

Content

Title :	Regulations Governing the Deposit Accounts and Suspicious or Unusual Transactions Ch
Date :	2014.08.20
Legislative :	<p>1. Full text are Promulgated by the Financial Supervisory Commission on December 9, 2010 Amendment Order Ref. No. : Jin-Guan-Yin-(I)-zi NO.095100001640 ; the Regulations shall become effective from the date of issuance with the exception of Article 14, 16, 18 and 19, which shall become effective on January 1, 2007.</p> <p>2. Promulgated by the Financial Supervisory Commission on April 27, 2006 Ref. No. : Jin-Guan-Yin-(1)-09510001640</p> <p>3. Article 3, 5, 9, 11,13, 15, 16 and 20 are amended by the Financial Supervisory Commission on December 9, 2010 Order Ref. No. : Jin-Guan-Yin-(Fa)-zi No 09900424320 ; the Regulations shall become effective from the date of issuance with the exception of Paragraph 1 of Article 9, which shall become effective on January 1, 2011.</p> <p>4. Article 13 are amended by the Financial Supervisory Commission on August 30, 2013 Order Ref. No. : Jin-Guan-yin-(Fa)-zi NO. 10210005640.</p> <p>5. Full text are amended by the Financial Supervisory Commission on August 20, 2014 Order Ref. NO. : Jin-Guan-yin-(Fa)-zi NO. 10310004610. The regulations shall become effective from the date of promulgation, with the exception of the amended Paragraph 1 of Article 9 promulgated on August 20, 2014, which shall become effective on January 1, 2015.</p>
Content :	<p>Article 1</p> <p>These Regulations are promulgated pursuant to Article 45-2, Paragraph 3, of the Banking Act.</p> <p>Article 2</p> <p>"Deposit Account" as used in these Regulations means a checking deposit, demand deposit or time deposit account as described in Articles 6 through 8 of the Banking Act.</p> <p>Article 3</p> <p>Definitions:</p> <p>A. "Watch-listed Account" shall mean an account that a court, public prosecutors office, or a judicial police authority has, for the purpose of a criminal investigation, notified banks to classify as watch-listed.</p> <p>B. "Derivative Watch-listed Account" shall mean any other Deposit Account opened by an account holder of a Watch-listed Account, including the deposit account opened following the rules in proviso of Subparagraph 5, Paragraph 2, Article 13.</p> <p>C. "Notification" shall mean an official letter from a court, public prosecutors office, or judicial police authority notifying a bank to classify a Deposit Account as a Watch-listed Account or rescind such classification. However, in an emergency case, Notification may be done by telephone, fax or any other feasible means, followed by a confirming official letter and documents which should be delivered to the bank within five business days. If such letter or documents is overdue delivered or is not delivered, the bank should contact with the original notification</p>

institution prior to rescinding the Watch-list Account.

Article 4

The standards for determining what constitutes an "account with suspicious or unusual transactions" as referred to in these Regulations, and the classification scheme for such accounts, are as follows:

(1) Category One:

- i. Deposit Accounts opened under fake names.
- i. Watch-listed Accounts; and
- iii. Derivative Watch-listed Accounts.

(2) Category Two:

- i. Deposit Accounts of persons frequently applying to open Deposit Accounts over a short period of time without reasonable explanation;
- ii. Deposit Accounts of a client engaging in transactions obviously inconsistent with such person's age or background;
- iii. Deposit Accounts of a client providing contact information which cannot be verified using normal measures;
- iv. Deposit Accounts that a financial institution or a member of the general public has reported as being used by someone suspected of criminal activity;
- v. Deposit Accounts with high volumes of small amount inward/outward remittances suspected of being probing activities;
- vi. Deposit Accounts of a client who makes frequent use of electronic services or facilities of banks over a short period of time, in a manner that is obviously at variance with the normal transaction activities of such client;
- vii. Inactive Deposit Accounts that suddenly have unusual transactions;
- viii. Deposit Accounts with transactions that show the signs of money laundering as set out in the Checklist of Money Laundering Prevention Measures for Banks; and
- ix. Other Deposit Accounts with transactions determined by the competent authorities or banks to be suspicious or unusual.

Article 5

Banks shall adopt the following measures for Deposit Accounts with transactions reported as suspicious or unusual based on the categorization standards set out in the preceding Article:

A. Category One:

- (I) If a Deposit Account is opened under a fake name, the bank shall notify a judicial police authority, the Anti-Money Laundering Division of the Investigation Bureau, Ministry of Justice, and the Joint Credit Information Center ("JCIC"). The bank shall also close such account immediately. Any balance shall be disposed of at the instructions of the person who legally has the right to claim such balance; or
- (II) For a Deposit Account reported as a Watch-listed Account, the bank shall immediately notify the JCIC and suspend all transactions in such Deposit Account. All inward remittances shall be returned to the remitting bank;
- (III) For a Deposit Account reported as Derivative Watch-listed Account, the bank shall suspend ATM card functions, funds transfer by telephone or

Internet, and other electronic payment functions. All inward remittances shall be returned to the remitting bank; or

(IV) Banks shall take such measures as may be required by other laws and regulations.

