

FAQ of “Regulations Governing Internal Operating Systems and Procedures for the Outsourcing of Financial Institution Operation”

Date: Feb, 2012

Question	Answer
<p>1. Are the regulations applicable to the outsourcing case that financial institutions entrust National Credit Card Center of ROC (NCCC) or Financial Information Service Co., Ltd. (FISC) to do the operations of credit card business:? How to conduct audit when a financial institution outsource its operations to the foresaid organizations?</p>	<p>Ans.: Yes.</p> <ol style="list-style-type: none"> 1. Financial institutions entrusting NCCC or FISC to do the operations of credit card business shall conform to the regulations. 2. In consideration of the business attributes and independence of NCCC and FISC, financial institutions that outsource operations to these two organizations could use the accountant reports provided by NCCC or FISC to substitute for regular and unscheduled audit.
<p>2. Are the Regulations applicable to the case that a foreign bank branch in Taiwan has the approval process and the risk management of a part of its businesses to be conducted by its head office or regional headquarters?</p>	<p>Ans.: The foreign bank branch in Taiwan is entitled to build related crediting and risk management system, the business decisions and risk management that conducted by its head office or regional headquarters, such as policies of delegation, internal control and audit monitoring of accounting, risk management which are the field of business management, and these operations do not belong to outsourcing of financial institutions; therefore the Regulations do not apply in these circumstances.</p> <p>Below is the elaboration of the policies of delegation, internal control and audit, monitoring of accounting and risk management:</p> <p>(1) Policies of delegation: Management issues such as stipulation of loan policies, review/approval of jumbo accounts, approval</p>

Question	Answer
	<p>of market risk quota etc, for the above mentioned are business decisions and risk management of the head office or regional headquarters to the local branches of foreign banks which do not involve business operations; therefore, the Regulations do not apply in these circumstances.</p> <p>(2) Internal control and audit: The Comparison Table of “Implementation Rules of Internal Audit and Internal control System of Financial Holding Companies and Banking Industries” for Foreign Bank Branches has specified that the local branches of foreign banks which apply risk-based approach to their audit system should report to the Banking Bureau for their mechanism and procedures. And the local branches should allow their head office or regional headquarters to conduct onsite internal audit. Therefore, the internal control and audit for the local branches of foreign banks should be processed according to the related stipulation, not the Regulations itself.</p> <p>(3) Accounting supervision and management: The head office or regional headquarters conduct accounting supervision and management to their local branches which is an operation issue that does not apply to the Regulations. However, their local branches should still employ accountants to take care of daily accounting.</p> <p>(4) Risk management: The risk management that is conducted at “corporate level” by the head office or regional headquarters, which is management issue and not belong to outsourcing-related affairs. The local branches of foreign banks responsible for its own risk management at “branch level”. In</p>

Question	Answer
	<p>addition, risk management belongs to “management” level of decision making, rather than “operations”; therefore, the Regulations do not apply in these circumstances.</p> <p>Except for the above-stated categories, if a local branch of a foreign bank outsources its business operations related to business activities that specified on the business license or customer information to overseas head office, overseas subsidiaries, overseas branches, overseas regional center or other overseas agencies, then the Regulations should apply.</p>
<p>3. Do the Regulations apply to the head office or regional headquarter of local branches for their IT operations?</p>	<p>Ans.: The local branches of foreign banks entrust the IT operations that specified on the business license or customer information to its head office or regional headquarter, such as inputting, processing or outputting data, and developing, monitoring and maintaining information system, due to these IT operations are related to outsourcing-related affairs, they will have to abide by the pertinent rules in the Regulations. More details about how to implement the process are stated below:</p> <p>(1) Data processing :</p> <p>(A) The “data processing” refers to related operations for local branches of foreign banks in Taiwan, in which they transfer the business data that specified on the business license or customer information to overseas head office or regional headquarter for data processing (including but not limited to saving, computing and analyzing these data.)</p> <p>(B) Details about “business activities that specified on the business license or customer information” are stated below:</p> <p>(a) Directly related to specific business:</p>

Question	Answer
	<p>Examples include deposit data (profile of depositors, deposit account number, deposit amount), related information about loan business (credit information of the creditors, loan amount etc), foreign exchange and derivatives business (information about counterparties, transaction amount, and risk portfolio).</p> <p>(b) Non-specific business but closely related to licensed business operations: Examples include accounting and booking data, financial data etc.</p> <p>(c) Non-specific business but related to customer information: Examples include anti-laundry data (basic profile of customers and transaction data) etc.</p> <p>(C) In the case of modification of the data processing for the same business purpose for offshore information system, there is no need to reapply for outsourcing unless the institution is different from the previous one. For example, if the data of derivatives products were processed via the information system of the regional center in Hong Kong, and the system has to be changed, the associated agency does not have to reapply for outsourcing. However, if the data that were processed in the regional center of Hong Kong have to be processed in the regional headquarters in London with a different system, the associated agency is required to reapply for outsourcing due to the change of agency.</p> <p>(D) To comply with Item 2 Subsection 3 Paragraph 1 in Article 19 of the Regulations, which states that the service provider must have a definitive segregation of customer</p>

