence or show with the Xerox copy of identity evidence to propose the insurance.

v. The Insurer should decline the proposal if the documents provided by the parties were suspicious, ambiguous, and they are reluctant to provide the satisfactory supporting evidence or documents and the documents are unable to be traceable.

vi. The Insurer should decline the proposal if the parties postponed to provide the supplementary identity evidence with unusual way.

vii. When a proposal was submitted to the Insurer, the Insurer should decline the proposal if there are extraordinary conditions and the Applicant is unable to give an explanation in a reasonable manner.

3) The regulations that should be paid attention when effecting payment:

i. While effecting payment, the Insurer should request the beneficiary, withdrawer to provide the identity evidence and keep the relevant evidence for records. Anyone who request to cancel cheque with forbid endorsing transferors, the Insurer should realize and understand their motives and makes the proper notes for records.

ii. The Insurer should check whether or not the course of changing of beneficiary is legal, normal and reasonable.

iii. The Insurer should check whether the claim parties, the claim amounts and their occupation or identity are normal and reasonable.

4) Anyone single receivable or payable amounts in cash（including all accounts processing entered into receivable and payable cash vouchers）over NT$1,000,000（including foreign currency of the equivalent value）, or anyone single case in exchange in bank note or in currency ; or every cash receipt or payment of the same customer（including total of the same several sums of proceeds of transaction accounts within the same business day）over the amount of NT$1,000,000 (including foreign currency of the equivalent value) and the transaction indicates not be incongruous with Applicant’s identity and his revenue background or have nothing to do with the nature

of business, the Insurer should declare to the Investigation Bureau of Ministry of Justice through electronic media form（such as enclosure 1） within 5 business day. If there are some rational grounds and after having approval by Ministry of Justice, the above declaration can be used through written form（such as enclosure 2）. This provision, however, is exempted of declaration of section 4 above is not applicable.

3. The Insurer should declare to the Investigation Bureau of Ministry of Justice within 10 business days when the facts of the following transaction are found, and should transmit the duplicate copy to the competent authorities:
   1) Any insurance contract's Applicant, Assured or Beneficiary, who are the terrorists or their gangs listed by the transferring letter from the competent authorities, and other transactions with personal or their gangs or their final beneficiary.
   2) The transaction amounts are remitted into from the certain specified regions (Non-Cooperative Countries) such as Cook Islands, Indonesia, Myanmar, Nauru, Nigeria, Philippines and the like, and is withdrawn or transferred accounts within 5 business days, and the transaction indicates not be incongruous with Applicant's identity and his revenue background and have nothing to do with the nature of business. The names of the countries or economic entities mentioned in this paragraph shall be updated in line with the Non-Cooperative Countries, which listed by "Financial Action Task Force on Money Laundering" (known as FATF in brief), and update and download the renewal list enumerated automatically through the website of FATF www.fatf-gafi.org）on a quarter basis.
   3) The other transactions are suspicious of being as money laundering, and these extraordinary transactions which are recognized through the regulations of inside procedures of the company.

   In the case where these Guidelines and Procedures are updated only for the lists of Non-Cooperative Countries or terrorist entities, the declaration should not be necessary to notice the competent authorities for review.

   The declaration procedures of item 1, which are suspected to be money laundering as follows:

   1) Declaration procedures
      i. The persons-in-charge in all departments shall immediately declare to the responsible supervised chief officer whenever they found that the transaction is abnormal.
      ii. The supervised chief officer should make a decision whether or not the materials should be declared as quickly as possible.
      iii. If the declaration of materials are decided, the declaration shall be

immediately handed over the initial person-in-charge to fill in declaration form as the attached enclosure.

iv. The completed form of declaration was submitted and verified to the department chief officer and then transmit to the head office for their final approval.

v. The completed form of declaration submitted by the chief officer of the head office, should be ratified and signed by the vice president or the responsible person of the equivalent position of head office and then the declaration shall be made to the Investigation Bureau of Ministry of Justice immediately.

2) In the event that the aforementioned declaration is regarded as an urgent case, the declaration shall be made to the Investigation Bureau of Ministry of Justice as quickly as possible by Fax or other feasible means while the supplementary written form of this declaration shall be followed up immediately.