B. Category Two:

(I) Banks shall verify and keep close watch on Deposit Accounts. If a bank finds any illegality, such bank shall notify a judicial police authority immediately, and may also adopt one or all of the measures as listed in the preceding two subparagraphs; or

(II) Banks shall take such measures as may be required by the Money Laundering Control Act and other applicable laws and regulations.

Article 6

In addition to the measures listed in the preceding Article, banks shall also take the following internal measures:

(1) Notify the responsible department in the head office or group headquarters in accordance with applicable internal procedures;

(2) Report the measures that have been or will be adopted to the responsible department of the head office or group headquarters in accordance with applicable internal procedures; and

(3) Make a note in the bank's internal information system to remind each branch to take precautions.

Article 7

For Deposit Accounts reported as Watch-listed Accounts by a court, public prosecutors office, or judicial police authority, banks shall check relevant transactions. If a bank finds that funds reported as fraudulent have been remitted to another account, the bank shall notify the receiving bank of the remittance of such amount and the name of the institution which originally reported the Watch-listed Account ("Original Reporting Institution"), and shall also notify the Original Reporting Institution. The Original Reporting Institution that reported the Watch-listed Account shall verify the information listed in the preceding paragraph. If the Original Reporting Institution believes the receiving account should also be classified as a Watch-listed Account, it shall notify the relevant bank to classify such account as a Watch-listed Account.

The bank receiving the fraudulent funds shall proceed with a transaction check and Notification process in compliance with Paragraph 1 of this Article. If such receiving bank finds any illegality, it shall adopt the measures as listed in Article 5, subparagraph (32).

The method and contents of Notifications and of required documents under this Article shall be adopted by the R.O.C. Bankers Association and reported to the competent authority for recordation.

Article 8

If a Deposit Account is reported as a Watch-listed Account by a court, public prosecutors office, or judicial police authority after the amount of such Deposit Account has been ordered attached or preserved, such account shall still be marked as a Watch-listed Account, but such amount shall be handled in accordance with the attachment order or preservation order.

Article 9

The watch-list period of a Watch-listed Account shall expire automatically in two (2) years after the date the Deposit Account is reported as a Watch-listed Account. If such Deposit Account still needs to be watch-listed, the Original Reporting Institution shall issue a new report of such account as a Watch-listed Account prior to the expiry of the two-year limitation, and the watch-list period will be extended once up to one year..

Accounts that remain on the watch list before January 1, 2015, the following rules shall apply:

- (1) The watch-list period of the account shall expire automatically in three (3) years after the date the account is reported as a Watch-listed Account. If such account still needs to be watch-listed, the Original Reporting Institution shall issue a new report of such account as a Watch-listed Account prior to the expiry of the three-year limitation, and the watch-list period expires on January 1, 2015.
- (2) If more than two years but less than three years have elapsed for the watch-list period, the watch-listed period expires automatically on January 1, 2015.
- (3) If a Deposit Account is again reported as a Watch-listed Account before August, 2014, its watch-list period expires automatically on January 1, 2015.
- (4) If two years have not elapsed for the watch-list period, the provisions of the preceding paragraph apply starting January 1, 2015.

If the account holder of a Watch-listed Account has any objection to his/her Deposit Account being classified as a Watch-listed Account, he/she shall contact the Original Reporting Institution to handle the matter and the bank shall provide assistance as necessary.

Article 10

Banks may not remove limitations on a Watch-listed Account until they have received Notification from the Original Reporting Institution, or upon expiry of the watch-list period.

For Derivative Watch-listed Accounts and other Deposit Accounts with transactions reported as suspicious or unusual under the standards set forth in Article 4, subparagraph (2), a bank may rescind relevant limitations after such bank verifies that the suspicious or unusual situation has been eliminated.

If the classification of a Watch-listed Account is removed pursuant to a Notification from the Original Reporting Institution or is re-classified as a Watch-listed Account by the Original Reporting Institution in accordance with Paragraph 1 of the preceding Article, the bank shall notify the JCIC immediately.

Article 11

If a bank confirms that a Deposit Account reported as a Watch-listed Account was reported as such in connection with fraud, and the account still holds money remitted or transferred in by fraud victims, the bank shall, using the account opening information, contact the account holder and negotiate with such account holder for return of such remaining money

in the Watch-listed Account. If the account holder cannot be located, the bank may seek the help of police to try find the person in one month. If a bank carrying out the procedures described in the preceding paragraph is unable to contact the account holder, it shall notify the victims through the remitting banks to prepare the following documents and, based on the time of inward remittance, return the remaining money held in the Watch-listed Account to victims, starting from the last remitted amount first until there is no more money left in the account:

- A. A crime report (in triplicate); and
- B. Undertaking issued by the victim stating that he/she will bear all liability for any damages incurred by the bank due to untrue information provided by such victim.