Question	Answer
	<p>data, the local branches of foreign banks must at least have definitive segregation for the customer data and transaction information to distinguish them from the headquarters (or regional center) and the other overseas branches, it must have logical and definitive segregation and implement strict control of accessing. The local branches need to avoid inappropriate exploit of these data.</p> <p>(E) In the case that local branches of foreign banks have to transfer local customer data to overseas agencies due to the requirements from its head office or regional headquarters for business management, decision-making, risk management or legal purposes, and these data are not related to the business purposes of local branches of foreign banks and not categorized as outsourcing, the Regulations do not apply in these circumstances. However, the institution should obtain customer approval to transmit their information and abide by the pertinent rules in the Banking Act and the Personal Data Protection Law.</p> <p>(2) Developing, monitoring and maintaining information system:</p> <p>(A) This refers to the operations of developing, monitoring and maintaining information system, and which is different from the afore-mentioned “data processing” (i.e., the daily operations of customer data processing or business information of financial institutions).</p> <p>(B) In the event that the proprietary systems in local branches of foreign banks are entrusted to their head office or regional headquarters for developing, monitoring and maintaining</p>

Question	Answer
	<p>business, it should abide by the Regulations. Revamping of information system for the same business purpose does not require reapplication, unless the associated agency is changed.</p> <p>(C) If the head office or regional headquarters of a foreign bank builds the information systems for its own and offshore branches use, and the local branches in Taiwan only uses the information system to process data of local business operations, the local branch in Taiwan should only have to abide by point (1) in regards to “data processing”. As for information system development, monitoring and maintenance belongs to the responsibility of its head office or regional headquarters; therefore, the Regulations do not apply.</p> <p>(3) Remedial measures: For the foreign bank branches in Taiwan that have implemented data processing by their head office or regional headquarters prior to the amendment of the Regulations, they should obtain “the letter of consent from the service provider for accepting inspection” and “the letter of consent authorized by its head office or regional head office regarding to the obtainment and use on data, security control and cooperation with the supervisory requirements in Taiwan” within six months on the premise that the financial inspection right is secured.</p>
<p>4. What is the scope of the” information system related to retail financial business” stated in Paragraph 5 Article 18?</p>	<p>Ans.: The so-called information system related to retail financial business refer to the core business of retail financial business (deposits, loans, remittance, related accounting and billing), credit card system (card issuance, Acquiring , accounting, and risk management), sales system of</p>

Question	Answer
	financial products (all types of investment and wealth management, customer relationship management, hierarchical management , consumer loan management system, call center, system for collections and trust business.
5. Are the regulations applicable to financial institution's outsourcing of card production of financial cards, credit cards and cash cards?	<p>Ans.: Yes.</p> <p>If the card production, such as financial cards, credit cards and cash cards, involves client data transmission and card implant, it falls in the data output items of the information system of “data processing” in subparagraph 1 of paragraph 1 of article 3 of the regulations, so the regulations shall be followed.</p>
6. Shall the audit and certification of the financial reports entrusted by the financial institution to the certified public accountant comply with the regulations?	<p>Ans.: No.</p> <p>The audit and certification of the financial reports entrusted by the financial institution to the certified public accountant shall be processed according to “Criteria Governing Approval for Auditing and Certification of Financial Reports of Public Companies by Certified Public Accountants” authorized as per Securities and Exchange Law. It is the general terms of reference as regulated in statutory laws, so it is not the item required to be specifically regulated in the outsourcing of financial institution operation.</p>
7. Are the regulations applicable to financial institution's use of the employees of manpower companies to permanently station on its business outlets to do assigned tasks?	<p>Ans.: No.</p> <p>The content of the undertaking contract made between financial institution and manpower company shall be limited to financial institution's logistic operation. Given that the personnel dispatched by the manpower company work at the site provided by the financial institution, they shall be deemed to be the financial institution's employees, so their task assignment, supervision, management and payroll shall be in accordance with internally related regulations of the financial institution which is part of the financial</p>

Question	Answer
	<p>institution’s internal personnel management. However, on the front of customers, it carries no influence on customers’ rights and interests or causes any confusion, and does not conform to the purpose of the regulations and supervision defined for the outsourcing of financial institution operation, so it does not fall under the regulations.</p>
<p>8. Are the regulations applicable to the outsourcing of loan marketing to the “loan factoring company”?</p>	<p>Ans.: Yes.</p> <p>With the regulations, financial institutions are allowed to entrust others to market loans, but the loan items are only limited to vehicle loans, consumer loans and home loans. On top of it, the financial institution shall sign an outsourcing contract with a “loan factoring company” and is only allowed to cooperate with the signed loan factoring company for marketing vehicle loans, consumer loans and home loans, etc.</p>
<p>9. What is the outsourced organizations as referred to in the proviso of “Collection of Consumer Loans, and Credit Card Payment Operation” under subparagraph 5 of paragraph 1 of article 3 of the regulation, which has been approved by the competent authorities?</p>	<p>Ans.: Currently, the outlets approved by the Commission for collecting consumer loans and credit card payment are only limited to “convenience stores”. However, in view of the demand for future financial development, the Commission puts “the outsourced organizations are limited to the ones approved by the competent authorities” in the proviso, so as to keep the stipulation flexible.</p>
<p>10. Are the regulations applicable to the terms of reference entrusted by the financial institution to an attorney for civil/criminal litigation cases, debit collateral outsourcing and collateral protection, etc.?</p>	<p>Ans.: No.</p> <p>Attorneys are professionals and highly bound by Layer Law. Also, by referring to the example of Germany’s legislation, “legal consultation” is the behavior of the management of general affairs. It is not the item required to be specifically regulated in outsourcing, so financial institution’s outsourcing of attorneys shall not fall under the regulations.</p>