3) The declaration records and transaction vouchers shall be archived for 5 years in the initial manner.

4. In the case of a transaction over the following specified amount, the company shall be dispensed from the checking and verification of the Applicant's identity and keep the transaction records and vouchers and to declare with the specified authorities.

1) The transaction with receivable and payable proceeds which is incurred from the statutory regulations or the contract relationship in respect of the governmental organization, public-owned institution, an entity that exercises state power (within the consigned scope), public and private school, public utility and the funds set up in accordance with the statutory of the government.

2) The transaction and fund dispatcher between the link-financial institution and insurance industry, but the proceeds payable incurred from the link-banker's deposit accounts of the same institution through the fellow bank, e.g. honoring a check issued by a fellow bank, the case shall still be handled in accordance with regulations if the cash transaction of the same Applicant is over amount of NT$1,000,000.

3) The transaction as payment collected for a third party（excluding the transaction in deposit of stock money for an earmarked account）where the payment note already bears the name, ID Card Number（including the code which enables the tracing of the identity of the transaction from the code number）, the transaction categories and amounts, but the duplicate of payment note should be kept to be regarded as the transaction vouchers for

records.

In case of those non-individual accounts such as department store, mega store, supermarket chain, gas station, hospital and clinic, transportation entity, hotel and restaurant which must deposit cash amounting to over NT$1,000,000 regularly or routinely in line with business needs, the company should ascertain through confirming needs of the fact of materials（de facto needs）and submit the name lists to the Investigation Bureau of Ministry of Justice for review. While the Investigation Bureau of Ministry of Justice has no opposite comments in respect of the declaration within 10 days, thereafter this account may be exempted from recognition and declaration by case basis. Based on the above exempt declaration, the company should at least examine transaction party once per annum. If the transaction is no longer maintained relationship with the transaction party, the Insurer should declare the fact of materials to the Investigation Bureau of Ministry of Justice for review.

Whenever a transaction falling under paragraph 1 and 2 of the above is found to be suspiciously like money laundering, the case shall still be handled in accordance with Article 8 of Anti-Money Laundering Act.

5. The internal control procedures for Anti-Money Laundering
   1) The company should keep carefully the relevant documents and vouchers in respect of the transaction of premium paid and receipt of claim settlement, which documents（including insurance policy）shall not be destroyed by burning or melting after 5 years of the effectiveness of insurance was terminated.
   2) While the Applicant is found to be suspicious like money laundering which are stipulated by the requirements on Anti-Money Laundering Act（such as the same Applicant or Assured requested to propose the large sum being insured separately）, the Insurer shall pay an attention to and realize or understand their realistic motives behind.
   3) The company should make an examination on internal control system and review once a year（the period shall be self-determined by the company）whether or not they can meet with the requirements of anti-money laundering guidelines and procedures. If some imperfections are found by the respective departments of the company, the Insurer should make an improvement immediately.
   4) The Auditors of the company should itemize the key checking items according to the conducting of requirements of anti-money laundering guidelines and procedures executed by all departments of the company. They should also submit the auditing report on a periodic basis and urge all departments to improve.

5) While an investigation is made to the staffs who are suspicious to involve anti-money laundering, all the persons-in-charge should keep the promise of secrecy.

6. The on-the-job educational and training programs on Anti-Money Laundering which must be held or attend on a periodic basis
   1) In order to make available to all staffs to realize the relevant statutory regulations and practices of anti-money laundering, the company may be consolidated into educational and training programs or courses in respect of anti-money laundering while the on-the-job educational training for the staffs are held. For the realistic requirements of practice in respect of anti-money laundering educational and training courses and programs, the company is suggested to invite the scholars and experts from the Ministry of Justice, Financial Supervisory Commission of Executive Yuan, the academic and other institutes to lecture the courses.
   2) When the staffs pursue further education or survey abroad, the staffs should do their best to realize and understand the concrete facts on the fields of anti-money laundering for non-life insurance industry. If they made prominent achievements or searches and obtained valuable data regarding the regulations concerned prevalent in foreign countries which prove to have made contribution to anti-money laundering activities, they are worthwhile to receive award in hoc as appropriate.
7. In order to achieve the objects in respect of Anti-Money Laundering, the company should appoint vice president（or persons with equivalent position） who have already participated in the training courses of Anti-Money Laundering to supervise the efficient performance of this Anti-Money Laundering Guidelines and Procedures.
8. The items without stipulations on this Anti-Money Laundering Guidelines and Procedures shall be subject to the relevant regulations concerned Anti-Money Laundering Act and other acts promulgated by the competent authorities.
9. This Anti-Money Laundering Guidelines and Procedures shall be enforced after a submission to the competent authorities for approval. The same conditions shall be made upon amendment.

