

Content

Title :	Regulations Governing Offshore Insurance Branches 
Date :	2017.08.18
Legislative :	Amendment to Article 17, addition of Article 16-1~16-3, promulgated per Financial Supervisory Commission Order No. Jin-Guan-Bao- Zong-Zi-10602562991 and Central Bank Order No. Tai-Yang-Wai-Shi-Yi-Zi-1060032701 dated August 18, 2017.
Content :	<p>Article 16-1 An offshore insurance branch shall rigorously undertake customer due diligence (CDD) process in accordance with the Money Laundering Control Act, Terrorism Financing Prevention Act, documents, data or information that must be obtained or verified as required by the competent authority (see Attachment), template of the “Guidelines Governing Anti-Money Laundering and Combatting the Financing of Terrorism by the Insurance Enterprise” set out by the Non-Life Insurance Association of the Republic of China or the Life Insurance Association of the Republic of China, and include related compliance matters in their internal control and internal audit system.</p> <p>An offshore insurance branch shall, before December 31, 2017, re-perform CDD and review the level of risk on existing customers prior to the implementation of these amended Rules promulgated on August 18, 2017. However, an offshore insurance branch shall re-perform CDD immediately in the event of the following situations:</p> <ol style="list-style-type: none">1. The offshore insurance branch has doubts about the veracity of customer information, such as there is a suspicion of money laundering in relation to that customer, or there is a material change in the way that the customer’ s account is operated which is not consistent with the customer’ s business profile; or2. It is time for periodic update of customer identity information. <p>Article 16-2</p> <p>An offshore insurance branch may rely on the assistance of intermediaries or professionals (hereinafter referred to as “the Intermediary”) to perform CDD on offshore customers in accordance with these Rules and Money Laundering Control Act or criteria no less stringent than the aforementioned regulations and in compliance with the provisions below. An offshore insurance branch shall also report to the FSC of the implementation plan and the list of the Intermediary:</p> <ol style="list-style-type: none">1. The act of the Intermediary assisting an offshore insurance branch in performing CDD conforms to or does not violate the laws and regulations at where the Intermediary is located.2. The professionals shall hold related license and be supervised by local competent authority, and shall comply with the CDD- and record keeping-related provisions under the Methodology for Assessing Technical Compliance with the FATF Recommendations and Effectiveness of AML/CFT Systems.3. The Intermediary in the latest audit on its anti-money laundering and combatting terrorism financing operation by the competent authority at

where it is located or by an external institution receives a rating of “satisfactory”, “no downgrade” or “no material deficiency”, or it has taken improvement actions against the deficiency which are accepted as satisfactory by the competent authority or the external institution, or its downgraded rating has been raised. If the Intermediary is subsequently downgraded by the competent authority at where it is located or by an external institution or subject to disciplinary action imposed by the competent authority at where it is located due to some material deficiency, the offshore insurance branch should suspend the service of the Intermediary in performing CDD.

4. An offshore insurance branch should sign an agreement with the Intermediary it intends to rely on. The agreement should specify the extent of assistance to be rendered by the intermediary in CDD process and proper measures to be taken by the Intermediary for confidentiality and maintenance of customer data, and rights and obligations of the parties. The Intermediary shall keep the records obtained in performing CDD and provide in a timely manner any document or information obtained in the course of performing CDD upon the request of the offshore insurance branch.

5. An offshore insurance branch should use a risk-based approach to audit and supervise on a regular and an as-needed basis the Intermediary’s implementation of CDD process and the Intermediary’s use, processing and control of customer information; an offshore insurance branch may carry out such audit through an appointed external institution.

The term “Intermediary” referred to in the preceding paragraph means the following overseas institutes or overseas professionals:

1. The domestic insurance enterprises’ overseas branches, subsidiaries affiliated to offshore insurance branches, or the overseas branches of bank’s subsidiaries controlled by financial holding companies affiliated to offshore insurance branches, or the overseas insurance branches or subsidiaries of subsidiary banks and insurance subsidiaries, the head office or a branch under the head office of the branch of a foreign insurance enterprise in Taiwan, the parent company or a branch under the parent company of the subsidiaries of a foreign insurance enterprise in Taiwan, or overseas branches or subsidiary banks and insurance subsidiaries’ overseas insurance branches or subsidiaries of the bank subsidiaries under the holding companies affiliated to offshore insurance branches.

2. Professionals including attorneys and CPAs.

The content of “implementation plan” referred to in Paragraph 1 herein shall include at least the scope of CDD performed by the Intermediary and the Intermediary’s internal control system for the confidentiality and maintenance of customer data.

An offshore insurance branch should review the results of CDD performed by the Intermediary and bear the ultimate responsibility for the CDD process and data maintenance.

Article 16-3

An offshore insurance branch should pay attention to the following when entering into an insurance contract and doing business:

1. An offshore insurance branch shall not refer its onshore customers to agencies who assist in setting up offshore companies, or induce or assist

onshore customers to switch their identity to non-resident status in order to enter into an insurance contract and do business at the offshore insurance branch.

2. An offshore insurance branch should enhance its understanding of the purpose of a customer entering into an insurance contract and engaging in business dealings, and planned transaction activities, and the situation, if applicable, where the shareholders, directors or beneficial owners of an offshore legal entity customer include onshore individuals or legal persons, and obtain a customer statement declaring that it did not switch to non-resident status under inducement or for investment in specific products.

An offshore insurance branch should establish a concrete and viable internal control system for matters specified in the preceding paragraph and implement the system after reporting to the board of directors for approval in the case of a domestic insurance enterprise or to the head office for approval in the case of a branch of a foreign insurance enterprise in Taiwan.

Article 17

These Rules shall become effective as of the date of promulgation, except that Paragraph 1 of Article 16-1, Article 16-2 and Article 16-3 amended and promulgated on August 18th, 2017 will become effective on January 1st, 2018.

Attachments : attachment.pdf

Data Source : Financial Supervisory Commission Laws and Regulations Retrieving System