With respect to returning the remaining money held in a Watch-listed Account pursuant to the preceding two paragraphs, if any of the following occurs, a bank may record such remaining money as an account payable and wait until a person legally having the right to claim such money requests payment; provided that, the bank may rescind the effect of the watch-listing from such Watch-listed Account once the bank is notified to rescind the account from the watch-list, or the watch-list period expires:

- A. The account balance is less than a certain amount, such that the cost of returning the money would make such return not worthwhile;
- B. The bank is unable to contact either the account holder or the victim(s) within three (3) months after receipt of the Notification; or
- C. Victim(s) is (are) unwilling to report the case or to claim the money.

The bank shall appoint a deputy general manager or officer of equivalent level to be responsible for supervising the handling of balances held in Watch-listed Accounts.

Cases suspected of involving transaction disputes or which are otherwise complicated shall be handled by judicial procedures, and the rules regarding return of balances under Paragraph 1 to Paragraph 3 shall not apply thereto.

Article 12

Banks shall establish clear Know-Your-Customer policies and procedures, including standards for processing Deposit Account opening applications, identification of customers, monitoring and control of Deposit Accounts and transactions, and necessary training, etc.

The examination procedures for processing Deposit Account opening applications under the preceding paragraph shall be promulgated by The Bankers Association Of The Republic Of China and reported to the competent authority for reference.

Article 13

When processing a Deposit Account opening application, a bank shall confirm the identity of the applicant by the following methods, and check the ID card issuance record and fraud cases and supplemental notation information from the CIC:

- A. For applicants over the counter, a bank shall require dual identification documents that suffice to authenticate the identity of the applicant.

B. For online applicants, a bank shall require the real name registration prescribed by The Bankers Association Of Republic Of China and reported to the competent authority for reference.

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,:

- A. The customer is suspected of using a fake name, a nominee, a shell entity, or a shell corporation to open a Deposit Account;
- B. The customer uses forged or fraudulent identification documents or only provides photocopies of the identification documents;
- C. Documents provided by the customer are suspicious or unclear, or the customer refuses to provide other documents, or the documents provided cannot be authenticated;
- D. The customer procrastinates in providing identification documents in an unusual manner;
- E. Another Deposit Account opened by the same customer has been reported as a Watch-listed Account and remains on the watch list, except for any of the following circumstances:.
 - (1) The account is opened for salary transfer and the applicant has provided employment certificate or documents issued by his/her employer;
 - (2) The account is opened for disbursement of a loan to the applicant that has been approved by the bank; or
 - (3) The account is opened under other circumstances as allowed by law.
- F. Other unusual circumstances exist and the customer fails to provide a reasonable explanation.

Article 14

A bank shall use a database to consolidate basic information and transaction information on all deposit customers for inquiries by the head office and branches, and shall establish an internal control system for requests and inquiries as to customer information made by various entities, and shall exercise care to ensure the confidentiality of the information.

Article 15

For transactions processed through professional intermediary institutions, or for other transactions involving deposit customers or transactions identified as high risk under the proviso of Subparagraph 5, Paragraph 2, Article 13, a bank shall, in addition to the regular customer due diligence procedures, establish suitable risk control measures, including:

- A. The opening of such accounts shall be approved by a higher level supervisor;
- B. The source, destination, and reasonableness of property and funds shall be confirmed; and
- C. The bank shall exercise ongoing monitoring and control of the transactions in such account.

Article 16

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. 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.

Article 17

Overseas branches and subsidiary banks of a bank shall comply with these Regulations to the extent permitted by the laws and regulations of the country where such branches or subsidiary banks are located. If the laws and regulations of such country conflict with these Regulations, the bank shall report such fact to the competent authority for recordation.

Article 18

Banks shall establish internal procedures pursuant to these Regulations. Such internal procedures shall include, at the minimum, the standards for determining what constitutes an account with suspicious or unusual transactions and the measures to be taken, designation of the responsible department as referred to in Article 6, subparagraph (1), the "certain amount" as referred to in Article 11, Paragraph 3, subparagraph (1), establishment of early warning criteria as referred to in Article 16, Paragraph 1, handling of disputes, personnel training, and audits.

Article 19

Banks shall incorporate the aforesaid internal procedures models into their internal control and audit systems, and conduct internal audits and self-inspections in accordance with the Implementation Rules of Internal Audit and Internal Control System of Financial Holding Companies and Banks Industries.

Article 20

These Regulations shall become effective from the date of promulgation, with the exception of the amended Paragraph 1 of Article 9 promulgated on August, 2014, which shall become effective on January 1, 2015.