5 Money Laundering Prevention Guidelines and Procedures for Precious metals and stones distributors

1. According to the 6th stipulation of Anti Money Laundry Regulations, the following guidelines are designed to anti money laundry operations.

2. Points for attentions to anti money laundry operations

1) Points for attentions of transactions with great amount:
   i. For transactions with more than one million Taiwanese dollars, customers shall provide identity documentations for the records. Customers who are individuals shall provide personal ID cards or passports, and customers who are corporate shell provide legal registration certificates and proper representative documentations.
   ii. For transactions with representative agents, the agents shall be confirmed with legal identity documentations of records.
   iii. All documentations including basic information of customers and representative agents, detail records of transactions, large-amount transaction application forms (appendix I), and confirmation forms of large-amount transaction (appendix II) shell are provided to the Bureau of Investigation Ministry of Justice by fax with proper seals after transactions take place.
   iv. The declaration of documentations (point 3) shall be concluded within five business days after transactions.
2) Points for attentions of suspected money laundry:
   i. If transactions are suspected as money laundry operations, customers' identities shall be confirmed; records of transactions shall be maintained and required information shall be provided according to procedures of this guideline. Transactions with one of following conditions shall be concerned as suspected money laundry operations.
   ii. Customers with sudden large amount transactions.
   iii. Customers with frequent transactions with cash slightly less than one million Taiwanese dollars.
   iv. Other obviously abnormal transactional activities.
   v. One of following situations that are confirmed by phone or visit after transactions:
      i) The customers do not exist.
      ii) Customers deny having the transactions.
      iii) Other evidences showing customers' identities are falsely

appropriated.

3) Procedures of declaration of suspected money laundry operations.
   i. There should be the owners or appointed staffs specifically monitoring and preventing money laundry operations. The assigned personnel should receive proper training regarding money laundry.
   ii. Procedures of declaration:
      i) The owner shell immediately report abnormal transactions to specific manager or designated staffs.
      ii) If the specific manager or designated staffs confirm declaration is required, the company shell submits suspected money laundry transaction report (appendix III) to the Bureau of Investigation Ministry of Justice directly or through the company's affiliated organization or association.
      iii) If the situation requires immediate reactions, the company could report to the Bureau by phone in accordance with previous two procedures and submit necessary hard copy documents to the Bureau through the affiliated society by fax.

3. Internal control procedures of anti money laundry operations.
   1) The requirements to completely record transactions:
      i. The approach to reserve the records: for all suspected money laundry transactions and transactions with more than one million Taiwanese dollars, the detail documentations and initial certificates should be reserved.
      ii. The time frame of reservation: five years.
   2) Employees of company shell are monitored if one of following conditions is met.
      i. Employees are having unusual luxurious life style comparing to their salaries.
      ii. Employees refuse to take scheduled vacations without proper reasons.
   3) Procedures to prevent betrayal of declared materials or information:
      i. According to previous declaration procedures, designated personnel shell keep all related information confidently.
      ii. All related materials of declaration shell remain confidently. Proper procedures will be applied if any information get spill out.
   4) Regularly examination of internal control procedures: The company shell regularly re-exam related guidelines regarding anti money laundry operations. Adjustments of guidelines shell are submitted for the record to the Ministry of Finance.

4. Regular participation of training for anti money laundry operations -- The

supervision of anti money laundry operations are the sole responsibilities of designated personnel.

1) Conduct orientation to new employees to ensure their understandings of relevant guidelines.
2) Proper orientation courses can be included in other professional trainings.
3) When necessary, academic scholars or professionals from the Ministry of Justice or Ministry of Finance should be hired to conduct the courses for anti money laundry operations.
4) Other than legal regulations, materials such as empirical case study can be included in the training, so employees can understand attributes of money laundry and easily identify suspected money laundry operations.

Appendix 3 (Reporting forms)

1 Suspicious Transaction Reporting Form

（Reporting Institute）
Suspicious Transaction Reporting Form

Fax：29148127 Date_____

1. Customer Info： 1) Name _____ 2) Occupation _____ 3) Date of Birth _____ 4) Address _____ 5) ID _____
2. Trustee Info： 1) Name _____ 2) Occupation _____ 3) Date of Birth _____ 4) Address _____ 5) ID _____
3. Transaction Details： 1)Type of transaction 2)Account info i. Account number（banker's column） ii. Transaction account number（Security dealer's column） 3)Date of transaction 4)Transaction amount 5)Type and amount of securities（Security dealer's column） 6)others
4. Reasons of suspicion：
5. Apply to the _____ item of reporting scope according to the Regulations Regarding Article 8 of The Money Laundering Control Act and Apply to the _____item of the Suspicious Transaction Indicators
6. Attaching data of opening account and related transactions：_____pages
7. Name of financial institution Undertaker： (Or one who should be responsible)： Tel & Fax： Address：

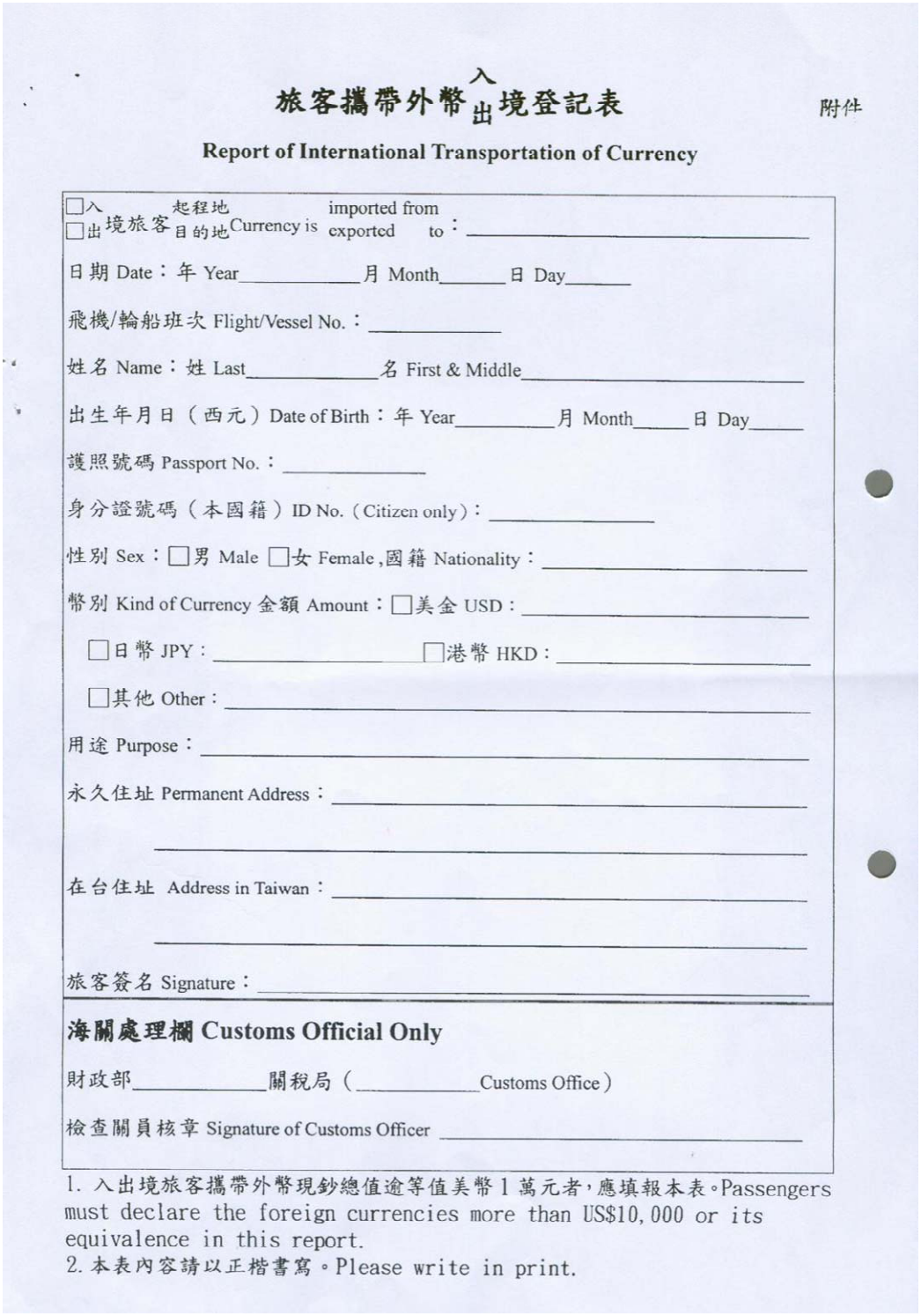
2 Currency Transaction Reporting Form

（Reporting Institute） Currency Transaction Reporting Form

Date：

一、Customer Data	
Items:	**Tips:**
Account Number：	headquarter(3)-branch(4)-account(16) ，add on "0" on account without enough digits，Ex: 001-0241-0000000123456789
Account Name：	Name of individual of company
Date of Issuing：	Ex：January 11, 1970
Identity Number：	Individual or company ID, driving license #, or passport #
Date of Birth：	For example: January 11, 1970
Telephone：	
Nationality：	
Address：	
二、Info of Transaction	
Items:	**Tips:**
Name：	
ID：	ID or passport #
Date of Birth：	Ex：January 11,1970
Telephone：	
三、Transaction Details	
Items:	**Tips:**
Time of transaction：	Ex: 2003/01/16 12：30 （year/month/day hour：min）
Transaction amount （NTD equivalence）：	Numeral
Transaction spot：	Headquarter (3)-branch (4)
Type of transaction：	01-withdral 02-deposit 03-change currencies 99-others（details）
Accumulated amount：	Numeral
Beneficiary：	For remitting money
Account of beneficiary：	
Footnote：	Financial institutes have to footnote spontaneously
四、Name of reporting large-volume transaction(Headquarter) Undertaker： (or who should be responsible) ： Tel and Fax number： Address：	

3 Cross Border Currency Movement Declaration Form



旅客攜帶外幣入出境登記表

附件

Report of International Transportation of Currency

□入 起程地 imported from
□出境旅客 目的地 Currency is exported to：_____

日期 Date：年 Year_____月 Month_____日 Day_____

飛機/輪船班次 Flight/Vessel No.：_____

姓名 Name：姓 Last_____名 First & Middle_____

出生年月日（西元）Date of Birth：年 Year_____月 Month_____日 Day_____

護照號碼 Passport No.：_____

身分證號碼（本國籍）ID No.（Citizen only）：_____

性別 Sex：□男 Male □女 Female，國籍 Nationality：_____

幣別 Kind of Currency 金額 Amount：□美金 USD：_____

□日幣 JPY：_____ □港幣 HKD：_____

□其他 Other：_____

用途 Purpose：_____

永久住址 Permanent Address：_____

_____

在台住址 Address in Taiwan：_____

_____

旅客簽名 Signature：_____

海關處理欄 Customs Official Only

財政部_____關稅局（_____Customs Office）

檢查關員核章 Signature of Customs Officer _____

1. 入出境旅客攜帶外幣現鈔總值逾等值美幣 1 萬元者，應填報本表。Passengers must declare the foreign currencies more than US$10,000 or its equivalence in this report.
2. 本表內容請以正楷書寫。Please write in print.

4 Customs Declaration Form

Welcome to the Republic of China

中 華 民 國 海 關 申 報 單 （ 空 運 ）

CUSTOMS DECLARATION

入境日期 ： 日 Day 月 Month 年 Year

Date of Entry / /20

姓名 Family Name Given Name		性別 Sex ☐男 M ☐女 F
護照號碼 Passport No.（入境證號）	國籍 Nationality	職業 Occupation
出生日期 Date of Birth 日 Day 月 Month 年 Year / /	飛機班次 Airline/Flight No.	起程地 From
隨行家屬人數 Number of family members traveling with you		
國內住址 Address in Taiwan		

1. 旅客有背面說明所列之應申報事項者，請於下表內填明，並選擇「應申報檯」（即紅線檯）通關。如無應申報事項，本申報單免填報，請選擇綠線檯通關。
   Arriving travelers having to make declaration to Customs （Instructions on the reverse side)shall fill in the following blanks. If you have something to declare, follow the red channel. If you do not have anything to declare, follow the green channel.
2. 對於物品申報或選擇紅、綠線檯有疑問者，請先洽詢海關關員。
   If you have any question about articles for declaration or Red/Green channel selection, please consult with Customs Officer before clearance.

物 品 名 稱 escription of Articles	數 量 uantity	總 價 Value

茲聲明全部申報均屬正確無誤

I hereby declare that the above entries are correct and complete.

旅客簽名Signature

關 se	
	of Customs Officer

2005.11

通 關 說 明

Instructions

有下列應申報事項者，請於正面申報並選擇「應申報檯」（即紅線檯）通關（隨行家屬行李得由其中 1 人合併申報）：

Arriving travelers carrying goods mentioned below shall declare to Customs and follow the "Goods to Declare" Channel （the Red Channel ）.（Only one written declaration per family is required.）:

1. 武器、槍械。Arms and ammunition.
2. 行李物品總價值逾免稅限額新台幣 2 萬元或菸、酒逾免稅限量（捲菸 200 支或雪茄 25 支或菸絲 1 磅、酒 1 公升。未成年人不准攜帶）。Baggage exceeding a total value of NT$20,000. Cigarettes and alcohol over the quantity of duty exemption （200 cigarettes or 25 cigars or 1 pound of tobacco；1 liter of alcohol. None of these items is allowed for traveler under the age of 20.）
3. 外幣超逾美幣 1 萬元，人民幣超逾 2 萬元者（如未申報一經查獲將被沒入）。新台幣超逾 6 萬元，黃金價值逾美幣 2 萬元。Foreign currencies more than US$10,000. Chinese currency exceeding RMB20,000. New Taiwan dollar notes more than NT$60,000. Gold exceeding a total value of US$20,000.
4. 水產品或動植物及其產製品（水果及其他經檢疫不合格物品一律銷毀或退運）。Any aquatic products or any species of animal/plant or products thereof. （Fruit and other articles failing quarantine shall be destroyed or shipped back.）
5. 不隨身行李（後送行李）。Unaccompanied baggage.
6. 其他不符合免稅規定或應申報事項。Other dutiable articles or things to be declared.

以上應申報而未申報或申報不實者，將依海關緝私條例等相關法規議處。

Failure to make the required declaration or any false statements on declaration shall be punished in accordance with "Customs Anti-smuggling Act."

敬 請 注 意

Attention

除上列事項應詳爲申報外，敬請旅客特別注意，未經主管機關許可，攜有下列物品者，將觸犯刑事法令規定而受罰：

In addition to filling in the blank on the reverse side in detail, please also take note that travelers carrying the following articles without a permit from the authority concerned shall be punished for violating related laws and regulations.

（1）武器、槍械、彈藥。Arms, ammunition, explosive.（2）非醫師處方或非醫療性之管制藥品，包括鴉片、海洛因、古柯鹼、安非他命、大麻菸等。All controlled substances of a non-prescription, non-medical nature, including opium, heroin, cocaine, amphetamine, marijuana, etc.（3）保育類野生動物及其產製品。Endangered species of animals and products thereof.（4）違反「商標法」或「著作權法」之仿冒品。Counterfeit goods that violate "Trademark Act" or "Copyright Act."